

**SYNOPSIS**

The Petitioner in the present case is a social activist and the great grandson of Mahatma Gandhi. The Petitioner has filed the present Petition on an issue of national importance which goes on to the very root of a civilised and pluralistic society, *i.e.*, ensuring peace and harmony between members of different religious groups in the country, including in the school-systems.

The present Petition seeks enforcement of the fundamental rights of children and the indulgence of this Hon'ble Court with regard to [A.] directions for a time-bound and independent investigation including registration of FIR in respect of all provisions where *prima facie* commission of offences is made out, specifically Section 82 of the Juvenile Justice (Care and Protection of Children) Act, 2015, in the recent episode of atrocities committed against a 7-year-old boy in Muzaffarnagar, UP by management/ teacher of the school; and [B.] prescription of preventive and remedial measures within the school systems in relation to violence against children, including those belonging to religious minorities.

The present PIL has been triggered in light of the following incident:

- (a) On August 24, 2023, a disturbing video emerged of a 7-year-old boy being slapped by fellow students in a school (Neha Public School) in Muzaffarnagar village, UP, on the instructions of their teacher/ principal of the school (Ms. Tripti Tyagi) because he got his multiplication tables wrong.
- (b) The teacher was seen on video telling the children to hit

their classmate “*hard*” and saying at one point: “*Maine toh declare kar diya, jitne bhi Mohammedan bachche hain, inke wahan chale jao* (I have declared – all these Muslim children, go to anyone’s area)...” Then, as one child sits down after hitting the boy, the teacher tells him: “*Kya tum maar rahe ho? Zor se maaro na* (Why are you hitting him so lightly? Hit him hard).”

- (c) Later, the teacher went on record to state that she is not ashamed of her remarks. In fact, she sought to justify her actions, saying that it’s important to “*control*” the kids at the school.
- (d) An FIR has been registered against the school teacher under sections 323 (*punishment for voluntarily causing hurt*) and 504 (*intentional insult with intent to provoke breach of peace*) the Indian Penal Code, 1860, who urged the students to hit their classmate. The child’s family was earlier hesitant to approach the police because they did not think they would be properly heard. However, as the outrage on social media grew, they decided to take action and lodge an FIR.
- (e) The school teacher has not been arrested so far since the sections in the FIR are bailable, said a police officer, adding that forensic teams will analyse the video and further legal actions would be taken accordingly.
- (f) Ever since the FIR has been filed, there has been a mounting pressure on the child’s family to strike a “*compromise*” and get the FIR against the teacher expunged.

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- (g) The 7-year-old boy complained that he felt disturbed and was unable to sleep following the incident.
- (h) The teacher and the children belong to a community that is electorally dominant community in the Western Uttar Pradesh, India and there are concerns that ruling government is trying to suppress the furore that the incident has justifiably created.

The appalling and ghastly episode that occurred in Neha Public School, Muzaffarnagar, UP on August 24, 2023, is preceded by a series of instances of violence against the students belonging to marginalised communities. Corporal punishment has become rampant in the Indian education system as the administration and the teachers believe that corporal punishment has a beneficial impact on children enabling them to learn and conduct better. However, research suggests to the contrary. Further, research suggests that violence in schools is administered with great severity and frequency to children from groups that are subject to stigma and discrimination in the society. This can put children, who, especially in their formative years, are extremely impressionable, at the risk of social and psychological damage as well as cultural deprivation which can last a lifetime. The negative impact of violence in schools goes beyond the students who are directly affected by it. It also has an insidious effect on pupils who witness it, creating an atmosphere of fear, anxiety, intolerance and polarization, incompatible with learning. This contributes to the overall perpetuation and toleration of violence in schools, which imposes a gargantuan cost upon the harassed individual, those

around them, and society as a whole.

The episode described above is indicative of a creeping threat that may take the shape of recurring patterns in schools across the country instigated by religious intolerance and communalism. It creates a reign of terror for children and parents around the country, who may dread sending children belonging to marginalized communities to schools, due to the myriad ways, manifest or subtle, in which students may be subjected to violence within the school systems. Therefore, it is imperative that such episodes are addressed and halted at this stage. For this purpose, the Petitioner *firstly* seeks a time-bound and impartial investigation in the episode that occurred on August 24, 2023, and *secondly*, prescription of preventive and remedial nature in relation to treatment of children, particularly those belonging to religious minorities within the school-systems.

#### **INDEPENDENT AND TIME-BOUND INVESTIGATION**

The Respondent Police has lodged an FIR against the school teacher under Sections 323 (*punishment for causing voluntarily hurt*) and 504 (*intentional insult with intent to provoke breach of peace*) the Indian Penal Code, 1860 (“**IPC**”), based on the statements of the harassed child and his father. The sections under which the FIR has been lodged, *i.e.*, Section 323 and Section 504 of the IPC are non-cognizable and bailable offences providing a maximum punishment of one year and two years. The teacher has also not been arrested so far. It appears that in the garb of prosecution, the Respondent Police is protecting the teacher. A concerted effort has been made to

invoke limited sections of the IPC that provide for less severe forms of punishment. The actions of the teacher *prima facie* constitute offences under the following provisions:

Act	Relevant Provision	Punishment
Indian Penal Code, 1860	<ul style="list-style-type: none"> <li>Section 153A (<i>Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony</i>);</li> </ul>	<ul style="list-style-type: none"> <li>Punishable with imprisonment which may extend to three years, or with fine, or with both</li> </ul>
	<ul style="list-style-type: none"> <li>Section 298 (<i>Uttering, words, etc., with deliberate intent to wound the religious feelings of any person</i>) of IPC;</li> </ul>	<ul style="list-style-type: none"> <li>Punishable with imprisonment which may extend to one year, or with fine, or with both</li> </ul>
	<ul style="list-style-type: none"> <li>Section 505(1)(c) (<i>Whoever makes, publishes or circulates any statement, rumor or report with an intent to incite, or which is likely to incite, any class or community of persons to</i></li> </ul>	<ul style="list-style-type: none"> <li>Punishable with imprisonment which may extend to three years, or with fine, or with both</li> </ul>

	<i>commit any offence against any other class or community)</i>	
Juvenile Justice (Care and Protection of Children) Act, 2015	<ul style="list-style-type: none"> <li>• Section 75 (<i>Punishment for Cruelty to Child</i>)</li> </ul>	<ul style="list-style-type: none"> <li>• Maximum punishment with rigorous imprisonment, not less than three years but which may extend to ten years and shall also be liable to fine of five lakh rupees.</li> </ul>
	<ul style="list-style-type: none"> <li>• Section 82 (<i>Corporal Punishment</i>)</li> </ul>	<ul style="list-style-type: none"> <li>• Maximum punishment with imprisonment for a term not less than three years and shall also be liable to fine which may extend to one lakh rupees.</li> </ul>

Further, the State law enforcement agencies have failed to prevent and remedy mob-violence that took place in Neha Public School on August 24, 2023. This is in breach of the guidelines laid down by this Hon'ble Court in *Tehseen S. Poonawalla vs*

*Union of India, (2018) 9 SCC 501*, that *inter-alia* requires the police to ensure that there is no further harassment of the family members of the victims, upon the FIR being lodged. However, the members of the child's family have stated that they are being forced to make a "*compromise*" and withdraw the FIR.

Therefore, the Petitioner seeks direction from this Hon'ble Court that the Respondent Police conducts a fair and independent investigation in a time bound manner, under the scrutiny of this Hon'ble Court, and register the FIR in respect of all provisions where *prima facie* commission of offences is made out the applicable laws, and not just the existing sections which are relatively innocuous, and take all consequent actions, including arrest of the school teacher.

#### **PREVENTIVE AND REMEDIAL GUIDELINES**

This Hon'ble Court in *State of Karnataka v Praveen Bhai Thogadia, (2004) 5 SCC 684*, stressed that "*it is inconceivable that there can be social well-being without communal harmony, love for each other and hatred for none.*" It is imperative that this understanding is instilled and reflected in the school environment, where the children are in their most formative years of growth.

Additionally, *vide* Section 2(2) of the Commission for Protection of the Child Rights Act, 2005, India is required to apply and extend the rights of children contemplated under the United Nations Convention on the Rights of the Child ("UNCRC"). Article 2 of UNCRC provides that the State Parties shall respect and ensure the rights set forth for each child within their jurisdiction shall be provided without

discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. Article 14 of the UNCRC provides that the State Parties shall respect the right of the child to freedom of thought, conscience and religion. Article 19 of UNCRC provides that the State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation by any person who has the care of the child. In this regard, such protective measures should be provided that include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment, and, as appropriate, for judicial involvement.

Further, Article 30 provides that in those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language. India is a party to the UNCRC and under Section 2(b) of Commission for Protection of the Child Rights Act, 2005, "child rights" include the children's rights



adopted in the UNCRC. Therefore, in addition to such rights being part of India's international obligation, the parliament has also required it to be included in domestic law, therefore, requiring it to be implemented by the courts, including this Hon'ble Court.

Therefore, considering the larger issue at hand, *i.e.*, infestation of religious divide in our society and subsequently our classrooms, guidelines are sought in the realm of preventive and remedial measures within the school systems in relation to violence against students belonging to religious minorities. Illustratively, the guidelines should broadly cover the following:

- 1. POSCO Rules:** Rule 3(5) of the Protection of Children from Sexual Offences Rules, 2020 (“**POSCO Rules**”) requires that the respective State Governments shall formulate a child protection policy based on the principle of zero-tolerance to violence against children, which shall be adopted by all institutions, organizations, or any other agency working with, or coming in contact with children. Despite a legal mandate under the POCSO Rules notified nearly three and a half years ago, the majority of the state government are yet to frame this policy. Therefore, directions should be issued to the State Governments to formulate the said child protection policy and apprise this Hon'ble Court of the steps taken in respect of the same.
- 2. Curriculum Revamp:** The textbooks often become a source of perpetuating old mindsets, and prejudices. Therefore, directions must be issued to the National Council of Educational, Research and Training for a

thorough audit of the textbooks from the perspectives of corporal punishment, gender-based violence, or any other identity-based discrimination.

- 3. Sensitization Training:** Large-scale sensitization training to be redesigned for the school administration and teachers with respect to communal harmony as well as non-violent classroom management techniques and pedagogical strategies.
- 4. Parents' Participation in Schools:** The section 21 of the Right to Free and Compulsory Education Act, 2009 provides for the school management committees comprising predominantly of the parents whose children study in that school to enable them to take part in the administrative and academic life of the school. However, these committees have not been constituted in most schools. It must be ensured that these committees are constituted with adequate representation of parents from religious minorities communities from which children are admitted in the specific school, to prevent communal discrimination within the school system.
- 5. Student Counselling:** Recovery, counselling and rehabilitation of children and their families, who have been subjected to religious discrimination, as well as those who have been exposed to such an environment by mental health professionals in clinical settings.

Hence, the present Petition.

**LIST OF DATES & EVENTS**

<b><u>DATES</u></b>	<b><u>EVENTS</u></b>
<b>24.08.2023</b>	<p>A disturbing video emerged of a 7-year-old boy being slapped by fellow students in a school (Neha Public School) in Muzaffarnagar village, UP, on the instructions of their teacher/ principal of the school (Ms. Tripti Tyagi) because he got his multiplication tables wrong.</p> <p>The teacher was seen on video telling the children to hit their classmate “<i>hard</i>” and saying at one point: “<i>Maine toh declare kar diya, jitne bhi Mohammedan bachche hain, inke wahan chale jao</i> (I have declared – all these Muslim children, go to anyone’s area)...” Then, as one child sits down after hitting the boy, the teacher tells him: “<i>Kya tum maar rahe ho? Zor se maaro na</i> (<i>Why are you hitting him so lightly? Hit him hard</i>).”</p>
<b>25.08.2023</b>	<p>The teacher went on record to state that she is not ashamed of her remarks. In fact, she sought to justify her actions, saying that it’s important to “<i>control</i>” the kids at the school.</p>
<b>26.08.2023</b>	<p>FIR has been registered against the school teacher under sections 323 (<i>punishment for voluntarily causing hurt</i>) and 504 (<i>intentional insult with intent to provoke breach of peace</i>) the Indian Penal Code, 1860, who urged the students</p>

to hit their classmate. The child's family was earlier hesitant to approach the police because they did not think they would be properly heard. However, as the outrage on social media grew, they decided to take action and lodge an FIR.

**27.08.2023** Ever since the FIR has been filed, there has been a mounting pressure on the child's family to strike a "*compromise*" and get the FIR against the teacher expunged.

**27.08.2023** The 7-year-old boy complained that he felt disturbed and was unable to sleep following the incident.

**30.08.2023** Hence the present petition

**IN THE SUPREME COURT OF INDIA**

CRIMINAL ORIGINAL JURISDICTION

PUBLIC INTEREST LITIGATION

**WRIT PETITION (CRIMINAL) No. 406 OF 2022**

(Seeking an appropriate Writ, Order or Direction for time-bound and independent investigation in the incident that took place on 24.08.2023 in Neha Public School, Muzaffarnagar, UP and formulation of guidelines for prevention and remedial measures for violence against students belonging to religious minorities with supporting affidavit.)

**IN THE MATTER OF:**

**TUSHAR GANDHI,**

**... PETITIONER**

versus

1. **STATE OF UTTAR PRADESH**, Department of Home, Through Chief Secretary, Home Department, 1<sup>st</sup> to 3<sup>rd</sup> Floor, Lal Bahadur Shastri Bhawan (Annexy Building), Sarojini Naidu Marg, Lucknow, Uttar Pradesh
2. **UNION OF INDIA**, Ministry of Education, through the authorized representative, 302-C, Shastri Bhawan, New Delhi – 110001
3. **CENTRAL BOARD OF SECONDARY EDUCATION (CBSE)**, through the authorized representative, Shiksha Kendra, 2, Community Centre, Preet Vihar, Delhi - 110092
4. **COUNCIL FOR THE INDIAN SCHOOL CERTIFICATE EXAMINATIONS (CISCE)**, through the authorized

representative, Pragati House, 3<sup>rd</sup> Floor, 47-48, Nehru  
Place, New Delhi – 110019 ... **RESPONDENTS**

**PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF  
INDIA SEEKING AN APPROPRIATE WRIT, ORDER OR  
DIRECTION TIME-BOUND AND INDEPENDENT INVESTIGATION  
IN THE INCIDENT THAT TOOK PLACE ON 24.08.2023 IN NEHA  
PUBLIC SCHOOL, MUZAFFARNAGAR, UP AND FORMULATION  
OF GUIDELINES FOR PREVENTION AND REMEDIAL MEASURES  
FOR VIOLENCE AGAINST STUDENTS BELONGING TO  
RELIGIOUS MINORITIES WITH SUPPORTING AFFIDAVIT.**

To,

The Hon'ble Chief Justice of India  
And his Companion Justices of the  
Hon'ble Supreme Court of India

The humble Petition of the  
Petitioner above-named

**MOST RESPECTFULLY SHOWETH:**

**1. PRELIMINARY**

**1.1.** By the present Petition, the Petitioner is seeking an appropriate writ, order or direction:

- a) time-bound and independent investigation **INCLUDING** registration of FIR in respect of all provisions where *prima facie* commission of offences is made out, **SPECIFICALLY** Section 82 of the Juvenile Justice (Care and Protection of Children) Act, 2015, in the recent episode of atrocities committed against a 7-year-old

boy in Muzaffarnagar, UP by management/ teacher of the school; and

- b) prescription of preventive and remedial measures within the school systems in relation to violence against children belonging to religious minorities

**2. DETAILS OF, AND DECLARATION BY, THE PETITIONER**

**2.1.** The Petitioner is a citizen of India and is a social worker and great grandson of Mahatma Gandhi.

**2.2.**

**2.3.**

**2.4.** The Petitioner has no personal gain, private motive or any such reason whatsoever in filing the present Writ Petition and the same is in Public Interest.

**2.5.** There is no civil, criminal or revenue litigation, involving the Petitioner, which has or could have a legal nexus with the issues involved in the present Public Interest Litigation.

**3. FACTS LEADING TO THE FILING OF THE PETITION**

**3.1.** On August 24, 2023, a video emerged of a 7-year-old boy being slapped by fellow students in a school (Neha Public School) in Khubbapur, Muzaffarnagar village, UP, on the instructions of a school teacher (Ms. Tripti Tyagi) because he got his multiplication tables wrong.

The teacher was seen on video telling the children to hit their classmate “hard” and saying at one point: “*Maine toh declare kar diya, jitne bhi Mohammedan bachche hain, inke wahan chale jao* (I have declared – all these Muslim children, go to anyone’s area)...” Then, as one child sits down after hitting the boy, the teacher tells him: “*Kya tum maar rahe ho? Zor se maaro na* (Why are you hitting him so lightly? Hit him hard).” A true copy of the news report by India Express dated 30.08.2023 titled ‘*Lesson in Hate: In Muzaffarnagar school, teacher gets kids to beat the Muslim Student, one by one*’ is annexed herewith as **Annexure P-2** at pages 20 to 25.

**3.2.** Later, the teacher went on record to state that she is not ashamed of her communal remarks that caused the child to be beaten up. In fact, she sought to justify her actions, saying that it’s important to “control” the kids at the school. A true copy of the news report by NDTV dated 27.08.2023 titled ‘*I am not Ashamed: UP Teacher who asked Students to Slap Muslim Classmate*’ is annexed herewith as **Annexure P-3** at pages 26 to 28.

**3.3.** An FIR has been registered against the school teacher under sections 323 (*causing hurt*) and 504 (*intentional insult with intent to provoke breach of peace*) the Indian Penal Code,



1860 (“**IPC**”), who urged the students to hit their classmate. The child’s family was earlier hesitant to approach the police because they did not think they would be properly heard. However, as the outrage on social media grew, they decided to take action. A true copy of the news report by Wire dated 26.08.2023 titled ‘*Muzaffarnagar: FIR filed against teacher who made students beat up Muslim Child*’ is annexed herewith as **Annexure P-4** at pages 29 to 34.

- 3.4. The school teacher has not been arrested so far since the sections in the FIR are bailable, said a police officer, adding that forensic teams will analyse the video and further legal actions would be taken accordingly. A true copy of the news report by Indian Express dated 26.08.2023 titled ‘*Muzaffarnagar: FIR filed against teacher who made students beat up Muslim Child*’ is annexed herewith as **Annexure P-5** at pages 35 to 37.
- 3.5. Ever since the FIR has been filed, there has been a mounting pressure on the child’s family to strike a “*compromise*” and get the FIR against the teacher expunged. A true copy of the news report by Indian Express dated 29.08.2023 titled ‘*Muzaffarnagar incident: Muslim boy’s family faces village’s wrath, says being forced to take back FIR*’ is annexed herewith as **Annexure P-6** at pages 38 to 41.
- 3.6. The 7-year-old boy complained that he felt disturbed and was unable to sleep following the incident. A true copy of the news report by NDTV dated 28.08.2023 titled ‘*UP*

*Muslim Boy Slapped By Classmates on Teacher's Order Can't Sleep: Family'* is annexed herewith as **Annexure P-7** at pages 42 to 44.

- 3.7. The teacher and the children belong to a community that is electorally dominant community in the Western Uttar Pradesh, India and there are concerns that the ruling government is trying to suppress the furore that the incident has justifiably created.
- 3.8. The appalling and ghastly episode that occurred in Neha Public School, Muzaffarnagar, UP on August 24, 2023, is preceded by a series of instances of violence against the students belonging to marginalised communities.
- 3.9. Corporal punishment has become rampant in the Indian education system as the administration and the teachers believe that corporal punishment has a beneficial impact on children enabling them to learn and conduct better. However, research suggests to the contrary. Further, research suggests that violence in schools is administered with great severity and frequency to children from groups that are subject to stigma and discrimination in the society. This can put children, who, especially in their formative years, are extremely impressionable, at the risk of social and psychological damage as well as cultural deprivation which can last a lifetime. The negative impact of violence in schools goes beyond the students who are directly affected by it. It also has an insidious effect on pupils who witness it, creating an atmosphere of fear, anxiety, intolerance and polarization, incompatible with learning.

This contributes to the overall perpetuation and toleration of violence in schools, which imposes a gargantuan cost upon the harassed individual, those around them, and society as a whole. A true copy of the report by Prof. R. Kalaivani, Assistant Professor, Rajarathnam College for Women, Tamil Nadu titled '*A Study On Corporal Punishment in Schools at Sivakasi*' dated May, 2020 is annexed herewith as **Annexure P-8** at pages 45 to 52. A true copy of the report by UNICEF titled '*Violence Against Children in Education Settings in India*' dated April, 2016 is annexed herewith as **Annexure P-9** at pages 53 to 136. A true copy of the report by UN Special Representative of the Secretary-General on Violence Against Children titled '*Tackling Violence in Schools: A Global Perspective*' dated 2014 is annexed herewith as **Annexure P-10** at pages 137 to 186.

**3.10.** The episode described above is indicative of a creeping threat that may take the shape of recurring patterns in schools across the country instigated by religious intolerance and communalism. It creates a reign of terror for children and parents around the country, who may dread sending children belonging to marginalized communities to schools, due to the myriad ways, manifest or subtle, in which students may be subjected to violence within the school systems. Therefore, it is imperative that such episodes are addressed and halted at this stage.

**3.11.** Hence, the present Public Interest Litigation.

#### **4. GROUNDS**

### INDEPENDENT AND TIME-BOUND INVESTIGATION

- 4.1.** That Respondent Police has lodged an FIR against the school teacher under Sections 323 (*punishment for causing voluntarily hurt*) and 504 (*intentional insult with intent to provoke breach of peace*) the Indian Penal Code, 1860 (“**IPC**”), based on the statements of the harassed child and his father. The sections under which the FIR has been lodged, *i.e.*, Section 323 and Section 504 of the IPC are non-cognizable and bailable offences providing a maximum punishment of one year and two years. The teacher has also not been arrested so far.
- 4.2.** That it appears that in the garb of prosecution, the Respondent Police is protecting the teacher. A concerted effort has been made to invoke limited sections of the IPC that provide for less severe forms of punishment. The actions of the teacher *prima facie* constitute offences under the following provisions:

<b>Act</b>	<b>Relevant Provision</b>	<b>Punishment</b>
Indian Penal Code, 1860	<ul style="list-style-type: none"> <li>Section 153A (<i>Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to</i></li> </ul>	<ul style="list-style-type: none"> <li>Punishable with imprisonment which may extend to three years, or with fine, or with both</li> </ul>

	<i>maintenance of harmony);</i>	
	<ul style="list-style-type: none"> <li>• Section 298 (<i>Uttering, words, etc., with deliberate intent to wound the religious feelings of any person</i>) of IPC;</li> </ul>	<ul style="list-style-type: none"> <li>• Punishable with imprisonment which may extend to one year, or with fine, or with both</li> </ul>
	<ul style="list-style-type: none"> <li>• Section 505(1)(c) (<i>Whoever makes, publishes or circulates any statement, rumor or report with an intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any other class or community</i>)</li> </ul>	<ul style="list-style-type: none"> <li>• Punishable with imprisonment which may extend to three years, or with fine, or with both</li> </ul>
Juvenile Justice (Care and Protection	<ul style="list-style-type: none"> <li>• Section 75 (<i>Punishment for Cruelty to Child</i>)</li> </ul>	<ul style="list-style-type: none"> <li>• Maximum punishment with rigorous imprisonment,</li> </ul>

of Children) Act, 2015		not less than three years but which may extend to ten years and shall also be liable to fine of five lakh rupees.
	<ul style="list-style-type: none"> <li>• Section 82 (<i>Corporal Punishment</i>)</li> </ul>	<ul style="list-style-type: none"> <li>• Maximum punishment with imprisonment for a term not less than three years and shall also be liable to fine which may extend to one lakh rupees.</li> </ul>

**4.3.** That the State law enforcement agencies have failed to prevent and remedy mob-violence that took place in Neha Public School on August 24, 2023. This is in breach of the guidelines laid down by this Hon'ble Court in *Tehseen S. Poonawalla vs Union of India, (2018) 9 SCC 501*, that *inter-alia* requires the police to ensure that there is no further harassment of the family members of the victims, upon the FIR being lodged. However, the members of the

child's family have stated that they are being forced to make a "compromise" and withdraw the FIR.

- 4.4. That therefore the Petitioner seeks direction from this Hon'ble Court that the Respondent Police conducts a fair and independent investigation in a time bound manner, under the scrutiny of this Hon'ble Court, and register the FIR in respect of all provisions where *prima facie* commission of offences is made out the applicable laws, and not just the existing sections which are relatively innocuous, and take all consequent actions, including arrest of the school teacher.

#### **PREVENTIVE AND REMEDIAL GUIDELINES**

- 4.5. That this Hon'ble Court in *State of Karnataka v Praveen Bhai Thogadia, (2004) 5 SCC 684*, stressed that "*it is inconceivable that there can be social well-being without communal harmony, love for each other and hatred for none.*" It is imperative that this understanding is instilled and reflected in the school environment, where the children are in their most formative years of growth.
- 4.6. That *vide* Section 2(2) of the Commission for Protection of the Child Rights Act, 2005, India is required to apply and extend the rights of children contemplated under the United Nations Convention on the Rights of the Child ("UNCRC"). Article 2 of UNCRC provides that the State Parties shall respect and ensure the rights set forth for each child within their jurisdiction shall be provided without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex,

language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status. Article 14 of the UNCRC provides that the State Parties shall respect the right of the child to freedom of thought, conscience and religion. Article 19 of UNCRC provides that the State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation by any person who has the care of the child. In this regard, such protective measures should be provided that include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment, and, as appropriate, for judicial involvement.

- 4.7. That further, Article 30 provides that in those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language. India is a party to the UNCRC and under Section 2(b) of Commission for Protection of the Child Rights Act, 2005, “child rights” include the children’s rights adopted in the



UNCRC. Therefore, in addition to such rights being part of India's international obligation, the parliament has also required it to be included in domestic law, therefore, requiring it to be implemented by the courts, including this Hon'ble Court.

**4.8.** That considering the larger issue at hand, *i.e.*, infestation of religious divide in our society and subsequently our classrooms, guidelines are sought in the realm of preventive and remedial measures within the school systems for prevention of violence against students belonging to religious minorities. Illustratively, the guidelines should broadly cover the following:

**(a) POSCO Rules:** Rule 3(5) of the Protection of Children from Sexual Offences Rules, 2020 (“**POSCO Rules**”) requires that the respective State Governments shall formulate a child protection policy based on the principle of zero-tolerance to violence against children, which shall be adopted by all institutions, organizations, or any other agency working with, or coming in contact with children. Despite a legal mandate under the POCSO Rules notified nearly three and a half years ago, the majority of the state government are yet to frame this policy. Therefore, directions should be issued to the State Governments to formulate the said child protection policy and apprise this Hon'ble Court of the steps taken in respect of the same.

**(b) Curriculum Revamp:** The textbooks often become a

source of perpetuating old mindsets, and prejudices. Therefore, directions must be issued to the National Council of Educational, Research and Training for a thorough audit of the textbooks from the perspectives of corporal punishment, gender-based violence, or any other identity-based discrimination.

*By way of illustration*, the grade IX English textbook (chapter 3 titled “*The Little Girl*”) of the NCERT perpetuates and legitimizes corporal punishment against children. It teaches children to accept the violence at home because the father works “too hard”. The Father is so violent that the young girl who speaks finely with everyone else starts to stutter in front of him. At one point when Kezia is beaten by the father, she asks, “*What did God make fathers for?*” while sobbing. The chapter makes the children believe that being “good” is to serve the needs of the adults without question or discussion or disagreement or consultation.

The “*Before You Read*” section of the chapter argues that with time the story is “*a little girl whose feelings for her father change from fear to understanding will probably find an echo in every home*”. It essentially means that once we understand the “why” of the violence, the violence becomes acceptable. Such portions must be redacted from the textbooks.

**(c) Sensitization Training:** Large-scale sensitization

training to be redesigned for the school administration and teachers with respect to communal harmony as well as non-violent classroom management techniques and pedagogical strategies.

**(d) Parents' Participation in Schools:** The section 21 of the Right to Free and Compulsory Education Act 2009 provides for the school management committees comprising predominantly of the parents whose children study in that school to enable them to take part in the administrative and academic life of the school. However, these committees have not been constituted in most schools. It must be ensured that these committees are constituted with adequate representation of parents from religious minorities communities from which children are admitted in the specific school, to prevent communal discrimination within the school system.

**(e) Student Counselling:** Recovery, counselling and rehabilitation of children and their families, who have been subjected to religious discrimination, as well as those who have been exposed to such an environment by mental health professionals in clinical settings.

5. The Petitioner prays for liberty to add or amend the facts and grounds set out in this Petition.
6. That the petitioner has not filed any other petition before this Hon'ble Court or before any other Court seeking the same relief.

**PRAYER**

In light of the foregoing submissions, it prayed that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction:

- a. directions for a time-bound and independent investigation to the Respondent Police, including registration of FIR in respect of all provisions where *prima facie* commission of offences is made out, as laid down in paragraph 4.2 of the Petition, in respect of a 7-year-old boy in Muzaffarnagar, UP being beaten up by the management/ teacher of the school;
- b. prescription of preventive and remedial measures within the school systems, as laid down illustratively in paragraph 4.8 of the Petition, in relation to violence against children, including those belonging to religious minorities; and
- c. pass such other or further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.

**AND FOR THIS ACT OF KINDNESS, THE PETITIONER ABOVENAMED, AS IN DUTY BOUND, SHALL EVER PRAY.**

**Drawn By:**

Mreganka Kukreja, Adv.

**Place:** New Delhi

**Dated:** 30.08.2023

**Filed By:**



**Mr. Shadan Farasat**  
**Advocate for the Petitioner**