
(2014) 04 KL CK 0057
In the High Court Of Kerala
Case No : W.P. (C) No. 18810 of 2013

Suo Motu Proceedings

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 11-04-2014

Acts Referred:

Constitution of India, 1950 — Article 21A

Citation : (2014) 2 ILR 740

Hon'ble Judges : Manjula Chellur, C.J;A.M. Shaffique, J

Bench : Division Bench

Advocate : P.D. Davis, Senior Government Pleader, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

A.M. Shaffique, J.—This writ petition is a suo motu proceedings initiated by this Court on the basis of a joint petition received from Master Abhijit, E.P. and other students studying at Government Tribal School, Echippara. They are students who have been studying in the said school from 5th standard onwards and their grievance is the lack of U.P. classes in the school. The school apparently accommodates the pupils of plantation workers and that of tribal population of Echippara Village.

2. Even before initiating suo motu proceedings, this Court called for a report from the Government with reference to the complaints raised. Since no such report was made available other than a communication from the Scheduled Castes/Scheduled Tribes Development Department, stating that the matter had been transferred to the General Education Department, this proceedings have been initiated. In the mean time, further representations were also received and this Court felt that it is necessary to consider the matter in a suo motu proceedings.

3. Counter-affidavit is filed on behalf of the 2nd respondent on 11-10-2013 inter alia stating that the State Government had given necessary directions to the

Director of Public Instructions to examine the request for the upgradation of the Government Tribal School at Echippara in accordance with the Right of Children to Free and Compulsory Education Act and the Rules framed thereunder. They referred to Ext. R-2(b) report, which apparently recommends upgrading the school for higher study for tribal pupils. It is inter alia stated that it will benefit about 300 families and there are no other schools within 14 kilometers.

4. It is further indicated in the affidavit that the State Government has not taken a policy decision regarding upgradation of new schools in the aided or Government sector and when a policy decision is taken, appropriate decision will be taken in the matter.

5. By an interim order dated 18-10-2013, we have called upon the Department of Education to state whether they have any data regarding the existence of schools which facilitate the children coming from tribal area in the State of Kerala to get admissions and vis-a-vis the distance between their residence and the existence of schools from 1st standard to 10th standard in the light of the provisions of Right of Children to Free and Compulsory Education Act and the Rules framed thereunder.

6. Pursuant to the above direction, an affidavit is filed by the Under Secretary to Government, General Education Department on 27-11-2013. They have produced a list of 72 Government/Private schools and other particulars. It is further indicated that there are 72 Government Tribal Schools functioning in the State and 10448 students are studying in the said school out of which 1274 students come under Scheduled Caste category and 4734 students come under Scheduled Tribe category. About 509 teachers are working in the said tribal schools. It is further indicated that 27 model residential schools of which 18 for Scheduled Tribes and 9 for Scheduled Castes are also functioning under the Scheduled Castes/Scheduled Tribe Department of the State Government Those schools are having standards 1 to 10. Total number of 2052 Scheduled Tribe students and 1567 Scheduled Castes students are studying in the said model residential schools.

7. Though the case was listed on several occasions so far the Government has not taken any policy decision in the matter.

8. Having gone through the representation submitted by Master Abhijit and other representations, there is no dispute about the fact that persons belonging to tribal community have to walk a considerable distance and upto about 14 kms. to continue their studies. If the Government school at Echippara is upgraded, definitely the students who had undergone the primary school level will have the advantage to continue their studies in the very same school. A perusal of Ext. R-2(b) itself indicates the recommendation made to the Government regarding the necessity of upgradation of the said school.

9. Therefore, there cannot be any doubt about the necessity for upgradation of the Tribal School at Echippara and the delay in taking such a policy decision

apparently are causing serious difficulties to the students at large.

10. It is not in dispute that right to education is a fundamental right under Article 21A of the Constitution which reads as under:

The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

When the Government is faced with a situation of upgrading school for the benefit of tribal students, to avoid much hardship to them, necessarily the Government ought to have taken a decision within a reasonable time. This matter was pending since 27-7-2013 and the next academic year is about to commence. Failure to consider their claims amounts deprivation of the students fundamental right to seek education. It is not enough that facilities are provided, it is to be provided within a reasonable distance from their residence. When a school already exists in a nearby locality, there is no reason why it should not be upgraded. Hence, we are of the view that on account of the imminent necessity to start a U.P. School in the Echippara Tribal School, appropriate directions are to be issued.

In the result, the writ petition is disposed of as under:

Respondents are directed to issue appropriate orders to upgrade the Echippara Tribal School into a U.P. School. This shall be done to facilitate admissions to the students to the School in the coming academic year, i.e. 2014-2015.

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