



\$~42.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Date of Decision: 01.11.2023**

% LPA 729/2023

RIDDHIMA SINGH THROUGH HER FATHER SHAILENDRA
KUMAR SINGH Appellant

Through: Appellant in person.

versus

CENTRAL BOARD OF SECONDARY EDUCATION THROUGH
ITS CHAIRMAN & ORS. Respondent

Through: Ms. Seema Dolo, Advocate for
CBSE.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

SATISH CHANDRA SHARMA, CJ. (ORAL)

1. The present LPA arises out of judgement dated 12.09.2023 passed in W.P.(C) No. 8383/2023 tiled *Riddhima Singh Through her father Shailendra Kumar Singh vs. Central Board of Secondary Education* whereby the Ld. Single Judge dismissed the writ petition filed by the Appellant herein on grounds of forum *non-conveniens* without expressing any opinion on the merits of the matter (the '**Impugned Judgement**').



2. The facts of the case to the extent relevant for the present appeal are that the Appellant was a student in Respondent No.3 School (the '**Respondent School**'). However, on 02.04.2018, the Appellant's father received a message from the Respondent School that due to non-payment of fees for the academic year 2017-2018, the Appellant was debarred from attending the Respondent School.
3. Being aggrieved, the Appellant preferred W.P.(C) 6007/2019 (the '**First Writ Petition**') before this Court seeking issuance of directions against Respondent No. 1 ('CBSE') to permit the Appellant to appear for Class X and Class XII examinations. During the pendency of the aforementioned writ proceedings, this Court, through interlocutory orders, directed the Respondent School to readmit the Appellant and directed the school to conduct Grade VII and Grade VIII examinations for the benefit of the Appellant. Both the examinations were conducted by the Respondent School and was cleared by the Appellant. It is pertinent to note that the Grade VIII examinations were delayed due to the COVID-19 pandemic.
4. *Vide* judgement dated 04.06.2021, the First Writ Petition was dismissed by the Ld. Single Judge on grounds that this Court was not the most appropriate forum to adjudicate the dispute. The Court considered that the Appellant was a resident of Uttar Pradesh and that the Respondent School was also located in Uttar Pradesh. As the grievances of the Appellant primarily pertained to the Respondent School, the Court held that the mere inclusion of CBSE as a respondent was not sufficient to enable this Court to exercise its jurisdiction under Article 226 of the Constitution of India. Aggrieved,



the Appellant preferred a review petition against this judgement which was also dismissed with costs of INR 30,000 imposed on the Appellant.

5. Subsequent to the events of the First Writ Petition, the Appellant preferred the underlying writ petition seeking compensation from CBSE for alleged “*intentional harassment, mental trauma of holding back the Petitioner in Class VII for two academic years in violation of RTE Act.*” Without adjudicating on the merits of the matter, the Ld. Single Judge *vide* the Impugned Judgement placed reliance on the binding dictum of this Court in *M/s Sterling Agro Industries Ltd vs. Union of India &Ors*¹. and dismissed the writ petition on the grounds of *non-conveniens*, noting that the Appellant has attempted to found territorial jurisdiction in Delhi merely because CBSE is headquartered in Delhi.
6. Learned Counsel for the Appellant contends that the Ld. Single Judge erred in not considering that Clause 18.3.2 of the CBSE Affiliation Bye-Laws explicitly states that the legal jurisdiction for suits filed against the CBSE shall be the Union Territory of Delhi. Learned Counsel submits that the grievance caused to the Appellant is due to the actions of CBSE in not conducting Grade VIII examinations within an appropriate period of time and therefore, as the cause of action arose in the Union Territory of Delhi, the appropriate forum for adjudication of the matter is this Court.

¹2011 SCC OnLine Del 3162



7. Heard Learned Counsel for the Appellant and perused the record. With the consent of the parties, this matter is being disposed of at the motion hearing stage.
8. On an examination of the peculiar facts and circumstances that have led to the present appeal, it is evident that the grievance of the Appellant emerges from the actions of the Respondent School which is located in Uttar Pradesh. This Court had directed the Respondent School to conduct Grade VIII examinations for the Appellant, not the CBSE. Therefore, contrary to the contention of the Appellant, in effect, the Appellant is seeking compensation from the CBSE not for any decision/action taken by the CBSE but instead due to an alleged failure of the CBSE to regulate the actions of the Respondent School.
9. It is a settled position of law that where only a small part of the cause of action arises in the territorial jurisdiction of a Court, the same cannot automatically clothe the Court with jurisdiction under Article 226 of the Constitution of India. In such cases, the Court is obligated to follow the doctrine of *forum conveniens*. The doctrine of *forum conveniens* was elucidated by a full bench of this Court in *Sterling Agro* (supra) where it was held as follows:

“31. The concept of forum conveniens fundamentally means that it is obligatory on the part of the court to see the convenience of all the parties before it. The convenience in its ambit and sweep would include the existence of more appropriate forum, expenses involved, the law relating to the lis, verification of certain facts which are necessitous for just adjudication of the controversy and such other ancillary aspects. The balance of convenience is also to be taken note of. Be it noted, the



Apex Court has clearly stated in the cases of *Kusum Ingots (supra)*, *Mosaraf Hossain Khan (supra)* and *Ambica Industries (supra)* about the applicability of the doctrine of *forum conveniens* while opining that arising of a part of cause of action would entitle the High Court to entertain the writ petition as maintainable.

32. The principle of forum conveniens in its ambit and sweep encapsulates the concept that a cause of action arising within the jurisdiction of the Court would not itself constitute to be the determining factor compelling the Court to entertain the matter. While exercising jurisdiction under Articles 226 and 227 of the Constitution of India, the Court cannot be totally oblivious of the concept of *forum conveniens*...”

10. This principle was further reiterated by a Division Bench of this Court in *Sachin Hindurao Waze vs. UOI &Ors.*² wherein the Court held as under:

“12. On a broad holistic assessment of decisions cited by the petitioner would show that **there are practically two elements which have to be considered by any court while accepting jurisdiction to decide a writ petition under Article 226 of the Indian Constitution - firstly, if any part of the cause of action arises within its territorial jurisdiction; and secondly if the said court is the forum conveniens. Only a mere shred or an iota of a cause of action potentially clothing a particular High Court with jurisdiction [per Article 226(2) of the Constitution of India] to adjudicate a writ petition, ought not to encourage a court to accept such jurisdiction completely divorced and de hors an assessment of forum conveniens.**”

²2022 SCC OnLine Del 3287



This has been categorically articulated in decisions of this Court...”

11. More significantly, a Division Bench of this Court in *Shristi Udaipur Hotels vs. Housing and Urban Development Corp*³ dealt with a similar issue and observed that where the most vital parts of the cause of action have arisen elsewhere, the mere presence of the registered office of the Respondent in Delhi would be irrelevant in determining territorial jurisdiction as it amounts to a miniscule part of the cause of action. Relevant portions of the judgement are as under:

“30. In the present case, the mere location of the registered office of the respondent/Corporation in Delhi, cannot be a ground to canvass that the cause of action has arisen within the territorial jurisdiction of this Court, unless and until the petitioner has been able to point out that some material decision had been taken at the office of the respondent that would have a bearing on the present petition. A bald submission made to the effect that ordinarily a decision to recall a loan from a client is taken at the head office of the respondent/Corporation would not be of much assistance to the petitioner. As would be apparent from a bare perusal of the writ petition, the petitioner's grievance is directed against the act of the regional office of the respondent/Corporation in issuing the impugned loan recall notice dated 20.01.2014 and admittedly, the said regional office is not located within the territorial jurisdiction of this Court, but is based at Jaipur. Similarly, the Sub-Lease Deed dated 11.1.2008 in respect of the project land was executed by the petitioner with the

³2014 SCC OnLine Del 2892



sub-lessor at Udaipur and the project land is also located in Udaipur.

*31. To conclude, this Court is of the view that the facts relating to jurisdiction that have been pleaded in the application and for that matter, in the writ petition, can hardly be stated to be either essential or material, much less integral for constituting a part of the cause of action, as envisaged under Article 226(2) of the Constitution of India, for vesting territorial jurisdiction on this Court. **On the contrary, as noted above, the most vital parts of the cause of action have arisen in Jaipur and the mere presence of the registered office of the respondent/Corporation in Delhi or the facility extended to the petitioner to address any correspondence to the respondent/Corporation and/or remit moneys due or payable under the Loan Agreement at Delhi, would have to be treated as irrelevant factors, being a miniscule part of the cause of action.** By no stretch of imagination can these factors be treated as conclusive for determining the territorial jurisdiction of this Court.*

32. In the given facts and circumstances of the case, this court is inclined to accept the submission made by learned counsel for the respondent/Corporation that neither the factors mentioned by the petitioner, nor the circumstances would by themselves confer territorial jurisdiction on this court for maintaining the petition in Delhi. Rather, this Court is of the opinion that it would be inconvenient for it to entertain the present petition and the High Court of Rajasthan would be better equipped to deal with the issues raised in the present petition. Accordingly, this Court declines to exercise the discretionary jurisdiction vested in



it under Article 226 of the Constitution of India. Resultantly, the present application is dismissed, while leaving the parties to bear their own costs.”

12. The principle emerging from *Shristi Udaipur* (supra) is squarely applicable to the facts of the present case. In essence, the basis of the Appellant’s claim for compensation is the loss of an academic year due a delay in examinations for Grade VIII. As the responsibility for conducting the examinations fell on the Respondent School, it is plain that the most vital part of the cause of action arose in Uttar Pradesh, where the Respondent School is located. Moreover, it must also be noted that the Appellant is a resident of Uttar Pradesh. Therefore, on a holistic examination of these circumstances, as the Appellant has failed to produce any material establishing that the grievance caused to her is directly attributable to the actions of the CBSE, we cannot but conclude that this Court is not the appropriate forum for adjudication of this matter.

13. At this stage, it is pertinent to address Clause 18.3.2 of the CBSE Affiliation Bye-Laws (the ‘**Clause**’) which has been relied upon by the Appellant. The clause reads as under:

“18.3 Jurisdiction to file suits
18.3.2 The legal jurisdiction for the suits to be filed against the Board shall be the Union Territory of Delhi only.”

14. The contention furthered by the Appellant relies on a strict interpretation of the Clause which would in effect, defeat the doctrine of *forum conveniens* and is therefore not acceptable to this Court. It



must be noted that the doctrine of *forum conveniens* is invoked to determine the most appropriate forum for adjudication of a dispute and this exercise is undertaken not only for the convenience of the parties but also in the interest of justice. Therefore, this Clause cannot be read in a matter that would permit all cases filed against the CBSE, regardless of the existence of a more appropriate forum, to be adjudicated in the Union Territory of Delhi; the existence of such a clause cannot exempt Courts from invoking the doctrine of *forum conveniens* especially in cases like the present where no direct actions of the CBSE have been impugned by the Appellant. Thus, the Clause has to be interpreted purposively to include within its ambit only those cases where the cause of action is attributable to the CBSE. This position is also supported by the stand of the Learned Counsel for the CBSE before the Ld. Single Judge to the effect that this Court does not have the territorial jurisdiction to entertain this matter.

15. In light of the aforesaid, this Court finds no reason to interfere with the Impugned Judgement. Accordingly, the present LPA is dismissed. It is needless to state that this Court has not expressed any opinion on the merits of the subject matter.

SATISH CHANDRA SHARMA, CJ

TUSHAR RAO GEDELA, J

NOVEMBER 1, 2023