

BARBADOS

IN THE SUPREME COURT OF JUDICATURE

HIGH COURT

CIVIL DIVISION

CV 1006 of 2018

BETWEEN

B.B.

APPLICANT

AND

N.B.

RESPONDENT

**Before Dr. The Hon. Madam Justice Sonia L. Richards, Judge of the
High Court**

2018: December 17

2019: February 15

Mrs. Amanda Riley-Jordan, Attorney-at-Law for the Applicant.

Ms. Veronica McFarlane, Attorney-at-Law for the Respondent.

DECISION

Introduction

- [1] The issues before the Court are the result of the homeschooling of a minor child.

Background

- [2] The parties are the parents of a male child, SB, who was born on 23 September 2005. The mother presently has care and control of the minor child.
- [3] In January 2018, the Ministry of Education (“the Ministry”) gave the mother permission to homeschool the minor for the academic year 2017 to 2018, based on an approved curriculum and timetable. The permission was subject to terms and conditions which were accepted by the mother.
- [4] Prior to homeschooling, the minor had been removed from three public schools by his mother. His father was not consulted about the removal of the child from these public schools, or about the application for homeschooling. The father subsequently made his concerns known to the Ministry in February 2018.
- [5] By the end of May 2018, after visiting the minor’s home, education officers found that there was little evidence that the minor’s educational needs were met over a five month period; or that the approved timetable and curriculum were being followed. The father sent another letter of complaint to the Ministry in early June 2018.

- [6] The Ministry convened a case conference on 25 July 2018. The mother, although invited, did not attend and at the time did not inform the Ministry why she was unable to attend. On 20 August 2018, the Ministry sent a letter to the mother revoking the permission to homeschool the child. She was directed that he was assigned to the New Horizons Academy from September 2018. The mother refused to allow the child to attend New Horizons. It is reported that her reason was that she did not put down that school and he was not going there.
- [7] The Ministry convened another meeting on 04 October 2018. The mother attended with Mr. Paul Rock of the African Heritage Foundation. The father and the minor child were also present. Mr. Rock requested that his team be allowed to continue tutoring the minor for the remainder of the term, and that the Ministry could review the situation thereafter. The Ministry was not so persuaded. Officers were of the opinion that three days per week were inadequate to meet the educational needs of the minor child.
- [8] There is a report of inappropriate language being used by the father at the meeting, and in the presence of the minor. Also, the mother is reported to have said that her son was not slow; that she knew nothing about the New Horizons Academy; that no-one was going to stop her

from homeschooling her child; that she was his mother and had control over his education; that he was happy where he was; and that she would fight the system if necessary.

[9] Arrangements were made for the minor to be assessed by a clinical psychologist, who submitted a “final” report to the Ministry dated 13 November 2018. The findings in that report are that:

1. the scores in the child’s cognitive assessment placed him in the extremely low range;
2. his receptive language abilities were equivalent to those of a five year old;
3. his expressive language abilities were equivalent to a four year one month old;
4. the findings suggested severely underdeveloped language skills that were likely to impact his academic and social activities; and
5. a provisional diagnosis of F71 moderate intellectual disability.

[10] The report also stated that other evaluations were to be completed. It should also be noted that at the time of this assessment the child was thirteen years of age.

[11] The psychologist also expressed concerns about the mother’s role and attitude as follows:

“I am concerned about [her] thought content and perceptions with regard to [the minor’s] development and academic experiences; and her behavior regarding this assessment. So far, I find many of [her] conclusions about [the minor’s] experiences and level of development to be illogical at best; delusional at worst”.

[12] At the October 2018 meeting, the education officers present were unaware that the Ministry had received an application from the mother to continue homeschooling the child. The application was dated 03 September 2018. In that application the mother noted that she had seen marked improvement in his work, and that she was willing to make the child available to the Ministry for further testing. Additionally, in August 2018 Mr. Rock wrote the Ministry requesting a review of the decision to revoke the permission for homeschooling. Counsel for the mother argues that as a consequence of these two requests to the Ministry, this Court has no jurisdiction to continue hearing the matter at this time.

Analysis

[13] Having reviewed the oral evidence of Mrs. Joy Adamson, Deputy Chief Education Officer, and Mr. Rock, it is evident that even if the Ministry was aware of the mother’s request for homeschooling, the

education officers present would not have acceded to that request. Therefore, to pause at this stage to permit the Ministry to undertake yet another review would be an exercise in futility.

[14] This Court is of the view that, based on the father's application, it has the necessary jurisdiction to consider and pronounce upon what is in the best interest of the minor child, and to make orders in that regard. The Court is also of the opinion that there is sufficient information available to make, at the very least, an interim order concerning the child's welfare. It should be obvious to all that he is unable to meet the educational milestones for a child of his age. There are significant deficits in that regard.

[15] The Court is sympathetic towards the work of Mr. Rock and his Foundation on behalf of the child. However, the remediation requires more than three or four days per week. While it is evident that Mr. Rock is committed to and enthusiastic about the work of the Foundation, there is no evidence of his certification, or the certification of anyone working in the organization, in relation to the remedial requirements of this child. Mr. Rock admitted that he applied to the Ministry with a curriculum which he knew the child could not achieve. And the Ministry was not informed that the child was assessed with an

education deficit. The Court noted that the Foundation is homeschooling other students with the blessing of the Ministry. But the Court has no data about the success rate of the Foundation, especially as it relates to children similarly challenged as the minor in this case.

[16] The Court accepts the evidence that the New Horizons Academy is well equipped to cater to the educational requirements of the minor child. The Academy has on staff persons with the requisite training to assist the child.

[17] The Court is concerned about the mother's unnecessarily combative attitude towards the education of her son. She misled Mr. Rock about the involvement of the child's father. She never told Mr. Rock that she had removed the child from other public schools prior to homeschooling. And as yet the Court has no evidence to support her allegations of bullying at his last public school. The findings of the clinical psychologist are also cause for grave concern. The mother's inability to accept her son's academic challenges was highlighted by the psychologist. (See para. [11] supra). Mr. Rock was not made aware of the findings of the psychologist.

[18] This child has no more time to delay full time remediation on at least five school days per week; no time to await the results of further testing which can be carried out in the New Horizons educational environment. No fees are payable by his parents at New Horizons. Neither the Ministry nor this Court have any objection to the African Heritage Foundation assisting the minor child if that can be arranged. However, his main educational pursuits will be conducted at New Horizons Academy.

Disposal

[19] By order dated 13 November 2018, the Child Care Board was requested to investigate the circumstances of the parties, and to provide a report to the court by 18 January 2019. This request was transmitted to the Board by letter dated 03 December 2018. The Board has been unable to comply with the order to date and, by letter dated 01 February 2019, asked for an extension of time in which to produce the report by 18 March 2019. The Court will dispose of this matter, therefore, without the Board's input. While this is irregular, the Court had before it enough information on which to act in the immediate interests of the welfare of the minor child.

[20] It is the order of this Court that:

1. the minor child is to attend the New Horizons Academy as soon as possible;
2. the minor's father be given care and control of the minor from Sunday 17 February 2019; and
3. the maintenance order be suspended until further order of the Court.

Sonia L. Richards
Judge of the High Court