

(2026) 02 KL CK 1693

In the High Court Of Kerala

Case No : Writ Petition (C) Nos.18868 and 20161 Of 2025

Ummu Sulaim (Minor)

APPELLANT

Vs

Union Territory Of Lakshadweep Represented By Its
Administrator

RESPONDENT

Date of Decision : 10-02-2026

Acts Referred:

Constitution of India, 1950 — Article 14, 21, 21A, 51A(k)

Right Of Children To Free And Compulsory Education Act, 2009 — Section 2(n)(i), 2(n)(ii), 3, 6

Citation : (2026) 02 KL CK 1693

Hon'ble Judges : N. Nagaresh, J

Bench : Single Bench

Advocate : Rilgin V.George, K.T.Raveendran, Akshara K.P., Meera J. Menon, Arathy P.S., Anagha Manoj, K.S.Prenjith Kumar

Final Decision : Dismissed

Judgement

N. Nagaresh, J

1. W.P.(C) No.18868/2025 is filed by students of Junior Basic School (South), Agatti seeking to quash Ext.P2 whereby it has been ordered that the classes presently functioning in PM SHRI JB School (South) will be shifted to the Government JB School (North) Building and that the Principal should complete the shifting process by 31.05.2025 and submit action taken report by 05.06.2025.

2. The petitioners in W.P.(C) No.20161/2025 are students undergoing elementary education at Government Junior Basic School (GJBS), Andrott. They are aggrieved by Ext.P1 order dated 11.05.2025 issued by the Director of Education proposing shifting the classes functioning in Government Junior Basic School (GJBS), Machery to Government SB School, Edachery. The petitioners would urge that the impugned orders are issued in violation of Rule 6(1)(a) of the Right of Children to Free and Compulsory Education Rules, 2010.

3. The petitioners in W.P.(C) No.18868/2025 submit that until four years ago, there were three Junior Basic Schools in Agatti Island. The JBS South and JBS North were situated at the southern and northern extremity of the Island and the JBS Central is located midway between the two. About four years ago, the JBS (Centre) was shut down and merged with nearby Senior Basic School. The JBS South was upgraded as PM SHRI School last year.

4. The 4th respondent-Director of Education issued Ext.P2 order dated 11.05.2025 ordering that the classes presently functioning in PM SHRI JB School South will be shifted to the Government JB School North building. The petitioners state that if Ext.P2 is implemented, students like the petitioners will have to truck more than 3 Km. to reach JBS North.

5. The petitioner states that Article 21A was inserted in Part III of the Constitution in the year 2002 mandating that the State shall provide free and compulsory education to all children of the age of 6 to 14 years. Though Section 3 of the RTE Act, 2009 employs the phrase "Neighbourhood School", the Act does not define the word "Neighbourhood School". Section 6 of the Act casts a duty on the appropriate Government to establish School in a neighbourhood area.

6. While the Constitution and Statute mandate so, Ext.P3 envisages closure of an existing School situated in a particular neighbourhood area. The reasons assigned in Ext.P2 for the proposed merger of the two Schools are unsustainable in the light of the express provisions of the RTE Act and the Rules, contend the petitioners. Ext.P2 is therefore liable to be quashed.

7. The petitioners in W.P.(C) No.20161/2025 submit that the proposed shifting of classes functioning in GJBS, Machery to Government SB School, Edachery is illegal. The latter School is far away from the petitioners' residence. The proposal affects the elementary education facility in the area. There is no School in the neighbourhood at present for elementary education. Ext.P1 proceedings of the Director of Education is illegal and violative of Articles 14, 21 and 21A of the Constitution of India.

8. The 4th respondent in W.P.(C) No.18868/2025 filed counter affidavit and resisted the writ petition. By Ext.P2 order, the Lakshadweep Administration has decided to shift the classes presently functioning in PM SHRI Government JB School South to Government JB School North and to rename it as PM SHRI Government JB School, Agatti. The old building in Government JB School South is in a deplorable condition. It is a surveyed building for demolition. Ext.R4(a) survey report for demolition is accepted by the Administrator. Majority of classrooms are in the old dilapidated building. The new building is not sufficient to accommodate the students. On the other hand, Government JBS North has sufficient buildings and other facilities to accommodate the students of JBS South. The UT of Lakshadweep has the lowest pupil-teacher ratio in the country. The petitioners have not made out any justifiable reason to challenge Ext.P2 order.

9. The 3rd respondent-Director of Education submitted that there are six Primary Schools for an Island with an area of 4.90 square kilometres and a population of 11191. The student strength of JBS Machery is less than 150 and the strength of Government SB School, Edachery is 462. There is no need to maintain both the Schools.

10. There is another elementary school namely, JBS (Centre) within a distance of 400 metres from Government JBS, Machery. The Government JBS, Machery is located within a radius of 800 metres of Government SB School, Edachery. The Government SBS, Pandath is located hardly 1 Km. away from Government JBS, Machery. The furniture, books, computers and other study materials have already been shifted to Government SBS, Edachery and the classes are also commenced in the School. The writ petition is therefore without any merit and it is liable to be dismissed.

11. I have heard the learned counsel for the petitioners in both the writ petitions and the learned Standing Counsel representing the Union Territory of Lakshadweep.

12. The prime legal argument advanced by the counsel for the petitioners is that shifting of the Schools would violate Section 6 of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act, for short) and the Rules framed thereunder. Section 6 of the RTE Act provides that for carrying out the provisions of the Act, the appropriate Government and local authority shall establish, within such area or limits of neighbourhood, as may be prescribed, a School, where it is not so established, within a period of three years from the commencement of the Act. According to the petitioners, the present proposal to shift the two Schools at distant places would render the children in the area having no School near the neighbourhood.

13. The mandate of Section 6 is that there should be a School within such area or limits of "neighbourhood" as may be prescribed by the Government. The term "neighbourhood" is not defined in the RTE Act. Within which extent of area should there be a School, is therefore for the appropriate Government to prescribe. The argument of the petitioners is that in any neighbourhood, where the distance between any one point within the neighbourhood to any other point within the same neighbourhood is more than one kilometre, there shall be established a School within a distance of one kilometre from any given point within the neighbourhood.

14. The petitioners would urge that if, on the other hand, it is a very small neighbourhood, where the distance from any one point within the neighbourhood to another within the same neighbourhood is less than one kilometre and there is no School within such a small neighbourhood, there shall be established a School within one kilometre of the neighbourhood, i.e., outside the limits of the neighbourhood. The petitioners would argue that in the case of the two Schools involved in the writ petitions, due to the closure of the Schools, the petitioners

and other children will be deprived of a School “within one kilometre” from any given point in the neighbourhood.

15. To understand the extent and scope of Section 6 of the RTE Act, it is necessary to understand the circumstances in which the Act came into force. By the Constitution (86th Amendment) Act, 2002 which came into effect with effect from 01.04.2010, Article 21A was incorporated in Part III as a fundamental right. Article 21A mandates that 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.

16. Article 51A(k), which is a fundamental duty incorporated in Part IV A of the Constitution, states that it shall be the duty of every citizen of India, who is the parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years. In the judgment in *Avinash Mehrotra v. Union of India and others* [(2009) 6 SCC 398], the Hon’ble Apex Court held that unlike other fundamental rights, the right to education places a burden not only on the State, but also on the parent or guardian of every child, and on the child herself. The right to education, then, is more than a human or fundamental right. It is a reciprocal agreement between the State and the family, and it places an affirmative burden on all participants in our civil society.

17. Rule 6(1)(a) of the Right of Children to Free and Compulsory Education Rules, 2010 ('RTE Rules', for short) reads as follows:

6. Area or limits of neighbourhood -

(1) The area or limits of neighbourhood within which a school has to be established by the State Government or the local authority shall be:-

(a) in respect of children in classes from I to V, a school shall be established within a walking distance of one km of the neighbourhood.

The terms “neighbourhood” and “walking distance” are not defined under the RTE Rules, 2010.

18. The Rules, 2010 is the Central Rules. Unlike the Central Rules, the Kerala RTE Rules, 2011 defines the term “neighbourhood” to mean “the area near or within a walkable distance of an elementary school referred to in sub-clauses (i) and (ii) of Clause (n) of Section 2 of the Act and shall include areas of such Schools in adjacent local bodies”. The Kerala Rules, 2011 admittedly is not applicable in respect of Schools situated in the Union Territory of Lakshadweep.

19. India is a large country with diverse geographical qualities and varying density of populations. It would therefore be a Himalayan task to legally define the terms “neighbourhood” and “walking distance”. In densely populated urban areas, the society may consider a cluster of adjacent apartment buildings as neighbourhood area, whereas, in remote villages, the term “neighbourhood area”

will take in larger extent areas and may even include neighbourhood villages.

20. The Union Legislature therefore found it fit not to define the term "neighbourhood area" and left it to the discretion of appropriate Governments. Under the Kerala Rules, "neighbourhood" is defined as the area near or within a walkable distance of an elementary school. Under the Mizoram Rules, 'neighbourhood' means an area under the jurisdiction of local councils under Municipal Corporation or Village Councils or sub-Villages, as the case may be.

21. The Government in Tripura found it fit to define the term "neighbourhood" to mean a ward for an area under the Agartala Municipal Council or any Nagar Panchayat or any Gram Panchayat or Village of TTAADC or part thereof in a rural area as may be notified by the State Government from time to time. Under the Madhya Pradesh Rules, "limit of neighbourhood" means, in case of Classes I to V, in rural area, the Village and adjoining Villages and adjoining Wards of urban area, if any, and in urban area, the Ward and adjoining Wards and adjoining Villages, if any, in case of Classes VI to VIII, area of 3 Km. from this limit.

22. The term "neighbourhood" therefore cannot be defined with clinical precision or mathematical exactitude, for the purpose of the RTE Act. The Union Legislature rightly left it to be decided by appropriate State Governments / Union Territories. The term "neighbourhood" only refers to the locality.

23. It is the Central Rules, 2010 that is applicable to the Union Territory of Lakshadweep. Though the Rules mandate that a School for Classes I to V shall be established within a walking distance of one kilometre of the neighbourhood, the term "neighbourhood" is not defined in the Rules. In the case of Andrott Island, the total length of the Island is only 4.66 Km. and the maximum width is 1.43 Km. The total population of Andrott Island is 11191. Within the said Island having 4.66 Km. length, six Primary Schools are functioning.

24. As far as the Schools in Agatti are concerned, Agatti is the 6th largest Island of Lakshadweep group of Islands in terms of land area. The total population is less than 8000. The southern part of the Island is a narrow strip. Human settlements are concentrated on the central and northern part of the Agatti Island. The total length of Agatti Island is 7 Km. only.

25. Even after the proposed shifting, there will be three Schools in the Island. In the afore circumstances of the case, I do not find any illegality in shifting of the Schools or violation of Section 6 or the Rules made thereunder.

The writ petitions are therefore without any merit and are hence dismissed.