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HUMANITY

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One fearless champion of the child uses law to fix law and make history

A landmark judgment handed down from the Delhi High Court recently should make Delhi school life a little less difficult for students. The judgment struck down the provision for corporal punishment provided under the Delhi School education act, saying that it "violated the constitutional right guaranteeing equality and protection of life and personal liberty." This precedent-setting ruling came in the wake of a petition filed by the Parents Forum for Meaningful Education, an organization much helped and guided by a smart New Delhi lawyer named P.S. Sharda. Hinduism Today correspondent Rajiv Malik talked with Sharda in his office recently. Here are some excerpts:

Hinduism Today: Is this High Court judgment being implemented and enforced?

P.S. Sharda: Yes, it is. It has to be. The directions to do this are contained in the High Court order itself. And the state is bound to see to it that the effect of the judgment is given practical shape and that its benefits reach the children directly. One favorable indication is that the Delhi government is proposing more amendments to the bill of education with the aim of striking down any other laws favoring corporal punishment.

HT: But is it actually being put into practice in the schools?

Sharda: Shortly after the judgment, some children were still abused in some schools. The judgment was delivered on December 1, 2000. On February 12, 2001, I wrote a letter to the Secretary of Education to draw his attention to the matter. I waited for two months and wrote another letter. We must be patient. When a beautiful ruling like this is delivered by the judges, we must understand that these kinds of changes do not occur overnight. The great accomplishment here was that, as a state, our society recognized and the courts ruled that abuse is in violation of law. Now if you strike a child in school you are breaking a law. Earlier such cruelty was actually supported by law.

HT: How did the Delhi law condoning child abuse get established in the first place?

Sharda: That was in 1973. Even then, the law did not approve of corporal punishment, but still provided for the practice of it. It was a nonissue. And that was scary. It was just taken for granted. Child beating was considered the birthright of all teachers. So the law provided for it.

HT: How did you get involved with the Parent's Forum for Meaningful Education in their attempts to help children?

Sharda: This forum was established in 1992. I became involved at a Rotary Club meeting when its president came to speak. She was saying that lawyers had been ineffective in helping victims of child abuse in the schools, and that we did not do anything for the people—that we were all only interested in our own welfare. So, I was listening to this and I said: "Look here, this is not correct. You cannot claim that the profession of lawyers is bad. You may only say that certain people are bad." Then I offered to help with

litigation. "One thing is for sure," I told her. "By the time this business is done, your view and opinion of my profession will certainly change for the better."

HT: Is there any spiritual motivation here for you in this project?

Sharda: It is a service. I have come to discharge my debt to my country. I feel grateful to do so. I feel fortunate to have this opportunity to serve. In this particular case any and all credit must go to Justice Anil Dev Singh and Justice M.K. Sharma. They have made history here. This appeal was an attempt to restore the dignity of a young man on the very threshold of his life. And it succeeded.

HT: Can you tell us a little about the petition that you presented in court for the Parent's Forum?

Sharda: In 1997 I wrote this petition based on the work

they were doing in the field of education, seeking educational reforms for children in general. But I got inspired some time back in 1995, when the forum was involved in its earlier efforts to abolish this clause about corporal punishment. During this time, a child was brought to me through the Parent's Forum. He had been paraded naked in his school and was abused and beaten for a full three hours. This was in the newspapers and on television. I talked to him myself. He told me everything. We made out a complaint and filed it with the court. His teacher and the vice principal who abused him were issued legal summons. Then, it occurred to me, the whole thing was all just too inhuman. Why should anybody beat anybody else for anything? This abuse has been going on unchecked to such an extent that it has become an accepted fact of our life. I called the boy and told him, "Your case will become instrumental in providing relief to millions of other children. This I can promise you." So then I prepared this petition.

HT: Was there any resistance in the courts, and were you happy with the outcome?

Sharda: In the end I was very happy. We filed the

petition on the 15th of January. A notice was issued on the 16th. Then for about a year, the Delhi government kept denying dates on one pretext or the other. This was followed by several months of official holidays and vacations. It was a case of people versus the Central government and the State government of Delhi, so we had to be patient. But we were ready. According to national policy, corporal punishment in schools should not exist. This is the law at the national level. Any state law that runs contrary to it will eventually be struck down when someone finally decides to make an issue of it. We made an issue.

HT: How do you see this judgment affecting the on-going effort to eliminate child abuse altogether?

Sharda: Ultimately, our system is effective and good. We must each understand that we have a duty to implement the system. More people must be willing to make an effort. Also groups like the Parent's Forum are there. They are mainly committed to education, which is very important. The media can help tremendously in another way. They have already helped. No one would have known about many of these cases except from media coverage.

HT: How are the parents and teachers reacting to all of this?

Sharda: It is not a question of whether the parents are happy or not. It is a question of the dignity of the child. Any parent or teacher who was unhappy with this decision was certainly a guilty party before. The teachers' basic reaction has been more reactive than the parents. Some were saying, now there will be total chaos. It will be like in America with the shootings. But secretly these teachers were feeling the loss of superiority over the children. Basic human dignity is not something that we have to give to a child. It is inborn. It cannot be taken away.

HT: How do you see the future of the movement to abolish child abuse?

Sharda: Most efforts to abolish child abuse fail because the issue does not become a movement. For it to become a movement, politicians need to be impressed in such a manner that they think this is a potential vote bank. In a democracy, politicians are mostly concerned

with vote banks. So the issue must be popular enough to supply them votes. Then you will have their backing, and you will have a movement that has the power to achieve results.

HT: Are there going to be any training programs on how teachers can control classes without hitting the students?

Sharda: Certainly teachers must be properly educated in this. And they will be happy to become so. The small percentage of individuals who object are inconsequential. Because it is accepted institutionally, it will grow. Everything is in place. It will just take a little bit of time.

As the conclusion to the High Court decision reads: "Child being a precious national resource, it is to be nurtured with care and not with cruelty. Subjecting the child to corporal punishment for reforming him cannot be part of education."

"This is a movement to restore the dignity of a man at the very threshold of his life.

Any society that ruins its childhood will certainly ruin its future. Is not a country simply a continuation of generations, each taking over from the one before?"

P.S. Sharda