

WILSON AND OTHERS
v
ABEYRATNE BANDA, PRINCIPAL,
MALWATTAWALA M.M.V. AND OTHERS

SUPREME COURT
FERNANDO, J.
WIGNESWARAN, J. AND
DE SILVA, J.
SC APPLICATION NO. 126/2002
NOVEMBER 21ST 2003

Fundamental Rights – Article 12(1) of the Constitution – Re-admission of students to a school – Failure of court to grant compensation and costs for infringement of Article 12(1).

1st petitioner's son and 2nd to 4th petitioners alleged violation of their rights under Article 12(1) of the Constitution. On the basis of certain undertakings given to court, the petitioners were re-admitted to Malwattawala Maha Vidyalaya and were provided with facilities to complete their practicals. They were granted compensation of Rs. 2000/- each and costs in Rs. 5000/- payable by the State. The petitioners sought review of that order for adequate compensation for violation of Article 12(1).

Held:

The petitioners were entitled to review of the relief granted. The court granted each of them compensation in a sum of Rs. 7500/- and costs in a sum of Rs. 5000/- payable by the State.

APPLICATION for infringement of fundamental rights.

Elmore Perera for petitioners

Ranjan Mendis for 1st respondent

M. Gopallawa State Counsel for 2nd to 5th and 7th respondents

Cur.adv.vult

November 21, 2003

FERNANDO, J.

The relief sought by the petitioners in this application was that the 1st petitioner's son and the 2nd, 3rd, 5th, 6th and 7th petitioners be re-admitted to Malwattawala Maha Vidyalaya Wellawaya, and that these petitioners be given necessary instruction and facili-

ties to complete their practicals and projects. Further to certain undertakings given to Court, these reliefs have been obtained by the petitioners. However, although the grievances of the petitioners have been remedied, they had to incur expense in coming to court. We therefore award 1, 2, 3, 5, 6 and 7 petitioners compensation in a sum of Rs. 2000/- each and costs in a sum of Rs. 5000/- payable 10 by the State on or before 31.01.2004

WIGNESWARAN, J. - I agree.

J.A.N. DE SILVA, J. - I agree.

Relief granted.

January 20, 2004

FERNANDO, J.

Subsequent to the proceedings of 21.11.2003, the petitioners have filed an application for review of the above order, urging that this Court "made no order in respect of the prayer for a declaration that the fundamental rights of the petitioners guaranteed by Article 12(1) had been infringed", and praying also for compensation in respect of such infringement.

The above order did recognize that the 1st, 2nd, 3rd, 5th, 6th and 7th petitioners had a legitimate grievance, which had been remedied, but failed to award compensation for the infringement of 20 their rights under Article 12(1). We accordingly vary the last sentence of the above order, which will now read:

"However, although the grievances of the petitioners have been remedied, they had to incur expense in coming to court. We award each of the 1st, 2nd, 3rd, 5th, 6th and 7th petitioners (a) compensation in a sum or Rs. 7,500/- and (b) costs in a sum of Rs. 5,000/- payable by the State on or before 29.2.2004".

WIGNESWARAN, J. - I agree.

J.A.N. DE SILVA, J. - I agree.

Relief enhanced.