

A-376-94

CORAM: STONE, J.A.

LINDEN, J.A.

ROBERTSON, J.A.

B E T W E E N:

INTERFAITH DEVELOPMENT EDUCATION

ASSOCIATION, BURLINGTON

Appellant

-and-

MINISTER OF REVENUE

Respondent

HEARD at Toronto, Ontario, Thursday, June 26, 1997.

JUDGMENT delivered from the Bench at Toronto, Ontario, on Thursday, June 26, 1997.

REASONS FOR JUDGMENT OF THE COURT BY: STONE, J.A.

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STONE, J.A.:

The appellant, a corporation without share capital, was incorporated under the laws of Ontario by Letters Patent dated September 11, 1985, for the following purposes:

- (a) To educate the public and encourage an awareness and understanding of social justice conditions;
- (b) To interact with local development and justice organizations as well as churches and missions to further such educational programs.

The appellant's application to the Minister for registration as a "charitable organization" within the meaning of paragraph 149.1(b) of the *Income Tax Act*, was rejected by a decision of July 4, 1994. In rejecting the application, the Minister concluded that the appellant "does not devote its resources to charitable activities" and that it had not been constituted for purposes qualifying as charitable under any of the heads of charity established by the House of Lords in *The Commissioners for Special Purposes of the Income Tax v. Pemsel*, [1891] A.C. 531, as that case has been interpreted and applied in Canada. One of those heads is "the advancement of education".

The point raised by the appellant in the present appeal is that the Minister erred in deciding that the appellant was not constituted for the advancement of education. In paragraph 8 of its written submissions to this Court, the appellant distilled its activities in the following words:

8. The Appellant's activities consist of holding public education events (as opposed to education for enrollees at a particular institution) and doing development education, also sometimes described as social justice education, or peace and justice education or global education. It also seeks to impart a skill known as social analysis.

The ground upon which the Minister rejected the appellant's argument is set forth in the decision as follows:

The organization's purpose is stated as "To educate the public and encourage an awareness and understanding of social justice conditions." In achieving this purpose, it seems to host a variety of activities, including social analysis study groups, public meetings, provision of speakers, etc., to mobilize and facilitate actions by the public around the "social condition".

You indicate that the Ontario Ministry of Education treats the term "social justice issues" as axiomatic, and that "showing a commitment to ... social justice" is

one of the ten essential learning outcomes which are "the main purpose of the entire school program". You also refer to the term being used generally as "the attainment of political equality, freedom from poverty and oppression, and the preservation of human right". I appreciate that the organization's actions of facilitating development of youth within that setting could possibly be considered charitable. However, the information provided does not otherwise support the position that the organization is advancing education in the charitable sense. The attainment of political equality, freedom from poverty and oppression, and the preservation of human rights is indeed a commendable objective. However, encouraging an awareness and understanding of these conditions to mobilize and facilitate actions by the public on these matters, is not charitable as advancing education.

The authorities are clear that "advancement of education" receives a restricted meaning in the law of charity in Canada. This is evident from review of a consistent line of recent cases of which *Briarpatch Incorporated v. Her Majesty the Queen*, 99 DTC 6294 (F.C.A.) is the most recent. In that case, at page 6295, Robertson J.A. stated:

... the law presently requires that someone claiming to advance education, such as the appellant, must establish that his publication is directed toward the "formal training of the mind" or "the improvement of a useful branch of human knowledge"

relying on this Court's decisions in *Positive Action Against Pornography v. Minister of National Revenue*, [1988] 2 F.C. 340 and *Maclean Hunter v. The Deputy Minister of National Revenue for Customs and Excise*, 88 DTC 6096.

In our view, the appellant has failed to bring its case within that test. Accordingly, the appeal must be dismissed.

"A.J. Stone"

J.A.

FEDERAL COURT OF CANADA

Names of Counsel and Solicitors of Record

COURT NO: A-376-94

STYLE OF CAUSE: INTERFAITH DEVELOPMENT

EDUCATION ASSOCIATION,

BURLINGTON

- and -

MINISTRY OF REVENUE

DATE OF HEARING: JUNE 26, 1997

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REASONS FOR JUDGMENT

OF THE COURT BY: STONE, J.A.

Delivered from the Bench at Toronto, Ontario

on Thursday, June 26, 1997

APPEARANCES:

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For the Appellant

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FEDERAL COURT OF CANADA

Court No.: A-376-94

Between:

BURLINGTON **INTERFAITH DEVELOPMENT EDUCATION ASSOCIATION,**

Appellant

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