



ශ්‍රී ලංකා මානව හිමිකම් කොමිෂන් සභාව
இலங்கை மனித உரிமைகள் ஆணைக்குழு
HUMAN RIGHTS COMMISSION OF SRI LANKA

Article 11

මගේ අංකය }
எனது இல. }
My No. }

ඔබේ අංකය }
உமது இல. }
Your No. }

දිනය } 09.12.2020
திகதி }
Date }

R.A. Lalith Ranasinghe
85, Pasgammana
Buthpitiya.

Complainant

Complaint Number : HRC/1925/13

Vs.

1. W.B. Wimalasena
Former Principal
Buthpitiya Maha Vidyalaya
Buthpitiya.
2. Zonal Director of Education
Zonal Education Office
Kelaniya.

Respondents

The Complaint

The Complainant states as follows :

- The Complainant's 12 year old son R.A. Nushen was in year 8 at the Buthpitiya Maha Vidyalaya.
- That on 09.05.2013 around 1.30 p.m. when school had finished Nushen was toppling chairs and running.
- The Principal at the time arrived at the scene and lined the children up. He slapped three children on their cheeks.
- The principal then stating that he had been waiting to catch Nushen, grabbed him by his collar and hit his head against a wall. He twisted the boy's ears.
- When the principal was hitting Nushen's head with a fist another teacher gave a baton with which he used to continue beating Nushen. He was beaten even though he had fallen to the ground.
- The child was hospitalized the same day and received treatment till 16.05.2013.

ප්‍රධාන කාර්යාලය }
பிரதான அலுவலகம் }
Head Office }

14, ආර්. ඒ. ජ මෙල් මාවත, කොළඹ - 04.
14, ஆர்.ஏ.த. மெல் மாவத்தை, கொழும்பு - 04.
14, R. A. De Mel Mawatha, Colombo - 04.

දුරකථන }
தொலைபேசி }
Telephone }

94 -11- 2505580 / 81 / 82

සභාපති }
தவிசாளர் }
Chairperson }

011-2505451

ලේකම් }
செயலாளர் }
Secretary }

011-2505521

ෆැක්ස් }
தொலைநகல் }
Fax }

011-2505541 / 74

කණු }
தூரிக அழைப்பு }
Hotline }

1996

විද්‍යුත් තැපෑල }
மின்னஞ்சல் }
e-mail }

sechrc@gmail.com

වෙබ් }
இணையம் }
Web }

www.hrcsl.lk

- At the time of the complaint to the Human Rights Commission Nushen was without a school.

The Respondent's Reply

The 1st Respondent in his submission dated 01.07.2013 state as follows :

- On 16.05.2011 the 1st Respondent began service as a principal of the Buthpitiya Maha Vidyalaya. In a short period in office he was able to develop the school from 218 students to 404 students and increase the teaching staff.
- When school is to close for the day at the first bell the children prepare to go home. At the second bell they recite a gatha and observe some minutes of meditative silence. Then proceed to leave the buildings in an orderly manner.
- At the time of school closing on the 09.05.2013 the 1st Respondent was inspecting the classrooms at the first bell. There was noise coming from the 8A class of desk and chairs being moved.
- Upon arriving at the classroom the principal observed that a group of students were throwing around desks and chairs and causing an uproar. They were frightening the other students causing them harm.
- The principal began to reprimand this group of student; Nushen who was among them began to act violently. Since the discipline and safety of the school is the principals responsibility the 1st Respondent scolded the student.
- He believes the Complainant has a personal vendetta against him and that is the reason of the complaint. The student Nushen was hospitalized due to contracting Mumps.
- According to Section 7.4 of Gazette Extraordinary No. 865/3 of 3rd April 1995 the Establishment Code of Sri Lanka Teaching Service, teachers must protect student's discipline, identify student's problems and resolve them and take special action for unruly children.
- The 1st Respondent states that he had received complaints from teachers and students regarding Nushen's behavior. Student complain that Nushen makes sexual advances and threatens them in abusive language. Their statements are attached.

The 2nd Respondent at the inquiries held at the Commission on 27.06.2013, 23.09.2013 and 21.11.2013 stated as follows;

- That the Complainant had made a complaint regarding the incident to the Zonal Education Office.
- Since the child had been hospitalized, the Principal responsible for the act was assigned to a divisional office and a temporary acting principal was appointed.

- An inquiry was conducted by the Provincial Education Director who found that the 1st Respondent had violated the relevant Circular and had therefore taken disciplinary action against the 1st Respondent.
- He had received a transfer and a recommendation that the 1st Respondent must never again hold the post of Principal in a school.
- A Magistrate's Court case is being heard regarding this incident in the Gampaha Magistrates Court case No: 191/13.
- In terms of a new school, the 2nd Respondents cannot grant admission to the school the complainant desires as it is not within Kelaniya. A request will have to be made by the Complainant to the Western Province Education Director.

The JMO report

- The Complainant's son was examined by the Judicial Medical Officer on 16.05.2013 at the Gampaha Hospital. There are six injuries noted on the victim's body.
- Injury 1 is a grazed abrasion measuring 0.5cm x 0.5cm on the left side of the face.
- Injury 2 is a contusion measuring 5cm x 0.5cm placed on the left side of the chest. Injury 3 is another contusion measuring 3cm x 0.5cm placed on the left side of the chest.
- Injury 4 is a contusion measuring 5cm x 0.5cm placed on the right side of the chest. Injury 5 is another a contusion on the right side of the chest measuring 3cm x 0.5cm.
- Injury 6 is a contusion measuring 2cm x 4cm on the lower back of the left leg.
- The report also reveals that the patient had Mumps at the time of examination.

Observations

- The 1st Respondent in his submissions had submitted an English examination answer paper of Nushen. There is little relevance in the student's academic competence in a 2nd language to justify a disciplinary of this nature.
- If the statements of Nushen's peers are to be accepted as credible and reliable evidence, their statements describe a character of a child that clearly needed special counsel and attention.
- The Gazette referred to by the 1st Respondent does not specify violent means to be resorted to when taking special action. The Gazette provides the parameters of what should be a part of the teacher's responsibility other than students education.
- Ministry of Education Circular No. 2005/17 however specifically provides for the disciplining of children. Section 2.00 of the Circular specifically states that at all times the student should not be punished physically. Section 2.1 of the Circular shows that corporal punishment is proven to be an inefficient method of disciplining and has several repercussions on the child. Section 2.2 lists out alternative methods of disciplining a student or controlling the situation.

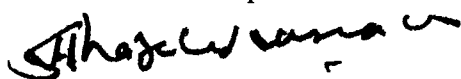
- Section 2.1 of the said Circular states that if a teacher cannot discipline a child without corporal punishment, it is evidence of his incompetency.
- The JMO report verifies that Nushen did indeed have Mumps. However, the wounds and injuries on Nushen's body are not symptoms of this disease. Injuries are reported on the chest and legs of the child, which is conclusive proof of beating having occurred.
- In fact, the 1st respondent does not deny the beating. He simply attempts to justify the incident by presenting evidence of the child's character.
- Evidence is presented to show that Nushen did not go to school since the day of the incident. The Acting Principal had issued a letter to the Complainant on 17.06.2013 asking that the child be sent back to school. The Complainant had requested a different school from the 2nd Respondents, which is understandable in light of the incident. The 2nd Respondents should take steps to refer the matter to the Provincial Education Department.
- Although the 2nd Respondents have verbally reported to the Commission that disciplinary action had been taken against the 1st Respondent this has not been reported in writing to the Commission. Therefore, it should be recommended that the progress of this matter be reported to the Commission.

Conclusion

In the above circumstances it is concluded that the 1st Respondent has violated the Fundamental Rights of the Complainant guaranteed under Article 11 of the Constitution.

Recommendation

- (a) In terms of the provisions in Section 15(3) (c) of the HRC Act, the recommendation report of this case is hereby sent to the Inspector General of Police to take appropriate legal action, against the 1st Respondent.
- (b) The Commission also recommends the 2nd Respondent to take suitable action to ensure that corporal punishment is totally prohibited in all schools.
- (c) In terms of the provisions in Section 15(3) (a) of the HRC Act the recommendation report of this case is hereby sent to the Provincial Education Office in order to take disciplinary action against the 1st Respondent.
- (d) In terms of the provisions in Section 11(g) of the HRC Act, the Commission recommends that the 1st Respondent pay the party aggrieved, a sum of Rs. 10,000/ as compensation.



H. Gazali Hussain
Commissioner
Human Rights Commission of Sri Lanka.



Ramani Muththettuwagama
Commissioner
Human Rights Commission of Sri Lanka.