
(2016) 09 DEL CK 0193

In the Delhi High Court

Case No : WP (C) No. 887 of 2016 and CM Nos. 3889 of 2016 and 7100 of 2016

Col Devinder Sherawat

APPELLANT

Vs

Deputy Commissioner SDMC

RESPONDENT

Date of Decision : 15-09-2016

Acts Referred:

Citation : (2017) 1 ADDelhi 213

Hon'ble Judges : Ms. G. Rohini, CJ. and Ms. Sangita Dhingra Sehgal, J.

Bench : Division Bench

Advocate : Mr. Romy Chacko with Mr. Maheen Pradhan, Mr. Ravinder Singh and Ms. Raveesha Gupta, Advocates, Inspector Sanjay Sharma, SHO/Vasant Kunj South, SI Parveen Kumar, P.S. Kapashera, Advocate, for the Respondent No. 8; Mr. Mukesh Gupta, Spl P.P, for the Delhi P

Final Decision : Disposed Off

Judgement

Ms. G. Rohini, C.J. - The following unfortunate incidents resulting in the death of two young boys in Delhi schools are brought to the notice of this Court in this petition filed as a Public Interest Litigation:

(i) On 21.07.2016, a four year old boy named Master Ankit fell into an open sewer pit at SDMC Primary School, Kapashera No.2. Though a young construction worker Ram Shesh jumped into the pit and brought the child out immediately, he did not survive.

(ii) On 30.01.2016, a six year old boy of Class-I student of Ryan International School, Vasant Kunj by name Divyansh was found dead in a water tank under the Amphitheatre of the school. He was spotted in the water tank at about 1.30 p.m. and was declared dead when rushed to the hospital.

2. The petitioner seeks directions which included judicial inquiry into the incidents and to fix the responsibility on the erring authorities/school management, payment of compensation to the families of the deceased boys and to ensure safety of the students in the schools in Delhi.

3. It is alleged in the writ petition that both the incidents had taken place due to criminal neglect of the school administration. In the incident dated 27.01.2016 that took place in an SDMC School, the permanent toilets in the school were closed due to the delay in completing the construction work inside the school and therefore, temporary toilets in close proximity of the main entrance were constructed and the lid of the septic tank was left open on the fateful day. In the other incident dated 30.01.2016 that took place in Ryan International School, the boy who drowned in a tank under the school's amphitheatre and died could not even be noticed by the School Administration for a long time.

4. It is alleged by the petitioner that not only this specific incident but there was also dereliction of duties on the part of SDMC in general in maintaining the municipal services and resolving the civil issues. The petitioner, therefore, contends that necessary inquiry needs to be directed into the two incidents and penal action should be taken against the erring staff members and school authorities apart from taking steps to ensure that no such incidents would happen in future in Delhi Schools.

5. The petitioner also seeks a direction for payment of compensation of Rs.50 lacs to the family of both the deceased boys and to constitute a Committee comprising representatives of the Delhi Government, MCD officials, Disaster Management Authority and Delhi Police for immediate disaster assessment of all the schools of Delhi apart from holding special disaster management training camps for school staff and students.

6. The respondent Nos. 4 and 6/Govt. of NCT of Delhi filed a status report dated 08.02.2016 explaining that the Education Minister/Deputy Chief Minister of GNCTD had immediately directed the Sub-Divisional Magistrate to conduct an inquiry into the incident and accordingly, a report was submitted which prima facie indicates that the incident in SDMC School had occurred due to gross negligence on the part of the School. Similarly, a five Member Team was sent to Ryan International School on 06.02.2016 so as to conduct an inquiry into the safety standards of the school. That apart, a meeting of senior officials of the Department of Education was held by the Education Minister on 31.01.2016 and a decision was taken to issue a direction to all schools (Government, Government aided and private schools) to carry out special inspection of the school premises and thereafter submit a declaration to the Deputy Director of Education of the Zone concerned. It was also decided that consequent thereto, the schools will be inspected by a special task force constituted by the GNCTD to verify the actual position of the school's safety standards and that strict action will be taken against the Principal and/or the Management of the school, if the school's safety standards are found to be lacking. A circular dated 01.02.2016 to all the Government Schools as well as Aided and Unaided Private Schools enclosing a proforma of the declaration. It is stated that in fact the Director of Education had earlier issued similar circulars dated 06.11.2015, 15.09.2015 and 03.07.2015 to meet the exigencies like air pollution due to excessive use of fire-crackers,

preventive measures to control Dengue disease, road safety measures, structural stability of the school buildings, etc. In the light of the two unfortunate incidents, circular dated 18.01.2016 has also been issued by the Directorate of Education proposing to engage an Estate Manager for each of the Government school who will be charged with performing care-taking duties in respect of the school building and ensuring safety and security of students.

7. In the Action Taken Report dated 08.02.2016 filed by the Assistant Director (Education), Najafgarh Zone, SDMC, it is stated that an immediate inquiry was directed into the incident dated 27.01.2016 to be conducted by the Additional Commissioner-I, SDMC and also to come out with recommendations regarding the measures to be taken to prevent such incidents in future. That apart, the Principal of the SDMC Primary School and the Executive Engineer (Maintenance), Najafgarh Zone were placed under suspension with immediate effect vide orders dated 28.01.2016. The Additional Commissioner (Education) submitted his inquiry report dated 04.02.2016 stating that prima facie the incident was on account of negligence on the part of the Principal, Staff members and the contractor who is carrying on the construction work in the school in not ensuring that the tank area is properly fenced and that the sewer pit is covered. The following recommendations were made in the said report:

- (1) Educational Department must take further action and fix responsibility of erring officials after giving them an opportunity to be heard.
- (2) Educational Department must conduct safety surveys of all schools to avoid such incidents in the future.
- (3) Engineering Department must take action on the lapse on their part as well as on the part of the contractor.
- (4) Engineering Department may conduct surveys in all schools where construction is still in progress.
- (5) Emergency Response Mechanism must be created in all schools.

8. It is brought to our notice by the learned counsel for SDMC that ex-gratia payment of Rs. 2,00,000/- has been made to the parents of the deceased and vide circular No. D/ADE/Admin/Edu/HQ/SDMC/2016/5608 dated 17.12.2016 and vide office order dated SE/NG2/2015-16 S46 dated 19.12.2016 the School Authorities were directed to ensure safety of students and they were given a check list for ensuring safety/security of the children in all aspects and vide circular No. D/527/Dis.Edu./cir/2016 dated 08.02.2016, they were also directed to ensure strict adherence of all the instructions.

9. In the Action Taken Report filed on behalf of the respondent No.2/ Commissioner of Police, it is stated that FIR bearing No.23/16 dated 27.01.2016 under Section 304A of the Indian Penal Code at PS Kapashera, Delhi pursuant to which on 02.02.2016, Principal Ms. Rekha Kakkar and Aaya Smt. Nismala were arrested and later released on bail. On 22.02.2016, Junior Engineer (Civil) Lalit

Kumar Yadav was arrested and action against contractor M/s. Pradeep Kumar has also been initiated.

10. So far as the incident dated 30.01.2016 that had happened at Ryan International School is concerned, the Action Taken Report submitted by the District Commissioner of Police, South District shows that the following lapses were noticed during the course of the investigation:

- (1) There were no signage indicating the existence of a water tank.
- (2) No guard was deployed around the Amphitheatre and/or Store Room.
- (3) There is a sports ground opposite Pump Room but door of the Pump Room was not locked. No light arrangement was there inside the Pump Room.
- (4) Water reservoir room was not locked.

11. The said Report shows that the Principal of the Ryan International School, Class Teacher, Maintenance In-charge of the School, Gardener and Pump Operator were arrested for the alleged failure to ensure safety and security of the deceased of the child and the further investigation is in progress.

12. Having heard the learned counsel for both the parties and having taken note of the material placed on record, while leaving it open to the respondent No.2 to proceed with the investigation and take appropriate action in accordance with law, we direct that all the concerned should ensure strict compliance of the directions that have already been issued by the respondent Nos.1 and 3 to ensure safety of students in the premises of schools.

13. In order to ensure that no such incidents would happen in future in Delhi schools, we also consider it appropriate to issue the following directions:

- (i) That all the schools in Delhi including MCD, NDMC, Government schools, private schools, Government aided schools shall carry out periodical inspections of the school buildings and premises and submit a quarterly report to the office of Directorate of Education, Caretaking Branch, GNCTD.
- (ii) Directorate of Education is directed to constitute a Special Task Force, Zone-wise, who will visit the schools under their respective Zones on a monthly basis and submit their reports before Directorate of Education, Caretaking Branch, GNCTD.
- (iii) Executive Engineers of the Municipal Corporations shall also visit the schools under their area of control on a monthly basis and in case of any defects in relation to their field are found, shall immediately take steps to ensure that the defects are rectified.

14. Writ petition is accordingly disposed of. All pending applications shall also stand disposed of.

15. No costs.