1993 WL 379434
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United States District Court, N.D. Illinois, Eastern Division.

UNITED STATES of America, Plaintiff,
v.
BOARD OF EDUCATION OF THE CITY OF CHICAGO, Defendant.

No. 80 C 5124.
|
Sept. 17, 1993.

MEMORANDUM OPINION (DELIVERED IN OPEN COURT)

KOCORAS, District Judge:

***1** The Board of Education of the City of Chicago (School District) has filed a motion for a temporary restraining order for ten days seeking suspension of the state law provision which prevents most expenditures of funds by the School District unless the School District's budget is balanced in accordance with systems and procedures prescribed by the School Finance Authority. The School Finance Authority has previously rejected the School District's tendered budget.

The legal underpinning for the Chicago School District's motion involves the School District's federal constitutional obligation to the School District's minority students as contained in a Consent Decree between the School District and the United States Department of Justice. Needless to say, the School District cannot satisfy its obligations under the Consent Decree in implementing the desegregation plan in a shuttered school system. The School District's desegregation obligations are part and parcel of its obligations to provide an educational program for all of Chicago's public school children. The core educational program and the desegregation program are inextricably bound up together; the life support system for the discharge of Consent Decree obligations is a viable core school program. When the latter ceases to exist, the former dies as well.

As pointed out in the Chicago School District's papers, the principle of comity requires the National Government to vindicate and protect federal rights in ways that will not unduly interfere with the legitimate activities of the States. The Court recognizes the inherent difficulties involved in achieving permanent solutions to the school District's fiscal 1994 funding problems, and it is neither in this Court's province, nor its abilities, to solve those problems. We note, however, that despite hard bargaining by the principals of all of those affected by the funding problems, no solutions have been forthcoming. It is in this stalemated climate, then, that we balance the intrusion of the federal courts in order to protect federal rights against the legitimate interests of the State to deal—without intrusion—with its own affairs.

I recognize that the obligation to give adequate notice to relevant parties has not been fully satisfied here, although the principally affected parties have had an opportunity to appear before the Court. There is, however, an emergency quality to the motion for a TRO—the schools are closed, most of the kids have nowhere to go, and the educational—and social—component of contemporary life suffers drastically and, in some measure, irretrievably. I recognize that school days can sometimes be added later, but a school day lost today is not necessarily the equivalent of another day weeks hence. In other revered societies, the primacy of education in the affairs of life was not open to debate—it should not be so in our own society.

A temporary restraining order will not supply any measure of a permanent and substantive solution to the district's problems. That reality should be recognized by all, and the need for continued good faith bargaining continues unabated. What a temporary restraining order will supply, however, is a place for our children and teachers to go to tomorrow, a momentary relief from the pressures of deadlines, and a chance for normalcy and reason to prevail in the discussions remaining. After all, if on this day Israel and the PLO can take a major step toward peace in the Middle East, we ought to be able to divine solutions to the school crisis.

***2** The criteria for a TRO are well-known to all of the litigants and, on this record—limited though it may be—it is satisfied.

As to the likelihood of success on the merits, there is no question that the federal constitutional rights of minority children will be adversely affected if the schools remain closed—the arguable issue is what is the nature and scope of the remedy. The School District's proposal for a

remedial order does have a chance for success. There is no adequate remedy at law here—money damages cannot measure the putative harm. The irreparable nature of the injury if schools remain closed is manifest. I do not perceive there to be any serious objection to the TRO, at least as to the temporary measure that it is. No non-moving parties will suffer any material harm and the public interest is well served by the issuance of a TRO.

Accordingly, the Chicago School District's request to permit the expenditure of funds for its general operations even though there is no balanced budget in place is approved. The Chicago schools will open tomorrow and the teaching will begin.

All Citations

Not Reported in F.Supp., 1993 WL 379434