

[2001] 2 AD(Del) 20 / [2001] 0 AIR(Del) 212 / [2001] 89 DLT 705 / [2001] 57 DRJ 456 / [2000] 0 Supreme(Del) 1030

**PARENTS FORUM FOR MEANINGFUL EDUCATION VS UNION OF INDIA**

High Court Of Delhi  
PARENTS FORUM FOR MEANINGFUL EDUCATION - Appellant  
Versus  
UNION OF INDIA - Respondent  
Civil Writ 196 of 1998  
Decided On : 12/01/2000

**DELHI SCHOOL EDUCATION RULES : R.37**

Advocates Appeared : Jayant Bhushan, P.S.Sharda,  
V.K.Shali Anil Dev Singh

( 1 ) THIS is a writ petition whereby the petitioners challenge the vires of Rule 37 of the Delhi School Education Rules, 1973 (for short the Rules ) more particularly sub- rules (1) (a) (ii), 1 (b) (ii) and (iii) and (4) (a) to (e) thereof.

( 2 ) THE first petitioner is a parents forum which is registered under the Societies Registration Act XXI of 1860. The second petitioner Smt. Kusum Jain is its President. The petitioners have moved this writ petition by way of public interest litigation seek- ing inter alia banning of corporal punishment to students in schools. Though in the , petition the petitioners also challenges sub-rule (1) (b) and 1 (iii) of Rule 37 of the Rules, which provide for expulsion and rustication of a student from school, at the time of hearing, however, the learned counsel for the petitioners only advanced arguments relating to the vires of the provisions dealing with corporal punishment. At this stage it will be convenient to set out Rule 37 which reads as under:-

"rule 37. Forms of disciplinary measures- (1) The following shall be the disciplinary measures which may be adopted by a school in dealing with - (a) all students - (i) detention during the break, for neglect of class work, but no detention shall be made after the school hours, 458 (ii) corporal punishment. (b) Students who have attained the age of fourteen years - (i) fine, (ii) expulsion, (iii) rustication, (2) For the avoidance of doubts, it is hereby declared that the disciplinary measures specified in clause (b) of sub-rule (1) shall not be imposed on any student who has not attained the age of fourteen years. (3) Fine may be imposed on a student who has attained the age of fourteen years in the following cases, namely: (i) late attendance; (ii) absence from class without proper application from the parent or guardian; (iii) truancy; (iv) wilful damage to school property; (v) delay in payment of school fees and dues; (4) (a) Corporal punishment may be given by the head of the school in cases of persisting impertinence or rude behaviour towards the teachers, physical violence, intemperance and serious form of misbehaviour with other students. (b) Corporal punishment shall not be inflicted on the students who are in ill-health. (c) Where corporal punishment is imposed, it shall not be severe or excessive and shall be so administered as not to cause bodily injury. (d) Where cane is used for inflicting any corporal punishment, such punishment shall take the form of strokes not exceeding ten, on the palm of the hand. (e) Every punishment inflicted on a student shall be recorded in the Conduct Register of such student. (5) Expulsion shall debar a student from being re-admitted to the school from where he is expelled but shall not preclude his admission with the previous sanction of the Director to any other school. (6) Where a student is rusticated, he shall not be admitted to any school till the expiry of the period of rustication. (7) No student shall be expelled or rusticated from a school except after giving the parent or guardian of the students a reasonable opportunity of showing cause against the proposed action. Notes: (i) Expulsion or rustication shall be resorted to only in cases of grave offences where the retention of the student in the school is likely to endanger its moral tone of discipline. (ii) Except in the case

of any expulsion or rustication from an unaided minority school, the punishments of expulsion and rustication shall not be imposed without the prior approval of the Director. "

( 3 ) THE above Rule inter alia provides that corporal punishment to a student may be administered by the Head of School in the event of continuous impertinence or rude behaviour by the student towards the teachers and in case he indulges in physical violence, intemperance and serious form of misbehaviour with other students. Where cane is used for inflicting corporal punishment, it imposes a limit of ten Strokes on the hand of the student.

( 4 ) ACCORDING to the petitioners, infliction of corporal punishment upon children is inhuman. The petitioners challenge Rules 37 (1) (a) and 37 (4) of the Rules on the ground of the same being illegal, arbitrary and violative of Articles 14,19 21 and 39 (e) and (f) of the Constitution.

( 5 ) ON the other hand, the respondents have justified the provision relating to corporal punishment on the ground that use of corporal punishment in moderation as provided in the Rule 37 of the Rules is not violative of any of the provisions of the Constitution and is meant to inculcate discipline in the child in his own interest.

( 6 ) WE have considered the submissions of the learned counsel for the parties. The matter needs to be examined in the light of certain provisions of the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20/11/1989 (for short convention on the Rights of the Child ), Articles 14, 21 and 39 (f) and (g) of the Constitution, National Policy on Education.

( 7 ) THE Preamble to the Convention on the Rights of the Child reflects that the state parties thereto, recognising the importance of the Child considered the necessity of bringing up the child in the spirit of the ideals proclaimed in the Charter of the United Nations, particularly in the spirit of peace, dignity, tolerance, freedom, equality and solidarity. The Preamble recalls that in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance.

( 8 ) FROM the Preamble to the Convention it appears that the General Assembly while adopting the same kept in view the Geneva Declaration of the Rights of the Child of 1924, and the Declaration of the Rights of the Child adopted by the General Assembly on 20/11/1959, and recognised in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particulars in article 10) and in the statutes and relevant instruments of specialised agencies and international organisations concerned with the welfare of the Child. ( 9 ) ARTICLE 19 of the Convention mandates the States Parties to take 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. Article 29 inter alia records the agreement of the States Parties for administering a system of education which develops the child's personality, talents and mental and physical abilities to the fullest potential, and the preparation of the child for responsible life in the free society in the system of peace, understanding and friendship among all people. The Convention under Article 37 (a) declares that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Articles 39 and 40 recognise the right of the child to be protected from any form of neglect, exploitation, or abuse, or any other form of cruel, inhuman or degrading treatment or punishment and to be treated in a manner consistent with his sense of dignity. At this stage it will be convenient to set out Articles 19, 29,37, 39, and 40 of the Convention.

"article 19 1. States 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 including sexual abuse, while in the care of parent (s), legal guardian (s) or any other person who has the care of the child. 2. Such protective measures should, as appropriate, 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 described heretofore, and, as appropriate, for judicial involvement. "\*  
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"article 29 1. States Parties agree that the education of the child shall be directed to: (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential; (b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations; (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own; (d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin; (e) The development of respect for the natural environment. 2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State. \*\*\*\*\*

"article 37 States Parties shall ensure that: (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below 18 years of age; (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time. (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances. (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action. "\*\*\*\*\*

"article 39: States Parties shall take all appropriate measures to promote physical and psychological recovery and social-re-integration of a child victim of : any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and re-integration shall take place in an environment which fosters the health, self-respect and dignity of the child. Article 40 1. State Parties recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and desirability of promoting the child's re-integration and the child's assuming a constructive role in society. 2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that: 462 (a) No child shall be alleged as, be accused of, or recognised as having infringed the Penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed; (b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees: (i) To be presumed innocent until

proven guilty according to law; (ii) To be informed promptly and directly of the charges against him or her, and if appropriate through his or her parents or legal guardian, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence; (iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians. (iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality; (v) If considered to have infringed the penal law, to have this decision and my measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law; (vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used; (vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognised as having infringed the penal law, and in particular: (a) The establishment of a minimum age below which children shall be presumed not have the capacity to infringe the penal law; (b) Whenever appropriate and desirable measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected. 4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence. "

( 10 ) THUS, in a nut shell the thoughts which pervade the various Articles of the Convention are basically protection of the child from all forms of physical or mental violence, injury, neglect, exploitation, abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment and adoption of means for the welfare of the child in every conceivable way and preservation of the dignity of the child.

( 11 ) THE Government of India acceded to the Convention on 11/12/1992. National Policy on Education was modified in 1992 before acceding to it. It is significant to note that the National Policy is in tune with the Convention inasmuch as it is against imposition of corporal punishment. At this stage it will be convenient to set out para 5. 6 of the policy which envisions this approach this para reads as follows:-

"child-CENTERED Approach 5. 6 A warm, welcoming and encouraging approach, in which all concerned share solicitude for the needs of the child, is the best motivation for the child to attend school and learn. A child-centered and activity-based process of learning should be adopted at the primary stage. First generation learners should be allowed to set their own pace and be given supplementary remedial instruction. As the child grows, the component of cognitive learned will be increased and skills organised through practice. The policy of non-detention at the primary stage will be retained, making evaluation as disaggregated as feasible. Corporal punishment will be firmly excluded from the educational system and school timings as well as vacations adjusted to the convenience of children. "

( 12 ) THUS, the policy makes it amply clear that corporal punishment is to be eradicated from the schools. It may be noted that provision for corporal punishment contained in Rule 37 is not in keeping with the goals set out in the National Policy on Education and the international convention. In case corporal punishment was conducive to education, the Convention on the Rights of the Child adopted by the General Assembly of the United Nations and the National Policy on Education would have been laudatory of the same and would have permitted it. Since physical punishment has a baneful effect on the child and on his education, the Convention and the National Policy have not endorsed the same.

( 13 ) IT seems to us that imposition of corporal punishment on the child is not in consonance with his right to life guaranteed by Article 21 of the Constitution. Right to life has been construed by the courts widely. On a larger canvass right to life includes all that which gives meaning to life and makes it wholesome and worth living. It means something more than survival or animal existence. Right to life enshrined in Article 21 also embraces any aspect of life which makes it dignified. This view finds support from the various decisions in *Munnabhai v. State of Maharashtra*, 94 US 113; *Smt. Maneka Gandhi v. Union of India and Others*, [AIR 1978 SC 597](#), *State of Maharashtra v. Chandraraj*, [AIR 1983 SC 803](#); *Kharak Singh v. State of U. P.* , [AIR 1963 SC 1295](#); *C. Masilamani Mudaliar and Others v. Idol of Sri Swaminathaswami Thirukoil and Others*, [\(1996\) 8 SCC 525](#) and *Gian Kaur v. State of Punjab*, [\(1996\) 2 SCC 648](#)

( 14 ) ARTICLE 21 in its expanded horizon confers medley of rights on the person including the following rights:-

1. A life of dignity 2. A life which ensures freedom from arbitrary and despotic control, torture and terror. 3. Life protected against cruelty, physical or mental violence, injury or abuse, exploitation including sexual abuse.

( 15 ) ALL these rights are available to the child and he cannot be deprived of the same just because he is small. Being small does not make him a less human being than a grown up. We are not mentioning other rights flowing from Article 21 as they are not relevant for the purposes of present petition. Article 21 makes no distinction between a grown up person and a child. Whatever rights are available to the former are also available to the latter.

( 16 ) IT also appears to us that corporal punishment is not keeping with child s dignity. Besides, it is cruel to subject the child to physical violence in school in the name of dis- cipline or education.

( 17 ) EVEN animals are protected against cruelty. Cruelty to animals is punishable under Section 11 of the Prevention of Cruelty to Animals Act, 1960. Beating, kicking, over-riding, over-driving, over-loading, torturing or otherwise treating any animal so as to subject it to unnecessary pain or suffering is a criminal offence. Our children surely cannot be worse off than animals. There are instance galore where the children have been traumatised and beaten in schools causing grave injuries to them on account of their innocent pranks, mistakes and mischiefs. Some of the reported incidents are given below for illustrating the point:-

1. A child was beaten and kicked by the teacher for stepping out of the class room to have a sip of water to control his hiccups. 2. A boy was slapped for a small mistake which caused perforation in his ear drum for which he had to undergo surgery. 3. A boy succumbed to the injuries inflicted by his principal. He was the only child of his parents. 4. Recently, a small girl in school was given a roller blow by the teacher, which caused grave injury on her head. This punishment was meted out to her because she was found peeping into the classroom from outside to look at her elder brother. ( 18 ) THE last incident reflects that we have carried inhuman practices even into the new millennium. The list of such incidents is unending.

( 19 ) ACCORDING to the UNICEF s report titled "the State of World s Children 99, 40 million children dropped out of schools before reaching class V due to substandard learning situations.

( 20 ) STUDIES have also shown that. spanking of children result in undesirable effects. They become withdrawn and exhibit anti-social behaviour. Children who are ruled by the rod in school may acquire disdain and hatred for their teachers. Beating affects their concentration in studies and leads to development of fear psychosis towards learning, fear of corporal punishment discourages regular attendance at schools and increases drop out rate. This obviously hampers and obstructs education and affects their right to education, which is a fundamental right flowing from Article 21. This dimension of Article 21 was recognised in *Unni Krishnan J. P. and others etc. etc. v. State of Andhra Pradesh and others*

etc. etc, [AIR 1993 SC 2178](#), wherein it was held that every citizen upto the age of fourteen years has a fundamental right to free education. Again in *Miss Mohini Jain v. State of Kamataka and others*, [AIR 1992 SC 1858](#), it was held that right to education is concomitant to fundamental rights enshrined under Part III of the Constitution. While holding so the Supreme Court read directive principles which are fundamental in governance of the country into Article 21 on the ground that both the fundamental rights and directive principles are supplementary to each other and the State is under constitutional mandate to create conditions in which the fundamental rights guaranteed to the individuals under Part III could be enjoyed by all. Besides, the Supreme Court emphasised the importance attached to education by noticing that right to education occurs in three Articles in Part IV, viz. , Articles 41, 45 and 46, and two Articles in Part III, viz. , Articles 29 and 30.

( 21 ) THE fall out of use of physical force on the children in schools by teachers defeats the very purpose for which it is applied. Infliction of bodily pain as penalty for indiscipline of the children at school may have different effects on different children. Some children may become submissive ,while others may learn that punishment is an accepted mode of ensuring compliance of one s wishes by others and that physical violence is an accepted means of exercising control over them. With the latter class of subjects, violence becomes means to acquire what they wish. This violence becomes an integral part of their lives. It is difficult to imagine the future of a nation whose children believe in violence for subjugating others or being submissive to force. Brutal treatment of children can never inculcate discipline in them. Obedience exacted by striking fear of punishment can make the child adopt the same tactics when he grows up for getting what he wants.

( 22 ) THE child has to be prepared for responsible life in a free society in the spirit of understanding, peace and tolerance. Use of corporal punishment is antithetic to these values. We cannot subject the child to torture and still expect him to act with understanding, peace and tolerance towards others and be a protagonist of peace and love. It was probably for this reason Mahatma Gandhi said that "if we are to reach real peace in this world, and if we are to carry on a real war against war, we shall have to begin with children, And if they will grow up in their natural innocence, we won t have to struggle, we won t have to pass fruitless idle resolutions, but we shall go from love to love and peace to peace, until at last all the corners of the world are covered with that peace and love for which, consciously or unconsciously, the whole world is hungering. "

( 23 ) CHILD being a precious national resource is to be nurtured and attended with tenderness and care and not with cruelty. Subjecting the child to corporal punishment for reforming him cannot be part of education. As noted above, it causes incalculable. harm to him, in his body and mind. In *F. C. Mullin v. Administrator, Union Territory of Delhi and others*, [\(1981\) 1 SCC 608](#) (at page 618), the Supreme Court held that every limb or faculty through which life is enjoyed is protected by Article 21. This would in- clude the faculties of thinking and feeling. Freedom of life and liberty guaranteed by Article 21 is not only violated when physical punishment scars the body, but that freedom is also violated when it scars the mind of the child and robs him of his dignity. Any act of violence which traumatises, terrorises a child, or adversely affects his faculties falls foul of Article 21 of the Constitution. In saying so we are also keeping in view the Convention on the Rights of the Child which is clear terms case an obligation on the state parly to take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, maltreatment, torture, inhuman or degrading treatment, exploitation including sexual abuse while in the care of the parent, legal guardian or any other person who are in the care of the child. The signatory state is also obliged to protect the dignity of the child. We have relied upon the Convention in consonance with the decision of the Supreme Court in *Bandhua Mukti Morcha v. Union of India and others*, [\(1997\) 10 SCC 549](#), wherein the Supreme Court relying upon the Convention on the Rights of the Child made use of the same and

read it along with Articles 21, 23, 24, 39 (e) and (f) and 46 to hold that it was incumbent on the State to provide facilities to the child under Article 39 (e) and (f) of the Constitution. It was also observed that child cannot develop to be a responsible and productive member of the society unless an environment is created which is conducive to his social and physical health.

( 24 ) THERE is another angle to Article 21. Before the decision of the Supreme Court in Smt. Maneka Gandhi v. Union of India and others (supra), Article 21 was taken as a guarantee against executive action affecting personal liberty not supported by law. Maneka Gandhi s case uncovered a new dimension by holding that the procedure prescribed for depriving a person of his life and personal liberty must be just, fair and reasonable, otherwise it will be hit by Article 21 and will be ultra vires of the same. The discovery of the new angle imposes a limitation on formulation of law meant for depriving a person of his life or liberty. Rules 37 (1) (a) (ii) and (4) requires to be tested on the touch stone of the principle laid down in Maneka Gandhi s case (supra ). These provisions are punitive in nature. The child can be subjected to cruel punishment under the said rule without providing him an opportunity to have a. say in the matter. He is condemned unheard which is highly unjust, unfair and unreasonable. Even a person accused of a grave offence is given adequate hearing at a criminal trial. No major penalty can be imposed on a delinquent official without a departmental enquiry in which he is given full opportunity to furnish his explanation. Under Rules 37 (1) (a) (ii) and (4) the child is treated as a lesser mortal as if Article 21 does not exist for him. This situation cannot be countenanced in law. Therefore, applying the principle laid down in Maneka Gandhi s case (supra) we are of the opinion that Rules 37

(1) (a) (ii) and (4) of the Rules which permits infliction of bodily pain on the child is ultra vires of Articles 14 and 21 of the Constitution. Accordingly, Rule 37 (1) (a) (ii) and (4) of the Delhi School Education Rules, 1973, is struck down as being violative of Articles 14 and 21 of the Constitution.

( 25 ) WE are not impressed by the submission that the provisions of Rule 37 (1) (a) (ii) and (4) is not violative of Article 21 as they allow infliction of light physical punishment on the students. To allow even minimum violence to children can degenerate into aggravated form. A teacher using the rod cannot every time be mindful of the force with which he may be hitting and child. ( 26 ) LEARNED counsel for the respondent tried to justify the aforesaid Rule by relaying upon para 118, Volume 115 of the Halsbury s Law (Fourth Edition ). This para notes the case of R. V. Hopley, (1860) 2 Fandf 292. This was a case where a school master wrote to the parent proposing to beat his child severely to subdue his alleged obstinacy and on receiving father s assent for the same, administered beating to the boy for two and a half hours in the night with a thick stick until he died. It was held that a parent or a school master has the power to use moderate and reasonable corporal punishment for correcting the child though, at the same time, it was held that immoderate and excessive force cannot be applied for the gratification of passion of rage. It may be noted that this decision was rendered about one and a half centuries back. Since then thinking has undergone a sea change. The United Nation s Convention, to which India is a signatory, is a testimony of that change and the importance which is being attached to the child. Law cannot be static. It must move with the time. The rights of the child cannot be ignored.

( 27 ) OUR National Policy on Education strives to eliminate corporal punishment from educational system. This is in consonance with the convention on the right of a child and Article 21 of the Constitution. Even in National Curriculum for Elementary and Secondary Education, it is stated that child s individuality and dignity must be respected. His/her needs, interests, aptitude and abilities are to be adequately taken note of and awareness is to be created in him/her to human values, social justice and non-violence.

( 28 ) LEARNED counsel for the Govt. of NCT of Delhi wants us to uphold corporal punishment to students. We cannot agree. We have chartered a different course and in doing so we have been guided by Articles 14, 21 and 39 (e) and (f) of the Constitution, the International Convention and the National Policy on Education.

( 29 ) BEFORE parting with the case we would like to observe that fundamental rights of the child will have no meaning if they are not protected by the State. In *Bhajan Kaur v. Delhi Administration*, 1996 III AD (DELHI) 333, it was recognised by this Court that State cannot be a mute spectator to the violation of the rights guaranteed to a person under Article 21 of the Constitution. The State must intervene to secure the rights to an individual. In *Usuf Khan alias Dilip Kumar and others v. Manohar Joshi and others*, 1999 SCC (CrL.) 577, it was held that the State is obliged to protect law and the Constitution. In discharge of that obligation the State was directed to take action with a view to ensure adequate security cover and protection to the petitioners. Therefore, the State cannot derive any consolation from the fact that the violators are schools and not the State. The State must ensure that corporal punishment to students is excluded from schools. The State and the schools are bound to recognise the right of the children not to be exposed to violence of any kind connected with education. The National Policy in tune with the Convention has adopted child centered approach, where corporal punishment has no place in the system of education. Even otherwise, India being a signatory to the Convention is obliged to protect the child from physical or mental violence or injury while the child is in the care of any person, may be educational institution, parents or legal guardian.

( 30 ) IN view of the foregoing, the writ petition succeeds. The rule is made absolute. Rule 37 (1) (a) (ii) and (4) of the Delhi School Education Rules, 1973, is held to be violative of Articles 14 and 21 of the Constitution and is, accordingly, struck down. We also direct the State to ensure that children are not subjected to corporal punishment in schools and they receive education in an environment of freedom and dignity, free from fear.

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