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**(2018) 07 CAL CK 0102**

**Calcutta High Court (original side)**

**Case No:** WP 180 of 2018

Dave Aditya Jefferson  
Sengupta, Minor, Rep.  
By Father

**APPELLANT**

**Vs**

Council For Indian  
School Certificate  
Exam & Ors.

**RESPONDENT**

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**Date of Decision:** July 19, 2018

**Hon'ble Judges:** SHEKHAR B. SARAF, J

**Bench:** Single Bench

**Advocate:** P. Verma, T. Guray, Chandan Mondal, Sanjoy Kumar Baid, Arunima Lala

**Final Decision:** Allowed

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### **Judgement**

The Court : Heard learned Counsel appearing for both the parties.

Ã, The writ petition deals with issues with regard to a child of Class-IX in Don Bosco School, Park Street.Ã, The child has been granted a Transfer

Certificate by the school authorities on several grounds including the fact that a child is suffering from depression and has a habit of injuring himself in

front of his school mates.Ã, The respondent school authorities submit that keeping the child in the school may result in harm to the other children.Ã,

They submit that they have received several complaints of parents from other students who are concerned with regard to their wardÃ¢â€â€s safety.Ã,

Mr. Baid, learned Advocate appearing on behalf of respondent nos. 4 and 5 relies on a judgment of this Court being Purushottam Lal Singhania v.

Delhi Public School reported in AIR 2006 Cal 313, wherein a coordinate Bench had held as follows:

“7. I do think that writ petition can be entertained for examining whether the disciplinary action taken by the school is vitiated by arbitrariness or by

violation of principles of natural justice. An exercise undertaken for such examination will amount to a judicial review of the decision. In my view,

if it is held that the decision in question can be judicially reviewed by the Writ Court, then it will necessarily follow that the school is amenable to the

jurisdiction of the Writ Court with respect to its every action and decision. I think such a proposition cannot be laid down for maintaining a writ

against an unaided private educational institute.

8. I am unable to agree with counsel for the petitioner that since an allegation has been made regarding infringement of fundamental right, the writ

petition has to be entertained just as a matter of course. In my view, by simply alleging infringement of fundamental right, the student does not

acquire a right to automatic admission of his writ petition. In my opinion, it is the duty of the Court to see whether a prima facie case of

infringement of fundamental right has been made out. In my view, in this case the petitioner has failed to make out any prima facie case of

infringement of his son's fundamental right to education.

9. For these reasons, I hold that the present writ petition is not maintainable. The remedy (if any) of the petitioner (necessarily for the student

concerned), in my view, is available before the ordinary civil Court. The writ petition is dismissed. There shall be no order for costs in it.

Relying on the above judgment, he submits that the writ Court should be extremely slow in entertaining such a writ petition that deals with a

student-school relationship. He submits that the action of granting the Transfer Certificate to the writ petitioner was keeping in mind the

child's welfare. According to him, the child requires to attend a special needs school. Granting the Transfer Certificate also allows the child to

[illegible]