



NEWS REPORT

Update of news report nr:	1099-IE-25
Date:	25 July 2011
Expert:	Orlagh O'Farrell
Title:	School wins appeal against traveller discrimination decision
Country:	Ireland
<u>Context</u>	
Issue at stake:	Circuit court upholds school admission policy which Equality Tribunal had declared discriminatory against Travellers
Ground of discrimination:	Race/ ethnic origin (Traveller Community)
Source:	National court decision, Christian Brothers High School Clonmel and Mary Stokes (on behalf of her son John Stokes), 13/2011
Field:	Education

Content

Case: Christian Brothers High School Clonmel and Mary Stokes (on behalf of her son John Stokes)

Decision of the Court: A Co Tipperary secondary school successfully appealed against an Equality Tribunal ruling that it indirectly discriminated against Travellers when it refused a Traveller child admission.

Judge Tom Teehan allowed the appeal by the CBS High School, Secondary School, Clonmel against the decision of the Equality Tribunal that it should offer John Stokes a place and review its admission policy to ensure that it did not indirectly discriminate against any child.

John (13), through his mother Mary and instructed by the Irish Traveller Movement Independent Law Centre, lodged the complaint against the school on the grounds that it had breached the Equal Status Act. The court had earlier heard that John had applied in November 2009 to attend CBS High School, having attended a local primary school in Clonmel, but there

was over-subscription with 174 applications for 140 available places. The school selected students on the basis of its admission policy based on three criteria – that the child’s father or an older sibling had attended the school, that he was Catholic and that he had attended a local primary school. John met the last two criteria, but, as he was the oldest in his family and his father had not attended the school, he was not admitted and instead had to go to school in a neighbouring town.

Ms Stokes unsuccessfully appealed the school’s refusal to the Department of Education before appealing to the Equality Tribunal which found that requiring a parent to have previously attended the school disproportionately affected Travellers. The Clonmel Circuit Court judge allowed the appeal and set aside the order of the equality officer.

Judge Teehan said he looked at the issue in terms of whether the parental rule whereby preference is given to the children whose father or older sibling had attended the school was discriminatory against Travellers.

Judge Teehan said that he was satisfied that the parental rule was discriminatory against Travellers and new immigrants such as Polish and Nigerian applicants whose parents were unlikely to have attended the school previously. In such circumstances, it fell to the school to show that its admissions policy could be justified by some legitimate aim and he found that one of its stated goals of supporting the family ethos within education amounted to such a legitimate aim. He also found the policy was appropriate in that applicant numbers exceeded available places in all but two years in recent times and the parental rule helped strike a balance between admission based on academic results and admission based on exceptional circumstances. Judge Teehan also noted that the High School had highlighted the importance of ties between the school and past pupils in terms of meeting funding shortfalls and he ruled that the parental rule was a necessary step to creating a balanced and proportionate admissions policy.

Internet link source and additional information:

<http://www.itmtrav.ie/uploads/Stokes Case - Judgment 25 July 2011.pdf>