

(2002) 05 PAT CK 0047
In the Patna High Court
Case No : C.W.J.C. No. 4175 of 2002

In Re: Collapse of Established Educational Institutions

Date of Decision : 02-05-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2003 Patna 3

Hon'ble Judges : Ravi S. Dhavan, C.J.; Shashank Kr. Singh, J

Bench : Division Bench

Advocate : M.P. Gupta, for the Appellant; S.K. Ghosh, A.A.G. No. 2, for the Respondent

Judgement

Ravi S. Dhavan. C.J.

1. On this affirmative action there are reports of about 54 instances of neglected schools in Patna alone. These are basically Primary and Secondary Education schools run largely by the State Government, otherwise with the aid of the State Government grants. These schools suffer from abject neglect. Day after day the newspapers in Patna have reported that Primary and Secondary Education suffers badly as the infrastructure is just not available. In this case are noticed facts as up to March 2002. The list of neglected schools is increasing and further reports are on record.

2. In some instances the school buildings have disappeared, other schools are without roof yet others are without doors and windows and in some cases one room housing two classes with children sitting in the opposite direction, because the rest of the building has fallen down. And, there are examples of one room schools with children receiving instructions by shifts. There are cases where schools are without facilities like drinking water, lavatories, blackboards, school desks etc. The Court is not going into the details as in the present matter no issue has been taken by the Government in the affidavits which were filed in response to this affirmative writ action.

3. The Secretary. Primary and Adult Education, Government of Bihar, accepts and

records that even in Patna itself about 21 Schools mentioned in the news report, whatever be the reason, are facing a State of neglect. It is accepted that "majority of schools do not have proper infrastructural facilities. Most of the buildings/rooms are in urgent need of repairing and re-construction. Some of the schools do not have building (sic) of their own." It is also accepted in the report of the Secretary that "schools do not have separate rooms for each class. So it is common practice to group the students in one room by different grades and classes". It is further reported that "most of the schools also suffer inadequacy of (sic) blackboards, drinking water, electricity, toilets facilities and sitting (sic : should be seating) arrangements for students. The children are not provided benches/desks to sit on Classes". Then it is further accepted that "there are cases where more than one school is accommodated in the same building.

4. Other problems are mentioned by the Secretary in his affidavit, that there is encroachment of lands of the Government schools by unauthorised persons; school campus being used by antisocial elements and garbage is dumped on the ground of the schools; school grounds are being used as open lavatories by the public and classes are being held outside the schools while encroachers have occupied the schools. Then the Secretary contends that the department had commissioned a survey of all Primary and Middle schools of Patna urban area in the month of August 2001 and that the department has prepared a detailed plan for enhancement of elementary education institutions of Patna under the "Sarv Siksha Abhiyan".

5. The lack of repair of the schools buildings is accepted. It is also accepted that the 365 Primary/Middle Schools within Patna urban area, 68 have no buildings of their own and 30 are being run from buildings other than that of the schools.

6. Then it is contended that as far as availability of funds for construction of school buildings is concerned, the Government has launched a scheme of "Sarv Siksha Abhiyan" with financial assistance from the Central Government in which it is proposed that all schools will have buildings of their own in a phased manner between financial year 2002-10. A rider has been indicated that such construction is however subject to land being available by public donation for which appeals have been reiterated by the State Government. Then there are statistics given acknowledging that of the 365 schools in Patna urban area, 78 schools are without toilet facilities and 71 schools are without drinking water facilities and that the Government is taking up this matter for providing these facilities in a phased manner under a scheme of the 11th Finance Commission. Then it is submitted that under schemes for primary education the Government does not provide desks to the children at the primary stage. The Court is not going into the other aspects of student and teacher ratio, at present,

7. The report of the Secretary to the Government is very defensive but acknowledges that even half a century after independence primary education is not even a priority in the State. A school without desks and chairs is part of planning. Then, what exactly has been planned? Racketeering in school buildings

which fell down and employment of government school teachers without schools?

8. Pending consideration are public interest litigations which flood the Patna High Court like no other High Court of the nation. These are on many subjects. These proceedings take up the time of the High Court as public interest litigations. Citizens come and seek writs (of those which are genuine) in the hope that the High Court will be able to do something about public grievances not responded to by the State or its functionaries. This is perhaps an illusion. At times the High Court may have issued writs and they have remained without compliance and the petitioner-citizen returns with a contempt action and yet there is no compliance. This has saddled the High Court with multiplicity of proceedings based directly on a cause that the State has done nothing and the grievance continues. It renders the Court proceedings in a state that Court directions have not been carried out. These are matters of execution of public plans, the non-execution of which floods the High Court with PILs.

9. The plain question is, could the direction be carried out? Were there monies in the coffer to execute the plans? Assuming the balance which may remain after what evaporated on what is known as scams.

10. The Court is dealing with the subject of primary and secondary education at present, and that also within the urban area of Patna. But to understand the circumstance on what exactly happened to the public funds, facts and figures will have to be seen. These facts and figures were provided to the Court through the good offices of the Additional Advocate General 2. At times these facts and figures do not come so easily.

11. In the present case the Court has two sets of figures, one for the period 1980-89 and the other of the period 1999-2000. These are reproduced below :

Primary Secondary and Adult Education Department

BUDGET PROVISION & EXPENDITURE OF ANNUAL PLAN 1880-81-89-90

Sl. No. Financial year Budget Provision Actual Fund Received

Expenditure

Surrender

Eslab. Prog. Total Estab. Prog. Total Due to cut in Outlet Due to non Expd. (4-5)
Total 10+11

1 2 3 4 5 6 7 8 9 10 11 12

1. 1980-81 2863.02 352.84 2510.18 2863.02 350.21 2457.77 2807.98 0 55.04
55.04

2. 1981-82 2900 1082.91 1817.09 2900 1046.99 1377.23 2424.22 0 475.78
475.78

3.	1982-83	3052	1522.06	1529.94	3052	1519.62	1396.4	2916.05	0	135.95
4.	1983-84	3237.88	1893.63	1344.25	3237.88	1854.85	1009.23	2864.08	0	373.8
5.	1984-85	1512.06	3027.94	2384.12	5412.06	3012.44	2211.41	5223.85	0	188.21
6.	1985-86	6396.39	293.6	6102.79	6396.39	293.6	6102.79	6398.39	0	
7.	1986-87	5692	1074.9	4617.07	5692	991.36	4424.56	5415.92	0	276.06
8.	1987-88	6000	2606.7	3393.3	6000	1775.54	3513.66	5289.2	0	710.8
9.	1988-89	5968.91	2913.26	3055.65	5968.91	2895.59	3015.09	5910.68	0	58.23
10.	1989-90	13878	6947.01	6930.99	13878	6454.05	7032.58	13486.6	391,37	

Primary Secondary & Adult Education Department

BUDGET PROVISION & EXPENDITURE OF ANNUAL PLAN 1890-91-99-2000-2001

Sl. No. Financial year Budget Provision Actual Fund Received

Expenditure

Surrender

Estab. Prog. Total Estab. Prog. Total Due to cut In Outlet Due to turn Expd. (4-5)
Total 10+11

1 2 3 4 5 6 7 8 9 10 11 12

1.	1990-91	11060	3363.5	4696.44	8060	3084.94	4288.33	7373.27	3000	686.73	3686.73
2.	1991-92	9078	3395.72	2133.33	5529.05	3393.73	1931.5	5325.22	3548.95	203.83	3752.78
3.	1992-93	10605	3829.73	1770.27	5600	3826.77	1602.42	5429.19	5005	170.81	5175.81
4.	1993-94	11899	2309.68	1154.17	3463.85	2309.68	1824.97	4134.65	8435.15	(-) 670.8	
5.	1994-95	7392.88	4304.61	1995-39	6300	3881.72	1915.57	5797.29	1092.88	502.71	1595.59
6.	1995-96	7253	3100	4153	7253	4054.06	2983.58	7037.64	215.36	215.36	
7.	1996-97	8440	5802.52	2637.98	8440.5	5702.81	2195.68	7898.49	542.01	542.01	
8.	1997-98	10362	6325.35	4036.65	10362	6199.07	1825.08	8024.15	2337.85		

2337.85

9. 1998-99 14950 8042.1 6907.9 14950 7705.58 6347.68 14053.3 896.74
896.74

10. 1999-2000 18528.8 10771.3 7757.56 18528.8 2278.64 7212.32 9490.96
9037.87 9037.87

11. 2000-2001 4423.41 4848.62 9272.03 2781.14 4492.36 7273.5

12. In brief, for whatever may have been the budget, the allocation and the expenditure, in the first decade between 1980 to 1989 the State Government surrendered 391.37 lacs. In the second decade of 1999 to 2000 the State Government surrendered 9037.87 lacs. In 20 years the State Government surrendered 9429.24 lacs, that is to say, 94.29 crores or about 100 crores.

13. Now it is a matter of concern that with almost 100 crores of public funds surrendered, meant for Primary and Secondary Education, the State cannot maintain a continued state of neglect. The figures above will show that at times there have been cuts in plan allocation. This is a necessary corollary of planning and budgeting. If investment and expenditure for public objects will be shown then the State would be in a position to seek further allocation from the legislature or the centre over the previous year. But if year after year the malaise of non-utilisation of funds will become a habit then the possibility cannot be ruled out that the allocation will not be made as sought, unless the State gives confidence that it is executing its plans and makes out a case for more allocation. With so many matters aside public plans on education not executed, the High Court cannot procrastinate noticing cases pending before it. All PILs. Of the causes before the High Court brought as PILs a picture seems to be emerging on what happened to planning, of public funds, public expenditure and public plans not executed. All this got buried in a quagmire of babu dust and cobwebs of red tape. What added to this inaction was the mice which played with plague-like-virus which took the shape of financial scams. The Court system is plagued in judging these matters in various themes.

14. In the circumstances now it would be in the fitness of thing that having permitted almost 100 crores to lapse in the last 20 years meant for plan allocation for Primary and Secondary Schools, the State Government pulls up its socks and gets into the exercise of budgetary planning and further executing the plans on this subject. Both factors when not resorted to, affects the people and consequently the High Court because it is saddled with litigations which it could avoid and cannot.

15. The Court will now expect a report of the systematic manner in which remedial steps will be undertaken to repair and resurrect the schools so that they are available to the children as part of a public plan which in any case is the obligation of the State. But now there is no time to grant long adjournments as keeping the schools in good repair and functional is the normalcy of the situation.

Sitting back and letting jungle weeds and cobwebs grow in schools is an abnormality; a disease to be shed,

16. This report be filed next week.

17. Put up on Friday next (10-5-2002).