
(2011) 03 SC CK 0012

In the Supreme Court Of India

Case No : Writ Petition (C) No. 631 of 2004

Environmental and Consumer Protect. Found.

APPELLANT

Vs

Delhi Administration and Others

RESPONDENT

Date of Decision : 29-03-2011

Acts Referred:

Constitution of India, 1950 — Article 21A

Right of Children to Free and Compulsory Education Act, 2009 — Section 19(2), 25(1)

Citation : (2011) 6 SCALE 552

Hon'ble Judges : Deepak Verma, J; Dalveer Bhandari, J

Bench : Division Bench

Final Decision : Allowed

Judgement

GUJARAT:

1. In pursuance of the directions of this Court, an affidavit has been filed by the Chief Secretary, Government of Gujarat, in which it is indicated that there are total number of 32,749 primary schools in the State of Gujarat, out of those schools drinking water facility is available in 31,909 schools and in the remaining 840 schools there is no drinking water. Similarly, toilet facility is available in 32,092 schools whereas 657 schools are without toilets. 31,776 schools have electricity whereas 973 schools are without electricity. 22,583 schools have play grounds whereas 10,166 schools do not have play ground; 28,805 schools have boundary walls whereas in 3944 schools there is no boundary wall; 30,314 schools have ramps for physically challenged children whereas 2435 schools do not have that facility.

2. In the affidavit it is also indicated that in each primary school there are adequate number of teachers and to bridge the gap between the requirement, as per the Right to Education Act and actual availability, the State of Gujarat has recruited about 16,000 teachers before the beginning of the current academic year and the State has planned to recruit about 13,000 teachers in the year 2011-12 for filling the vacancies arising due to retirement and upgradation of

6,500 schools to Class VIII (Middle School). It is further mentioned in the affidavit that freshly cooked Mid-Day meals is served to the children in all Government primary schools.

3. We direct the State of Gujarat to remove the deficiencies with regard to the infrastructural facilities in the primary schools as expeditiously as possible, in any event, within three months from today.

CHHATTISGARH:

4. The Chief Secretary of the State of Chhattisgarh has filed an affidavit annexing therewith a chart, in which it is indicated that there are total number of 47,141 primary and upper primary schools in the State. Out of them drinking water facility is available in 38,022 schools whereas the remaining 9,119 schools do not have drinking water facility. Similarly, toilet facility is available in 27,415 schools whereas 19,726 schools are without toilets; 12,484 schools have electricity whereas 34,657 schools are without electricity; 9,955 schools have boundary walls whereas in 37,186 schools there is no boundary wall.

5. In the chart it is also indicated that the sanctioned strength of the Headmasters for the Primary Schools is 32,540 whereas only 17,334 Headmasters are working and remaining 15,206 posts of Headmasters are vacant. Similarly, the sanctioned strength of the Assistant Teachers/SKG-3 is 89,768 while the working strength is 82,728 and the vacancies are to the tune of 740.

6. In the Upper Primary Schools, the sanctioned strength of Headmasters is 13,391 whereas the working strength is only 6,681 and there is vacancies of 6,710 posts. The sanctioned strength of Teachers/SKG-2 is 57,617 whereas the working strength is 47,670 and 9,947 posts of Assistant Teachers/SKG-2 are vacant.

7. The situation in the State of Chhattisgarh is extremely alarming and unless all the vacancies are filled up on priority basis and basic infrastructural facilities are provided in the schools, the State would not be able to preserve and protect the fundamental rights of the children guaranteed under Article 21(A) of the Constitution of India. We, therefore, direct the State to take immediate steps to fill up the vacancies and ensure that basic infrastructural facilities are augmented within three months from today. The Chief Secretary is directed to file a further affidavit on or before 30th June, 2011. We make it clear that no further time will be granted for this purpose. KEARLA:

8. In pursuance of the directions of this Court, the Chief Secretary of the Government of Kerala has filed a comprehensive affidavit, the relevant paragraphs of which are extracted hereunder:

4. In pursuance of the above judgment the details regarding basic facilities such as water, toilets, urinals, electricity, boundary walls, mid-day meal facility and requisite number of teachers of the primary schools in the State of Kerala is

submitted below.

5. In the Central Government pattern the primary section includes classes upto 8th standard. However in the State of Kerala, the 8th standard comes under Secondary section. Primary and secondary sections are functioning together in the same schools and compound, in majority of places. As such it is difficult to furnish the details of the basic facilities such as water, urinals, toilets etc. provided in the primary section separately. Hence, the details furnished include both the primary and secondary section.

6. As per the existing norms, the total requirement of toilets in Government and Aided schools in the State comes to 37,334 and that of urinals is 97,112. Out of the 37,334 numbers of toilets required, 34,833 numbers were completed. The construction of 628 numbers of toilets is in progress and the construction of balance 1,873 numbers is to be taken up. Out of the 97,112 numbers of urinals required, 81,474 numbers were completed and the construction of 3,597 numbers is in progress and the remaining 12,042 numbers is to be taken up. It may be noted that 3,597 numbers of toilets were constructed, covering 2,882 schools under the Total Sanitation Campaign (TSC) in the State. Also under the Total Sanitation Campaign (TSC) an additional number for 3,662 toilets were proposed, covering 1,294 schools. Providing girl friendly toilets and urinals with running water in Government schools in minority concentrated areas is also being implemented by Suchitwa Mission with the financial assistance of Minority Affairs Department of the State in the schools of minority dominated areas. These works are proposed to be completed before 31.5.2011. The construction of 610 numbers of toilets and 1608 urinals are under progress under the above scheme.

7. There are no schools in the State with absolutely no urinal or latrine facility in the State; though some schools don't have enough number of units commensurate to the strength of the students.

8. Sufficient water facility is available in all the Government/Aided schools in the State.

9. As far as the electricity is concerned all the primary schools in the State have electric connection except in 277 schools.

10. In the State there are 2,047 Nos. of schools having pucca boundary walls. There are 897 numbers of schools have boundary walls which are damaged and requires maintenance. There are 38 numbers of schools having barbed wire fencing. There are 593 numbers of schools, which are having no boundary walls. There are 1,155 numbers of schools which are having primary built boundary walls. In 88 numbers of schools the construction of boundary walls is in progress.

11. In the State, mid day meal scheme is implemented in primary section of all schools, with kitchen-shed facility.

12. All the schools in the primary section of the State are having the requisite

number of teachers.

9. On the whole, the condition of the schools in the State of Kerala seems to be better as compared to the other States. However, we direct the State to augment the remaining facilities in the primary and upper primary schools, within three months from today and affidavit in this regard may be filed by the Chief Secretary of the State on or before 30th June, 2011.

WEST BENGAL:

10. In pursuance of the directions of this Court, the Chief Secretary to the Government of West Bengal has filed an affidavit, relevant paragraphs of which are extracted hereunder:

5. Based on updated information, kept and maintained by the Government of West Bengal, it is stated that across the nineteen districts including Kolkata, spreading the State of West Bengal, 50,169 recognized aided primary schools exist. Out of those 50,169 primary schools, potable drinking water facility is available in 50,008 primary schools; toilets are available in 49,441 primary schools; electricity in 12,076 primary schools; mid-day meal facilities are available in 46,625 primary schools and boundary wall is there in 15,904 primary schools. Similarly, out of 10,799 recognized aided upper primary schools in West Bengal, 10,295 are having potable drinking water facility; 9,578 are having toilets; 8,122 are having electricity; 5,497 are having kitchen shed and 6599 recognized aided primary schools are having boundary walls. As per Section 19(2) of the Right of Children to Free and Compulsory Education Act, 2009, the State Government has already drawn up a plan for increasing such facilities in schools which do not have any of the above facilities within a period of 3 (three) years from the commencement of the Act, i.e. 31/03/2013.

6. Based on upgraded information, kept and maintained by the Government of West Bengal, it is further stated that in 50,169 numbers of primary schools there are 61,90,157 students who are prosecuting their studies at the primary level. There is at present sanctioned posts of 1,98,682 primary school teachers; additionally there is also sanctioned posts of 25,781 para teachers at the primary level. Thus, the State does have the sanctioned posts of the required numbers of teachers as per requirement specified under the Right of Children to Free and Compulsory Education Act, 2009. In fact the sanctioned strength of regular primary teachers far exceeds such requirement. However, it may also be stated that out of the total 1,98,682 numbers of sanctioned posts of teachers in primary schools, about 68,000 posts had fallen vacant in recent past and could not be filled up during 2005-2009 due to various pending litigations. The State Government has, however, taken steps in August 2009 to fill up the vacant posts of teachers in primary schools and about 49,886 numbers of vacant posts of teachers have since been filled up and remaining vacancies are expected to be filled up shortly.

7. Similarly, at the upper primary level for the purpose of teaching 56,71,000

students in 10,799 numbers of existing schools, there is a sanctioned strength of 1,22,684 post of regular teachers. Additionally, 27,949 para teachers are also there to teach such students. Under the standards set up by the said Act of 2009, 1,62,061 regular teachers are required to teach 56,71,000 students in the upper primary level in West Bengal. From these figures it is evident that the number of sanctioned posts is slightly lower than the required number of teachers in terms of the said Act of 2009 at the upper primary level. However, the State Government has already taken steps to increase the sanctioned posts of regular teachers at the upper primary level by another 39,510. It may also be stated here that sanction has already been accorded to set up additional 5,676 upper primary schools throughout the State. Out of this, 4,031 upper primary schools have already been set up. The State Government has also sanctioned total 12,093 new posts of teachers for the aforesaid 4,013 newly set up upper primary schools. The additional requirement of teaching posts for the existing and the newly set up upper primary schools as per Right to Education Act, 2009 comes to 39,510. The State Government has already taken steps to create additional 39,510 posts of Assistant Teacher for existing and newly set up upper primary schools across the State to meet the statutory obligations under the Right to Education Act, 2009. It may also be stated here that the Government of India has already relaxed the time limit for filling up the vacant posts of teachers as required u/s 25(1) of the Right to Education Act, 2009.

11. We direct the State to augment the basic infrastructural facilities in the schools and an affidavit, giving therein the details of the infrastructural facilities provided in the schools, be filed by the Chief Secretary on or before 30th June, 2011. It is made clear that no further time for this purpose shall be granted.

ANDHRA PRADESH:

12. The Principal Secretary to the Government of Andhra Pradesh has filed an affidavit annexing therewith a chart giving the details of basic facilities in the Government schools as per DISE 2009-2010.

13. We direct the State to provide basic infrastructural facilities in the schools and an affidavit, giving therein upto date position of the infrastructural facilities provided in the schools, be filed by the Chief Secretary on or before 30th June, 2011.

HIMACHAL PRADESH:

14. In pursuance of the directions of this Court, the Chief Secretary to the Government of Himachal Pradesh has filed an affidavit, the relevant paragraphs of which are reproduced below:

2. In this context it is respectfully submitted that as per District Information System for Education (DISE) data as on 30.09.10, there are 10711 functional Govt. Primary schools having 422760 students in class 1 to 5 in the State of Himachal Pradesh. The Pupil Teacher Ratio in the State at primary level is 16:1

which is far better than 30:1 prescribed under the Right of Children to Free and Compulsory Education Act. The State has already provided teachers posts in the Primary Schools as per the schedule annexed to the Right to Education Act. The State has also implemented a policy for reemployment of teachers in the schools till the completion of academic session to ensure the availability of teachers to the students throughout the academic year. Under this policy, a teacher retiring during the mid academic session is re-engaged till the completion of academic session. In order to ensure the availability of trained Primary School teachers to fill up the resultant vacancies the State has synchronized the pre-service training to the availability of vacancies in the State.

3. That out of 10,711 Government Primary Schools in Himachal Pradesh, 10,418 schools are having drinking water facilities and in the remaining 293 schools the drinking water facility being provided in convergence with IPH department (Irrigation & Public Health) under Nation Rural Drinking Water Mission (NRDWM) to cover them by the end of 2011-12. In order to ensure the availability of drinking water to the Primary school children, the State has posted one part time water carrier in every Primary School.

4. That 6433 Govt. Primary Schools are having separate toilets for girls and 3524 Govt. Primary Schools at present have common toilets. Further, separate toilets for girls have been sanctioned and are under construction in the remaining 4278 Primacy Schools. Besides, 2261 common toilets have also been sanctioned for construction in 2010-11.

5. That at present 6509 Govt. Primary Schools have boundary walls and the construction works of boundary walls in 1622 schools is in progress. Besides this, boundary walls for 769 schools have also been sanctioned during the 2010-11.

6. That at present, 5932 Govt. Primary Schools have Kitchen Sheds for MIDM. Funds have been provided and construction work for kitchen sheds is in progress in the remaining 4779 Govt. Primary Schools.

7. That at present, 5264 Govt. Primary Schools have electricity facilities. A proposal to cover the remaining 5447 primary schools has been made in the annual Work Plan & Budget for the year 2011-12 under RTE/SSA.

8. That at present, 5708 Govt. Primary Schools have ramps for children with special needs. 1100 new Primary Schools are proposed to be covered for ramps in the year 2011-12. This facility will be extended to all the schools in a phased manner.

9. That there is no school running without classroom of the Sate, at present there are 31,331 class rooms in the Govt. Primary Schools of the State. Average number of students per classroom in the State is 13 and average School Classroom Ratio is 1:3.

15. We direct the State to provide basic infrastructural facilities in the schools and an affidavit, giving upto date position of the infrastructural facilities provided

in the schools, be filed by the Chief Secretary on or before 30th June, 2011.

ASSAM:

16. In pursuance of the directions of this Court, the Chief Secretary, Government of Assam has filed an affidavit, the relevant paragraphs of which are reproduced below:

3. That in its order dated February 8, 2011, this Court observed that '...in order to get comprehensive information regarding basic facilities such as potable drinking water, toilets, both for boys and girls, electricity, boundary walls, mid-day meal facility and whether the primary schools have requisite number of teachers, we would like all the District Collectors and Magistrates in the country to submit a report to the Chief Secretary/Administrator of the State/Union Territory and the Chief Secretaries are directed to file a comprehensive affidavit before this Court within 6 weeks from today. This has become imperative for implementation of the fundamental rights enshrined under Article 21A of the Constitution...

4. Pursuant to this Court's direction in its order dated February 8, 2011, the Government of Assam has sought information from all of the 27 districts of the State of Assam regarding existing facilities of Government and provincialised schools in Assam and reports have been received from the Deputy Commissioners of 26 districts and the Director, Education, Bodoland Territorial Council for Baska District. It is pertinent to mention herein that Basks District is under the Sixth Schedule Area of Bodoland Territorial Council and education is transferred subject. The report has been produced herein in the form of a Chart for this Hon'ble Court's kind perusal. The above-mentioned Report and a Statement of district-wise status of existing facilities in Government Elementary Schools in the State of Assam have been annexed herewith and are marked as Annexure-A.

5. It is submitted by the deponent herein that there are some schools where Drinking Water facilities are not available and in respect of toilets there are some schools where Common Toilet facilities are available. The State Public Health Engineering Department is implementing the scheme for Drinking Water supply to the schools and the said department is also constructing Common Toilet under School Sanitation Block Scheme. It is pertinent to mention herein that under the Common Toilet Scheme there are toilets in the same block both for boys and girls and the girl's toilets are separated from the boy's toilet by a partition wall. Further, the Sarva Siksha Abhiyan, Assam is taking special initiative for construction of a large number of girl's toilet (above 10,000) in its Annual Work Plan & Budget, 2011-12.

6. That as regards availability of electricity in schools, there is electricity mainly in schools located in urban and semi-urban areas, but it is mostly lacking in schools of rural and remote areas.

7. That in respect of Boundary Wall, the Sarva Siksha Abhiyan, Assam is taking initiative to submit a proposal for construction of Boundary Walls in the elementary schools in a consolidated proposal under Right to Education Act, 2009 which may take sometime.

8. That it is respectfully submitted that there is shortage of school teachers for which the Government of Assam has taken steps to meet the shortage by rationalization of posts of teachers. Fresh recruitment of teachers has not taken place since 2001 as there are directions of the Hon'ble Gauhati High Court, in certain matters filed before it, not to make fresh recruitment of teachers till regularization of the services of Operating Black Board (OBB) teachers without leave of the Hon'ble Court. The regularization of the service of OBB teachers has already been made and leave petition has been moved before the Hon'ble Gauhati High Court.

9. That it is respectfully submitted by the deponent herein that all the elementary schools, except un-aided Non-Government Education Institutions, in the State of Assam have been covered under Mid-Day-Meal.

17. We direct the State of Assam to provide basic infrastructural facilities in the schools and an affidavit, giving therein upto date position of the infrastructural facilities provided in the schools, be filed by the Chief Secretary on or before 30th June, 2011.

RAJASTHAN:

18. In pursuance of the directions of this Court, the Chief Secretary to the Government of Rajasthan has filed an affidavit, the relevant paragraphs of which are reproduced below:

3. In so far as the position of vacancies of teachers in the Government Primary/ Upper Primary Schools is concerned, it is submitted that total number of vacant posts of teachers in the Primary and Upper Primary government schools in the State of Rajasthan is 61,708. Of these, 53,816 posts are of Teachers Grade-III and the remaining 7,892 posts are of Teachers Grade-II. The State Government has already taken a decision for recruitment of 9,000 Teachers Grade-II and 41,000 Teachers Grade-III during the current financial year. However, it is submitted that in accordance with the provisions of Right of Children to Free and Compulsory Education Act, 2009 the National Council for Teacher Education has while prescribing the minimum qualifications for persons eligible for appointment as teachers in the Primary and Upper Primary schools, laid down a condition that all such persons should first pass the Teachers Eligibility Test to be conducted by the State Government in accordance with the guidelines which have been prescribed by the National Council for Teacher Education for the conduct of Teachers Eligibility Test. Accordingly, the State Government is taking action for organizing the Teachers Eligibility Test. Thereafter, action for recruitment of the 50,000 teachers as mentioned above.

4. That for basic information regarding elementary education, DISE (District Information System for Education) survey is conducted by Department of School Education, Rajasthan in September every year. This survey is conducted as per the guidelines issued by Ministry of Human Resource Development, Govt. of India from time to time.

5. That out of 76,656 government Primary/Upper Primary schools, 73,234 schools are housed in their own buildings and 2549 schools are being run in rented/other buildings. Thereafter, only 873 schools are under building-less category. In most of these cases it is not possible to construct government building due to non-availability of land in the area where these schools are situated. The State Government is making all efforts for allotment of land for building-less schools. In the last three years buildings have been constructed for 1527 building-less schools which did not have their own buildings. Similarly 54,319 government primary/upper primary schools have boundary walls in the form of either pucca boundary wall or barked wire fencing/hedges etc. 26,049 schools require construction of boundary wall. Efforts are being made for construction of boundary walls for the remaining schools in a phased manner.

6. 49,471 government primary/upper primary schools have ramps to facilitate access to children with special needs (CWSN). Beside this, 464 resource teachers and 493 care givers have been engaged for providing education to CWSN.

7. That it is also stated that 94.62% schools (71,460) in the State have toilet facilities. Similarly, 65.05% schools (49,125) in the State have separate toilet facilities for boys and girls. Only 4,060 schools do not have the facility of toilet. Efforts are being made to provide separate toilet facilities for boys and girls by March 2012 in the government primary and upper primary schools under the Centrally Sponsored Scheme of Sarva Shiksha Abhiyan and Total Sanitation Campaign, a scheme of Rural Development Department.

8. That as per DISE 2010, 71,612 schools have potable drinking water facility in the form of pipe line connection, hand pump or Rain Water Harvesting structures. The coverage of drinking water facility in government elementary schools is 94.82% in the State. The remaining gaps (3,908) will be fulfilled under Sarva Shiksha Abhiyan and various schemes of State Public Health Engineering Department. In some of the desert districts where water is scarce to low rainfall, water supply is being ensured by School Management Committee and local communities through water tankers.

9. That as per DISE-10 data, out of 75,520 government primary/upper primary schools, only 20,579 (27.24%) schools have electricity and efforts are being made to provide electricity to all the schools under the Rajiv Gandhi Vidhutikaran Yojna.

10. That 48,467 schools have kitchen shed for preparation of mid-day meal. The target of the State Government in the year 2010-11 was to provide kitchen sheds in 10,098 schools under National Mid Day Meal Scheme and sincere efforts

are being made by the State Government to ensure the hygiene factor.

11. That the Right of Children to Free and Compulsory Education Act, 2009 has been notified and implemented from 1st April, 2010. As per the provisions of this Act, it is mandatory to provide basic infrastructure facilities such as class rooms, Headmaster room, separate toilets for boys and girls, clean and adequate drinking water, electrification, boundary wall & play ground to each school. The State Government is committed for providing basic infrastructure in the government schools in accordance with the provisions of this Act under different schemes such as Sarva Shiksha Abhiyan and in convergence with other rural development schemes such as MPLAD, MLALAD, TSC, NRDWP etc. During the current financial year (2010-11) provision for construction of 7486 classrooms, 10,537 headmaster rooms, 2881 girls toilets, 965 drinking water facilities, 3910 electric facilities, 5742 boundary wall have been made under Sarva Shiksha Abhiyan. The remaining infrastructure gaps are being worked out on the basis of RTE and the same shall be filled up in phased manner subject to availability of funds in the forthcoming years.

19. We direct the State of Rajasthan to complete the recruitment process of teachers and provide other infrastructural facilities in the schools as expeditiously as possible and file an affidavit, giving therein upto date position of the infrastructural facilities provided in the schools. The affidavit be filed by the Chief Secretary on or before 30th June, 2011.

GOA:

20. In pursuance of the directions of this Court, an affidavit has been filed by Mr. Sanjay Kumar Srivastava. The relevant information as obtained from the said reports of the District Collectors is reproduced below:

Status of Govt. Primary Schools in Goa

District

Number of Schools

Schools without water facility

Schools without toilets

Schools without Electricity

Schools without Compound walls

Boys

Girls

North Goa

563

9

38

97

3

143

South Goa

354

26

52

51

11

126

Total

917

35

90

148

14

269

21. Annexure R-I to the said affidavit, deals with mid-day meal and Annexure R-II deals with status of Government primary schools. It is indicated in Annexure R-II that total number of Govt. Primary Schools are 917 and the vacant position of primary teachers as on 31.1.2011 are 73. Interview for the same has already been conducted and the Government is already in the process of filling upto these vacancies.

22. We direct the Government of Goa to provide other infrastructural facilities in the schools as expeditiously as possible, in any event, within three months from the date of this order and an affidavit, giving therein upto date position of the infrastructural facilities provided in the schools, be filed by the Chief Secretary on or before 30th June, 2011.

ANDAMAN & NICOBAR:

23. The Chief Secretary of the Andaman & Nicobar Administration has filed a comprehensive affidavit, the relevant paragraphs of which are reproduced herein

below:

8. At present there are 307 Government schools functioning under the Directorate of Education throughout the Islands. District wise category of schools are given in the table below:

Type of School

South Andaman

North Middle Andaman & Nicobar

Total

Primary School

56

95

22

173

Middle School

23

17

12

52

Secondary Schools

15

19

06

40

Sr. Secondary Schools

22

13

07

42

Total

116

144

047

307

9. Out of 307 schools, 236 are in Revenue areas (including Great Nicobar Island), 43 schools (41 in Nicobar district, 01 in South Andaman district and 01 in North & Middle Andaman district) are in Tribal areas and 28 schools are in reserved forest areas. Out of these 307 schools, 262 schools (227 schools in Revenue area, 33 schools in Tribal areas and 02 schools in forest area) have separate toilet facility for boys and girls, 45 schools (where 26 schools are located in reserved forest areas, 10 schools in tribal areas and 09 schools in Revenue area) have only temporary toilet facilities. Permanent constructions in reserved forest areas are not permissible as such, katcha structures are available. However, in remote tribal and rural areas where the facility under construction in 09 schools (08 in Tribal area, 01 in Revenue area). Provision is kept in plan 2011-12 for providing permanent toilets for separate boys and girls in 10 schools (08 in revenue area and 02 in Tribal areas) except the 26 schools which are located in reserved forest areas.

10. That regarding schools which are provided with water supply facilities, it is submitted that out of 307 schools, 269 schools are provided with water supply facilities, of which 250 schools are getting piped water supply and 19 schools are meeting their water supply needs using wells. The remaining 38 schools (19 schools in Forest area, 05 in revenue area and 14 in tribal area) manage their water supply needs through other means which are locally available water sources such as streams and seasonal Nallahs etc.

11. That with regard to the schools having the provision of electricity, it is submitted that out of 307 schools, 257 schools are provided with electricity. Remaining 50 schools (25 in reserved forest area and 13 in remote revenue localities and 12 in tribal area) do not have provision of water supply. In these remote areas, power supply has not been extended or is available only during evening hours when the schools are not in operation.

12. That with regard to the supply of cooked mid day meals (MDM), the benefit is extended to 311 schools (304 Govt. schools, 02 Govt. Aided Schools and 05 Local body schools). Out of 307 Govt. schools, MDM scheme is implemented in 304 schools; the remaining 03 schools are not covered under this scheme as these schools have no primary and upper primary classes attached. Other than this, in this UT cooked MDM is also extended to 36 Alternative Innovative Education (AIE) and Education Guarantee Scheme (EGS) centres.

13. That in the UT of A & N Islands, the MDM scheme is outsourced through the Self Help Groups, Mahila Mandals, Registered Women Cooperative Societies and Individuals. At most places, mid day meals are cooked in their respective kitchens and the cooked MDM is transported to the respective schools.

Supervision and monitoring of cooking process and distribution to ascertain hygienic condition is continuously being done by the school level MDM Committees, Block level Committees and District level Committees. Mid Day Meals in every school is cooked and supplied as per the weekly menu prepared by the respective school MDM committees. To ascertain the nutritional value of the cooked MDM in conformity with the guidelines issued by the Govt. of India, the services of external agencies such as; Health Department, Home Science Department of the Govt. College (JNRM) Port Blair are also availed periodically.

14. 32 Schools of UT Administration have permanent kitchen-cum-store facility. Proposal for construction of 244 (excluding 28 schools which are in the reserved forest area) MDM kitchen-cum-store had been sent to the Ministry of Human Resources, Govt. Of India (MHRD) for the sanction of fund. MHRD had asked us to submit revised estimates for construction of permanent Kitchen-cum-store for these 244 schools. During the year 2008-09 MHRD released an amount of Rs. 165.60 lacs towards the cost of construction of 276 Nos. of Kitchen-cum-Stores at the rate of Rs. 60,000/- per unit cost for A & N Islands. Considering the market price index of this UT as PWD code, the construction of kitchen sheds at the rate of Rs. 60,000/- per unit is not feasible. Thus this UT Administration requested MHRD vide this office letter No. 7-&&/Edn./PS/2008-09/755 dt. 12/02/2009 to enhance the unit construction cost to Rs. 4.5 lacs per unit or 7.5 times of the sanctioned costs.

15. MHRD vide its letter No. 1-1/2009-Desk (MDM) dtd. 31/12/2009 directed this UT Admn. to submit the area requirement of Kitchen-cum-Stores to be worked out as prescribed by the MHRD. Accordingly the Directorate of Education vide letter No. 6-227/Edn./MDM/Coress/2009-10/181 dtd. 18/01/2010 submitted a detailed proposal of Rs. 16.5 crores for construction of 244 Kitchen-cum-Stores in Primary & Upper Primary Schools of this UT. In response to which MHRD had issued a L.O.A. for an amount of d 45.09 lakhs as 75% contribution towards the construction of 05 Kitchen Sheds which was received by this office on 22/03/2010. Since there was no time available to utilise the same within that financial year as such, the funds were surrendered vide letter No. 6-227/Edn./MDM/Coress/2009-10/2745 dtd. 31/03/2010. However the Ministry has again asked this UT to submit revised estimate for construction of 244 Kitchen cum Stores. Revised estimates are being prepared for inclusion of the same in Annual Work Plan Budget (AWP & B), 2011-12.

16. In order to ensure the safety of students and the structural assets during any fire hazards, installation work of the fire fighting equipments in 130 Govt. Schools are in progress. The remaining 177 schools would be covered in a phased manner in the subsequent Annual Plans.

17. That out of 307 schools, only 155 schools have playground facilities. Due to the paucity of land under revenue areas, the remaining schools could not be provided with playground facilities. However, efforts are on for seeking allotment of land near the schools for development of playground wherever possible.

Moreover, mini stadia, available at 08 places, with one more under construction, are also being used for sports and games activities of a number of schools located nearby.

24. We are very happy that the Chief Secretary has dealt with all the relevant issues in the said affidavit. We appreciate the learned Chief Secretary's submitting comprehensive picture of primary education in the State of Andaman and Nicobar. We direct the Administration of Andaman & Nicobar to complete the process of recruitment as expeditiously as possible, in any event, before 30th June, 2011 and ensure that the basic infrastructural facilities as made available in the schools before the said date. Let the Administration file a further affidavit on or before 30th June, 2011.

25. Despite two orders of this Court, the following States have not filed their affidavits:

1. Madhya Pradesh
2. Bihar
3. Punjab and Haryana
4. Uttarakhand
5. Jharkhand
6. Jammu & Kashmir
7. Maharashtra
8. Sikkim
9. Uttar Pradesh
10. Arunachal Pradesh
11. Nagaland

26. A last opportunity is granted to these States to file their affidavits within four weeks from today, failing which the Chief Secretaries of the concerned States shall remain present in Court on the next date of hearing.

27. List this matter for further direction on 29th April, 2011.