

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **Writ Petition (Civil) No. 853/2010**

Criminal Justice Society & Ors. Petitioners
Through Mr. Raj Kamal, Advocate.

VERSUS

Union of India & Ors. ...Respondents
Through Ms. Neha Kapoor, Advocate for
Mr. Nazimi Waziri, Advocate for
GNCTD.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER
% **23.03.2011**

Criminal Justice Society has filed the present writ petition in the nature of Public Interest Litigation with the principal prayer that compensation should be paid to the parents of the school children who lost their lives on 10th September, 2009 in a stampede at Government Senior Secondary School in Khajuri Khas, Delhi. On the said fateful day there were incessant rains and water logging. The children who were attending classes were compelled to rush down the narrow staircase as a rumour had spread that there was likelihood of electrocution due to

accumulation of the rain water. This resulted in chaos and the stampede. Five young students namely Afroz, Mumtaz, Ayesha Khatoon, Lalita Nagar and Monika, lost their precious lives and 35 girls got injured.

2. Ministerial Inquiry was held and report thereof has been placed on record. The relevant paragraphs of the Ministerial Inquiry has been reproduced in the order dated 8th September, 2010, and for the sake of convenience are reproduced as under:-

“The assembled boy and girl students were not accustomed to studying together and interacting with each other? The seating plan for examination was for a day having normal weather. No advance planning was ever imagined by the school district education authorities for conducting exams in bad weather in spite of the fact that in normal days hundreds of boys and girls were taking the exam in open space and premises of the school. One day before the fateful day, everything went normal with their seating plan. Next day, as it had been raining since night, it was not possible to execute the previously arranged seating plan, as the entire open space available within the school was flooded with water. Almost all the rooms in the old building were leaking and conducting exam therein was not possible at all. It was also not possible to conduct exams in the open space. The school authorities tried to make alternative

arrangements by shifting the students from one floor to another and from one room to the other. This resulted in a mass movement of girls and boys students from one place to the other and that too in a very short period of time. The girls and boys students were confused whether exam would be conducted and they were not sure where they would be sitting. The corridor on the ground as well as on the first floor of the new building of the school is only 5 feet wide, the staircase is also 5 feet wide and verandas and stairs were already overcrowded with the students who were sitting/standing in the rooms and verandas as per the previous day plan. In this process of mass movement of boys and girls students some boy students came in the new building and tried to find place for sitting. The classrooms of the first floor are used by girl students as well as by the boy students in their respective shifts. Under the situation prevailing at that time the boys tried to occupy the classroom where girl students were already sitting. In this situation the girls and boys were mixed up.

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In this chaotic situation, the students were traumatized, harassed and misbehaved by some of the boy students and some mischievous boys might have even molested some students, possibility of which is not ruled out. However, this needs to be furthered probed by the police and the culprit may be booked as per law. Frightened

girl students started running downstairs and some girl and boy students were also coming upstairs resulting into a stampede in the stairs in which some girl students got injured and some of them died?. The cause of death was due to asphyxia as a result of compression on neck and chest.....

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...the District Education Authorities and the school authorities of both the schools were well aware that on a rainy day it would not at all be possible to conduct exam in open place. It is evident from the fact that Sh. Inderpal Singh, Vice Principal of boys? school rang up the school Principal at 7:40 AM in the morning of the fateful day that it was not possible to conduct the exam. But the Principal of the boys? school did not bother to contact the higher authorities immediately to apprise them of the factual position and take necessary direction from them. He did it only at 8:40 AM after reaching the school. There he contacted the Dy. Director of Education of the Distt. and to the Education Officer and that too only once. He found the mobile phones of these authorities switched off. He did not bother to make another attempt/effort to contact them. From this it is evident that he did not take the thing seriously and not made sincere efforts to get direction from the higher authorities for postponing the exam. The Vice Principal and other teachers of the boys? school also made no effort to contact the higher authorities to have suitable directions.? Mobile phone records of the Dy.

Director of Education, District North East suggest that his mobile phone was switched off from 8:14AM to 9:13 AM. That is why he could be contacted only at 9:40 AM, much after the incident. The DDE of the district did not take any pain to enquire from the school as to whether they are facing any difficulty in conducting the exam in the heavy rains.

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Thus the lack of planning, in different attitude, negligent behavior, lack of promptness in taking decisions in the given circumstances on the part of the Dy. Director, Education of the district, Education Officer concerned, the Principal of the boys' school and Vice Principal of the girls' school has resulted into this unfortunate event. They are fully responsible for this incident."

3. Government of NCT of Delhi had granted ex-gratia payment of Rs.2,00,000/- to each of the parents of the children who had lost their lives and Rs.50,000/- to the children who had suffered injuries. By the order dated 8th September, 2010, the Court noticed that the authorities were grossly negligent as a result of which lives of five young children were lost and 35 children had suffered injuries. There was a serious lapse on the part of the respondents which had resulted in the said

tragic accident. Accordingly, the compensation amount in the case of death was enhanced to Rs.7,00,000/- and it was directed that the State will pay the further sum of Rs.5,00,000/- to the parents of each student who had lost their lives. Compensation amount for injured children was also enhanced from Rs.50,000/- to Rs.75,000/-. The said amounts have been paid and the State had accepted the enhancement of compensation.

4. The Ministerial Inquiry report as given recommendations and suggestions to avoid such occurrences in future.

5. This Court on 8th September, 2010 had directed as under:-

“Presently, we shall go to the issue of direction to avoid such kind of unwarranted occurrences. The learned counsel for the petitioner has commended us to the decision in ***Avinash Mehrotra Vs. Union of India and Ors., (2009) 6 SCC 398***. In the said case, their Lordships in paragraphs 41 and 47 have issued various directions. We do not intend to produce the said directions, but only say that the said directions relate to fire safety measures in schools, training of school teachers and other staff, school building specifications and clearances and certificates.

Mr. Najmi Waziri fairly stated that the said directions shall be religiously followed by the

Government of NCT of Delhi in each school which is run by it. Mr. Waziri also submitted that the State shall scrupulously follow the stipulations and postulates in the National Building Code with regard to the existing schools as well as the schools that are likely to come in future. This Court hopes and trusts that the competent authorities of the State shall follow the same in letter and spirit and would not show any kind of deviancy.

We cannot be oblivious of the fact that the incident occurred basically due to three reasons, namely, water logging, shifting of examination hall and the narrow staircase. Pending implementation of the National Building Code, it is directed that appropriate steps shall be taken to broaden the passages/staircases, which have already commenced as Mr. Waziri would submit, as expeditiously as possible.

As far as the water logging is concerned, the drainage facility is required to be done in such a way that water logging does not occur. That apart, the water logging becomes the breeding place for mosquitoes and other insects that are likely to spoil the hygienic atmosphere which a school is supposed to have. The department of education shall see to it that water logging does not take place and same is rectified; if not already done permanently, but a day to day water clearance must take place.

We will be failing in our duty if we do not direct that it is open to the State Government to proceed against the erring officials and teachers who are responsible for the occurrence of such unwarranted man-made accident. The persons who are incharge of the management must understand it clearly that they have a greater role to play rather than to perform the routine work. Hence, liberty is granted to the State Government to proceed against the erring officials in accordance with law.

Let a compliance report with regard to the aforesaid directions be filed by 10th November, 2010.”

6. Thereafter on 19th January, 2011, it was stated by the Government of NCT of Delhi that in view of the tragedy which had occurred on 10th September, 2009, a decision has been taken to carry out required infrastructural changes in 400 schools. Now in the counter affidavit filed by the Directorate of Education, GNCTD on 23rd March, 2011, it is stated that the figure of 400 schools was incorrectly communicated and in fact infrastructural changes in respect of 198 schools have been undertaken and the work has been allotted to Delhi State Industrial & Infrastructural Development Corporation Ltd.

(DSI IDC, for short) under the 'Roopantar' Project and that Rs.288 crores have been sanctioned for the said purpose. DSI IDC has completed construction/renovation as per the National Building Code, 2005 in respect of 104 schools. The list of schools has been enclosed. It is stated that construction/renovation work in respect of 81 schools shall be completed by the summer vacation and the work in respect of 13 schools has not been started due to pendency of court cases and other constraints. The details of the construction work undertaken in respect of 104 schools has been stated in the affidavit.

7. In view of the aforesaid affidavit, we are inclined to close the present writ petition, but we observe and make it clear that it is the obligation and duty of the respondents to ensure that the school buildings adhere to the Building Bye-laws, National Building Code of India, 2005 etc. The respondents will ensure that they also comply with the directions issued by the Supreme Court in ***Avinash Mehrotra vs. Union of India & Ors., (2009) 6 SCC 398***. In the said case, Supreme Court has emphasized that it is the duty of the Government to ensure

and secure that the schools meet the safety standards. Accordingly, it

has been held as under:-

“21. It is clearly borne out from the affidavits filed by the respondents that even the basic fire extinguishing equipments have not been installed in most of the schools. Majority of the schools do not have emergency exits. The schools must realise and properly comprehend the importance of the fire safety equipments, but unfortunately most of the schools do not have fire extinguishing equipments and consequently, the schools are not following the minimum safety standards prescribed by the Building Code of the Bureau of Indian Standards.

22. Despite best intentions and frequent agreements, these building codes and safety standards rarely bind builders in law or practice. The State or local Governments must enact building codes before any may have the force of law. Some building codes exist in law, but few States or municipalities have enacted a standard as rigorous as the National Building Code. Weak enforcement often then moots the enacted code’s effectiveness, no matter the code’s intent, whether fire safety officials routinely speak to the need for meaningful standards with real enforcement.

23. In the petition, the petitioner does not seek damages or the Court’s finding on culpability. The main intention of filing this petition is to protect against similar future tragedies by improving the conditions of the schools in our country.

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40. In view of what has happened in Lord Krishna Middle School in District Kumbakonam and other incidents which have been enumerated in the preceding paragraphs, it has become imperative that each school must follow the bare minimum safety standards, in addition to the compliance with the National Building Code of India, 2005, in particular Part IV — Fire & Life Safety, and the

Code of Practice of Fire Safety in Educational Institutions (IS 14435:1997) of the Bureau of Indian Standards.

41. The said safety standards are enumerated hereinbelow:

3.1. *Fire safety measures in schools:*

(i) Provision of adequate capacity and numbers of fire extinguishers of ISI mark to be provided in eye-catching spots in each block of the school.

(ii) First aid kits and necessary medicines should be readily available in the school.

(iii) Provision of water tank and separate piping from the tank with hose reel to the ground floor and first floor.

(iv) Fire-fighting training to all teachers and students from Xth to XIIth standards.

(v) Fire task force in every school comprising of head of the institution, two teachers/staff members and one member from the Fire and Rescue Department should be constituted. The Fire and Rescue Department member shall monitor and make fire safety plan and conduct inspections once in every three months.

(vi) Display of emergency telephone numbers and list of persons to be contacted on the notice board and other prominent places.

(vii) Mock drills to be conducted regularly. Fire alarm to be provided on each floor and for rural schools separate long bell arrangement in case of emergency.

(viii) All old electrical wiring and equipment shall be replaced with ISI mark equipments and routine maintenance conducted by the school management in consultation with the Fire and Rescue Department.

(ix) No high tension lines should run inside or in close proximity to the school. Steps must be taken to shift them if they are already there.

(x) The Fire and Rescue Department shall frame guidelines with DOs and DONTs for schools and issue a fitness certificate, which shall be renewed periodically.

3.2. Training of school teachers and other staff:

(i) The teachers along with other staff shall be trained to handle safety equipment, initiate emergency evacuations and protect their students in the event of fire and other emergencies by the Fire and Rescue Department.

(ii) They shall also be trained in providing emergency first-aid treatment.

(iii) There shall be a School Safety Advisory Committee and an emergency response plan drafted by the Committee in approval and consultation with the Fire and Rescue Department concerned.

(iv) Emergency response drills conducted at regular intervals to train the students as well as the school staff.

(v) All schools to observe fire safety day on 14th of April every year with awareness programs and fire safety drills in collaboration with the Fire and Rescue Department.

3.3. School building specifications:

(i) The school buildings shall preferably be a A Class construction with brick/stone masonry walls with RCC roofing. Where it is not possible to provide RCC roofing only non-combustible fireproof heat resistant materials should be used.

(ii) The nursery and elementary schools should be housed in single-storeyed buildings and the maximum number of floors in school buildings

shall be restricted to three including the ground floor.

(iii) The school building shall be free from inflammable and toxic materials, which if necessary, should be stored away from the school building.

(iv) The staircases, which act as exits or escape routes, shall adhere to provisions specified in the National Building Code of India, 2005 to ensure quick evacuation of children.

(v) The orientation of the buildings shall be in such a way that proper air circulation and lighting is available with open space all round the building as far as possible.

(vi) Existing school buildings shall be provided with additional doors in the main entrances as well as the classrooms if required. The size of the main exit and classroom doors shall be enlarged if found inadequate.

(vii) School buildings have to be insured against fire and natural calamities with group insurance of school pupils.

(viii) Kitchen and other activities involving use of fire shall be carried out in a secure and safe location away from the main school building.

(ix) All schools shall have water storage tanks.

3.4. Clearances and certificates:

(i) Every school shall have a mandatory fire safety inspection by the Fire and Rescue Services Department followed by issuance of a 'no-objection certificate' to the school as a mandatory requirement for granting permission for establishing or continuation of a school.

(ii) An inspection team consisting of experts like a civil engineer, a health officer, a Revenue Officer, a psychologist, a fire officer, a local body officer

and a development officer besides the educational authorities shall carry inspection and assessment of infrastructural facilities before the commencement of each academic year. The team shall submit its inspection report to the District Chief Educational Officer concerned.

(iii) The building plans for schools shall be prepared only by a Government-certified engineer and the PWD Executive Engineer concerned should inspect the building and award a structural stability certificate. Stability certificates shall be issued by the State or Central Government engineers only and shall be mandatory for granting permission for establishing or continuation of a school.

(iv) In every district, one Recognition Committee headed by a retired Judge shall be constituted. Officials from the Revenue Department, Public Works Department, Fire Service, Electricity Board, Health and Education Department and a reputed NGO shall be members. They shall visit the schools periodically or at least the erring institutions as listed by the Chief Education Officer.

(v) Conditional recognition/approval shall never be resorted to for any school.

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47. In view of what happened in Lord Krishna Middle School in District Kumbakonam where 93 children were burnt alive and several similar incidences had happened in the past, therefore, it has become imperative to direct that safety measures as prescribed by the National Building Code of India, 2005 be implemented by all government and private schools functioning in our country. We direct that:

(i) Before granting recognition or affiliation, the State Governments and Union Territories concerned are directed to ensure that the

buildings are safe and secure from every angle and they are constructed according to the safety norms incorporated in the National Building Code of India.

(ii) All existing government and private schools shall install fire extinguishing equipments within a period of six months.

(iii) The school buildings be kept free from inflammable and toxic material. If storage is inevitable, they should be stored safely.

(iv) Evaluation of structural aspect of the school may be carried out periodically. We direct that the engineers and officials concerned must strictly follow the National Building Code. The safety certificate be issued only after proper inspection. Dereliction in duty must attract immediate disciplinary action against the officials concerned.

(v) Necessary training be imparted to the staff and other officials of the school to use the fire extinguishing equipments."

8. Liberty is, however, granted to the petitioner or any third person to approach this Court in case there is any violation or failure on the part of the respondents to adhere with the norms prescribed. The writ petition is disposed of.

SANJIV KHANNA, J.

CHIEF JUSTICE

March 23, 2011
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