

(2020) 02 DEL CK 0202

In the Delhi High Court

Case No : Civil Writ Petition No. 1950 Of 2019

Salek Chand Jain

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 10-02-2020

Acts Referred:

Citation : (2020) 02 DEL CK 0202

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ; C. Hari Shankar, J

Bench : Division Bench

Advocate : J.K. Gupta, Suman Chauhan, Manishi H. Bisht, Santosh K. Tripathi, Arpit Bisht, Shashank Tiwari, Shivangi Singh, Nishima Arora, Shivani Pruthi, Sanjay Dewan, Monika Arora, Harsh Ahuja, Mini Pushkarna, Khushboo Nahar, Latika Malhotra

Final Decision : Disposed Of

Judgement

D.N. Patel, CJ

1. This writ petition has been preferred as Public Interest Litigation with the following prayers:-

â??a) The Respondents to take steps as per the directions dated 11.07.2018 of the Hon'ble Court.

b) The Respondents to conduct survey house to house for identification, of the children from the age of 6 to 14 years who are not going to

schools to take education and hence debarred from their fundamental rights of compulsory education.

c.) Respondents be directed to take specific steps and strength mechanism to ensure enrollment of all the above children from the age of 6 to

14 years and to eliminate dropout rate in line with the objective of the act.

d) Respondents be directed to make infrastructure for the schools like V

sanitation, computer labs, toilets, playing facilities, electricity,

furniture, boundary wall and ramps etc. so that proper education is to be provided to such type of children.

e) To make proper infrastructure like shelter homes, rehabilitation centre, orphanage, women and children protection centre so that these

children and women cannot be bullied by the unwanted and unsocial elements and criminals.

f) To direct the Govt. of NCT of Delhi to the Block Resource Centre and cluster Resource Centre to monitor the strength and necessary

periodical regarding the welfare infrastructure and management of the schemes made by the Govt.

g) Any other or further order which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case may also be

passed.â??

2. Having heard learned counsel for both parties and looking to the facts and circumstances of the case, it appears that an affidavit has been filed by

Respondent No.7/North Delhi Municipal Corporation on 16.11.2019. Paragraphs 3, 4 & 5 of the said affidavit reads as under:-

â??3. That it is humbly submitted that the present respondent conducts regular Surveys for identification of children from the age of 06 to

14 years who are not going to schools.

4. That moreover, the present respondent has established Special Training Centres (â??STCsâ?) in schools under the jurisdiction of North

DMC with the objectives to eliminate the dropout rate in line with the object of Right to Education Act, 2009. At present a total of 130 STCs

are functional in schools under the jurisdiction of present respondent.

5. That the respondent is ensuring and providing all basic infrastructure facilities like toilets, playing facilities, electricity, furniture,

boundary wall, computer wall and ramps in their all the schools under its jurisdiction.â??

3. In view of the facts stated in the aforementioned affidavit, it appears that the respondent No.7 has already established Special Training Centres

(STCs) in the schools under the jurisdiction of the North Delhi Municipal Corporation with the objectives to eliminate the dropout rate. There are as

many as 130 STCs functional in the schools under the North Delhi Municipal

Corporation. Other facilities are also being provided as stated hereinabove.

4. Paragraph 3 of the affidavit filed by the South Delhi Municipal Corporation reads as under:-

3. That the present Respondent Is running 581 primary schools and 14 Independent Nursery schools at present under its jurisdiction.

The efforts have been made that every child between the age group of 3 - 11 years may get Education near his residence. At present the

following steps are being taken by the Respondent:

i. The present Respondent has conducted house to house surveys in the year 2016 funded by Sarv Shiksha Abhiyan, Govt. of NCT of Delhi

to find number of children out of school.

ii. "DAKHILA RALLY/ABHIYAN" is the integral part of admission drive of present respondent.

iii. Primary schools are being run by the present Respondent to ensure free and compulsory education to the children up to 11 years. The

admissions of the age appropriate children are open throughout the year.

iv. Special Training Centers ("STC") have been established in some of the schools funded by Samagra Shiksha Abhiyan (SSA), Govt. of NCT

of Delhi so that the students who did not get formal education may be able to get formal education appropriate for their age.

v. To eliminate dropout rate, the teachers of the school visited the residence of the children to bring him/her in the main stream.

vi. The present Respondent has provided facilities of sanitation, toilets, electricity, furniture and ramps in the schools. It is submitted that

there are 431 sites under jurisdiction of present respondent and 581 primary schools and 14 independent schools are being run on these

sites. Out of 431 sites, 388 sites have pucca school building, 13 sites, 388 sites have pucca school building, 12 sites are running in sheds,

07 sites are pota cabin. Further, 10 sites are under construction,

vii. In the last five years the present Respondent has constructed 1209 classrooms, 126 hall, 596 toilets for girls and 505 toilets for boys

and as well as 524 urinal in the school premises. It is further submitted that 110 toilets for girls and 1104 toilets for differently abled

children have also been constructed during this period. Further, 3819 Girls toilet seats and 3203 Boys toilet seats are available in 581

schools of SDMC.

viii. Free textbooks to all students without any discrimination,

ix. Uniform subsidy to all students without any discrimination

x. Free Mid-Day-Meal to all students without any discrimination

xi. Stationary subsidy to all students without any discrimination

xii. Scholarship to Girl Child to all Girl students without any discrimination.

5. In view of the aforesaid affidavit, it appears that the respondent No.8 is taking enough steps for the care of the children residing in their jurisdiction.

Various steps have been mentioned in the aforesaid affidavit, which are being initiated by the South Delhi Municipal Corporation. 1209 Classrooms

have been constructed with 126 halls, 596 toilets for girls and 505 toilets for boys, 524 urinal etc. which are mentioned hereinabove. Free text books to

all the students has also been provided by the South Delhi Municipal Corporation. Uniform subsidy to all the students along with free mid day meal is

also being provided by the South Delhi Municipal Corporation. Scholarship to girl child is also being provided. All these steps are being taken without

any discrimination.

6. Looking to the affidavit filed by the East Delhi Municipal Corporation (EDMC), the details of the actions initiated by the East Delhi Municipal

Corporation are mentioned in paragraphs 5 to 11. Paragraphs 13, 15 & 16 thereof read as under:-

13. That biometric machines also have been installed in all the schools under the jurisdiction of EDMC to ensure the regularity and

punctuality of the teachers. Further, EDMC, in the present academic session has also engaged Educational and Vocational Guidance

Counsellor ("EVGC") on contractual basis for proper guidance and counselling of the children.

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15. That School Health Services (SMS) were firstly established in the schools under the erstwhile MCD in the year 1964, with the help of

UNICEF. Later, after the trifurcation of the erstwhile MCD in the year 2012, School Health Services were extended to all Zones under the

different Corporations gradually. It is submitted that School Health Services cover all the primary schools under the jurisdiction of EDMC.

16. That the various services provided by School Health Services (SHS) are enumerated herein below:-

I. Preventive and Promotive Health Services:

- a. Medical check up
- b. Eye check up
- c. Dental check up d. Immunisation e. De-worming
- f. Iron and Folic Acid Supplementation

II. Curative Services (provided in School Health Clinics. Zonal Clinics and Special Clinics):

- a. Health education regarding personal hygiene as well as oral hygiene (brushing techniques)
- b. Nutrition for various conditions such as Avitaminosis, Anaemia, Malnutrition, etc. caused by deficiencies by providing the children with various supplements.
- c. Polio vaccinations
- d. Education regarding water and vector borne diseases such as dengue, malaria, chikungunya, dysentery, diarrhoea etc.
- e. Education regarding drug and substance
- f. Education regarding Thalessemia and other genetic disorders.

III. Rehabilitative Services:

- a. Providing free spectacles, hearing aids, orthopaedic appliances, tooth brushes, tooth pastes etc.
- b. Help in regard to surgeries' for congenital heart diseases with the help of DMA/ NGOs.â??

7. Looking to the affidavit filed by the respondent no.6, paragraph nos.7 &11 reads as under:-

â??7. That the contents of para 7 of the petition are wrong and denied. It is wrong and denied that the Petitioner is filing the present public

interest litigation as poor schemes and no provisions has been made towards the right to education to the children inspite of the repeated

recommendation of India of as Auditor General Controller as well as the time period of approximate nine years have been passed till today,

the Respondents failed to provide the necessary and fundamental right of free and compulsory education below the 14 years children as

well as the Respondents have also failed to provide the children the proper nutrition, medical care etc. It is submitted that the answering

respondent has been working towards bringing the out of school children in formal schools. It is further submitted that, at present there are

around 594 Special Training Centres (STCs) running all over Delhi. Out of School Children (OoSC) are given training and are enrolled in

age appropriate class. They are given all benefits/Scholarships and Mid Day meals etc. That the Cluster Resource Centre Coordinators

(CRCCs) who are regularly conducting field surveys for identifying out of School Children. The Parents are counseled by experts to

encourage them in sending their children to schools/STCs. Every child has a right under RTE Act, 2009 and is given admission in their age

appropriate classes throughout the year.

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11. That the contents of para 11 are wrong and denied unless specifically admitted. It is wrong and denied that in spite of the crystal clear

directions of the Hon'ble Court, the conditions of the children in Govt. schools has not been improved. It is further wrong and denied, that

the Respondents have not provided the facilities to the children as per the schedule of RTE Act, 2009 towards the building Sanitation, food,

playgrounds, laboratories, computer labs as well as regarding the teachers. It is submitted that, regular surveys are carried out to identify

Out OF School Children (OOSC), including children involved in begging, migrant and destitute under Samagra Shiksha Anhiyan-UEE

mission. Surveys are regularly carried Centre Coordinators, Special Training Centre Teacher, Cluster Resource School Managing

Committee members and the head of the school during summer vacation, autumn break and winter break to identify and enrol the Out OF

School Children (OOSC) in neighboring schools.â??

8. In view of the steps narrated hereinabove, taken by the respondents for the welfare of children of age 6 to 14 years, it appears that enough and

adequate steps have already been initiated and we expect from the respondents that they shall continue the same in future. Necessary finance will

also be provided to these Municipal Corporations for the aforesaid purpose so that the steps initiated by them may be continued.

9. With these observations, this writ petition is disposed of.