

Is the House of Lords decision in the Begum case consistent with freedom of expression in a multi-cultural society?

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Introduction:

In this essay I aim to decide if the House of Lords decision in the Begum Case was justified and to see if they kept a consistency with the freedom of expression in a multi-cultural society.

What was the Begum Case?

The Begum case was about Shabina a girl who believed in the Muslim faith to an extreme account and as such she wore religious clothing, however her school, had a strict uniform policy in place and due to Shabina wearing the Jilbab which is a Muslim dress, she was seen to violate the schools uniform policy. Shabina was out of school for 2 years before eventually finding another school of which she could attend to where they allowed students to wear religious clothing. However, before Shabina was en-rolled at the other religious school, she took her previous school to court for proceedings against the policy of Human rights Regarding; Freedom to Manifest one's religion, Freedom of thought and Religion and Everybody's right to education.

What are Human Rights that are affected in this case?

Human rights are acts that are put in place to give basic sanity, life and respect to Humans. The school of which Shabina was attending broke three of these; Freedom to Manifest one's Religion, Freedom of thought and Religion and Philosophy and finally, they broke the act of Everyone's entitlement to Education.

How did the School break The Humans right Act?

As stated in the latter, the School Defied Shabina the right to wear a Shilbab in school, as it was not part of the school uniform policy which breached the act of Manifesting one's own religion, it was not a breach of Public safety or Protection to the Public order, and it was not against health and morals or the rights of others. So should she of been allowed to wear a Shilbab in school? Yes because, it is her own right to portray her religion if she is an extreme believe in The Muslim faith, of which she must have been. No, however because it was against the Schools Uniform Policy, and it would have made her different to everyone else as she would not have worn the Uniform, thus raising the question of Equality. Also, if you allow one student that is of different religion to the Majority of the School to be made an exception of the School uniform, then all other students who are extremists in their own religions, will start wearing their own Religious clothing, thus making the policy of School uniform redundant.

Secondly, The School broke the act of everyone having the right to freedom of thought and religion, in a community with others or in a public place. This was breached when Shabina was sent home from school, this made her excluded from her friends and other peers at school, was the school right to do such an act? Yes, again bordering on the Uniform policy you cannot make exceptions in a school that has already got a set Uniform policy, and as giving one person the right to have a different Uniform would potentially disgruntle all other pupils who would wish to wear their own Religious clothing, as the saying goes, “you cannot give one person without giving the other.” However, the school was wrong because they should have followed the Human rights act, and acted on that, they could have just changed the policy of the Uniform to allow, all non-Christians/Church of England or other Christ-Bearing Religion to wear their own Religious clothing, as this would have saved the school, court costs, they should have taught all children about religious beliefs, with parents consent. As this would have saved the school the trouble of angry parents bringing up the subject of racial equality, such as “If they can wear their own clothing, my child can wear theirs.”

Finally, the last act that the school broke was Everybody’s right to Education. they excluded Shabina from school, thus defying the act of the latter, should they have excluded her, this is up for dispute, in my opinion, they should not have excluded her, it seems rather extreme to exclude someone because of their religious beliefs, a school is really for learning and gaining basic qualifications, it is not somewhere where you can and cannot be told to defy your own religion. Shabina was out of school for 2 whole school years, thus making her behind in work, this was before she got back into a new school, which allowed her to wear her Shilbab, in school.

Was Shabina Wrong at all?

So far the arguments seems strictly one sided and against then School but we need to analyse and see if Shabina was wrong as well. The school was in its right to remove Shabina from her lessons and from the property of the school if she did not conform to the School Uniform Policy, she did not conform to the Uniform policy so she was removed from school, the school also had to think about the equality of students and possibilities of rebellion of other students if the Policy changed.

Was the end decision by the House of Lords Justified?

I personally do not believe the result of which the House of Lords came to was justified. This is because Baroness Hale and Lord Nicholls believed that there was interference with Shabina Manifesting her religion, Baroness Hale thought logically about the en-rollment of students into secondary schools, and usually in most cases the school of which the student is en-rolled at is solely based on the view of the adult not the child, even though the child has some voice the

final decision is made by the adult, thus Breaching The Right to Manifest your own religion in school and the right to education because the Right to Education under article 2 of Protocol number 9 states that “The state should respect the rights of parents to ensure that education conforms to their religion or Philosophical beliefs.

Conclusion

relating back to the Original question “*Is the House of Lords decision in the Begum case consistent with freedom of expression in a multi-cultural society?*” No, I personally do not believe that the House of Lords was consistent with the Freedom of expression in a multi-cultural society, this is because they did not allowed Shabina to go to her old school, and the case was then dropped and the school did not have to pay anything. In the end it was purely a contradiction in Policies and Religions, A girl wants to wear her Religious clothes to school, but the school does not allow it due to uniform policy. My solution to the problem would have been to allow her to wear her Religious clothing, and to teach other students about Religion, thus making the Students that would be unique (wearing Religious clothes) less susceptible to racial abuse.

Bibliography:

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other cases, with similar acts are:

- R v Y; where a school gear was trying to wear a Niqab Veil but was not allowed due to policy again.
- R v Millais School; where another girl was not allowed to wear a purity ring.
- R v British Airways; where an Airhostess was not allowed to attend work as she was wearing a Christian cross and refused to take it off.