

(2008) 02 OHC CK 0047
In the Orissa High Court

Prasanta Thaty and Others

APPELLANT

Vs

State of Orissa and Others

RESPONDENT

Date of Decision : 19-02-2008

Acts Referred:

Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 — Section 26

Citation : (2008) 1 OLR 579

Hon'ble Judges : A.S. Naidu, J

Bench : Single Bench

Judgement

A.S. Naidu, J.—Heard. Petitioners are handicapped students, and are continuing their study in the Physically Handicapped School, Bargarh.

2. The grievance of the petitioners in this writ petition is that though they have moved for opening Class-VIII in both the schools for the Blind and the Deaf and no steps are being taken by the authorities. On perusal of Annexure-I, it appears that the Collector, Bargarh by his letter dated 6.3.2007 requested the State Government to grant permission for opening of Class-VIII in the interest of handicapped students i.e., Blind, Deaf and other physically handicapped students. The said request was considered by the Government in Women and Child Development Department, but as the Finance Department expressed its inability to the said proposal on the ground of financial stringency the proposal was deferred for the time being.

3. In consonance with the provisions of Section 26 of the Persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act, 1995, it is the onerous duty of the Government to ensure that every child with a disability has access to free education in an appropriate environment till he attains the age of eighteen years and endeavour should be made promote the integration of students with disabilities in the normal schools and promote setting up special schools in Government and private sector for those in need of special education, in such a manner that the children with disabilities living in any part

of the country have access to such schools.

4. It is alleged that state Government in spite of the legislative mandate maintaining stony silence. This Court finds some force in the submissions made by the learned counsel for the petitioners. The Government as per the Act, has an obligation to take appropriate steps for complying with the aforesaid mandatory requirements stipulated in the aforesaid Act.

5. In view of the above discussions, liberty is granted to the petitioners to file a fresh representation before O.P. No. 2-Commissioner-cum-Secretary to Government, Women and Child Development Department, enclosing all the necessary documents and quoting legal provisions of the aforesaid Act and enclosing relevant documents, within a period of four weeks from today. If such a representation is filed, O.P. No. 2 shall do well to pass necessary orders thereon strictly in accordance with law.

6. It is needless to say that stringency of financial condition should not stand on the way of the Government to achieve the Constitutional goal. The entire exercise shall be completed within a period of three months from the date of receipt of the representation.

7. The writ petition is disposed of accordingly. Urgent certified copy of this order be granted as per rules.