

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6151 of 2020

St. Pauls International High School Having its office in North Mandiri, Patna through its Principal namely Ritika Jain female aged about 30 years, Wife of Mumtaz Ahmed, resident of C/o Imtiyaz Ahmed, Baba Tent House, Dariyapur, Sabzi Bagh, P.S. Pirbahore, Patna- 800004.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Department of Home, Government of India, New Delhi.
2. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
3. The Principal Secretary Department of Disaster Management, Government of Bihar, Patna.
4. The National Disaster Management Authority through the Competent Officer, New Delhi.
5. The State Disaster Management Authority through the Chief Executive Officer, Bihar, Patna.
6. The District Magistrate Patna.
7. The District Education Officer, Patna.
8. The Subdivisional Officer, Patna.
9. The Public Relations Officer, Patna.
10. The Senior Superintendent of Police, Patna.

... .. Respondent/s

Appearance:

For the Petitioner/s : Mr. Gautam Kumar Kejriwal, Advocate
Mr. Alok Kumar Jha, Advocate

For the Union of India : Mr. S. D. Sanjay, ASGI
Mrs. Priyanka Roy Lakshmi, CGC

For the Respondent/s : Mr. Ashutosh Ranjan Pandey, AAG-15

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 04-06-2020 Heard learned counsel for the parties.

Petitioner has prayed for the following relief(s): -

(A) For holding and a declaration that the order



dated 10.04.2020 issued vide memo no.3421/go by the District Magistrate, Patna (Respondent No.6) being ultra vires the provisions of Disaster Management Act, 2005 (hereinafter referred to as the Act) and as such beyond jurisdiction and authority in law;

(B) For holding and a declaration that the letter issued vide memo 1173/aa.pra. Dated 25.03.2020 by the Principal Secretary, Department of Disaster Management Bihar (Respondent No. 3) is illegal, without jurisdiction and beyond the realms of the statutory ambit of the Act;

(C) For issuance of a consequential relief in the nature of certiorari for quashing of the letter bearing no. 3421/go dated 10.04.2020 and memo no. 1173/aa.pra. Dated 25.03.2020 issued by the Respondent No. 6 and 3 respectively for being ultra vires the provisions of the Act;

Or In The Alternative;

(D) For reading down the conditions of clause 5, 6 and 7 of the order issued by the District Magistrate, Patna (Respondent No. 6) No. 3421/go dated 10.04.2020 being highly discriminatory, iniquitous, arbitrary, unreasonable and coercive in nature and as such violative of Articles 14 and 21 of the Constitution of India;

(E) For further holding and a declaration that the



petitioner is entitled to recover tuition fee and such other charges against which services are being provided to the students as regular classes through video applications are being conducted and study materials, assignments, project works are being provided to students by the petitioner which involves participation, efforts and contribution of teachers and other staff;

- (F) For further holding and a declaration that it is the obligation of State under the Act to extend the aid and assistance of its choice to one class of society through the resources of State and not at the cost of sufferings of other class of same society failing which any such measure or action would fail the test of law under Article 14 of the Constitution of India.
- (G) For any other relief or reliefs to which the petitioner is entitled in the facts and circumstances of this case.”

After the matter was heard for some time, Mr. Gautam Kumar Kejriwal, learned counsel for the petitioner, submitted that petitioner shall approach respondent no.3, Principal Secretary, Department of Disaster Management, Government of Bihar, Patna; respondent no.06. namely, District Education Officer, Patna; as also respondent no.7, District



Education Officer, Patna, venting out his grievances, subject matter of present petition, more specifically pointing out the decision rendered by the High Court of Delhi at New Delhi in W.P.(C) No.2993 of 2020 titled as Naresh Kumar – Vs.- Director of Education & Anr.

Prayer allowed.

As such, we dispose of the present petition on the following mutually agreeable terms:

- (a) All issues are left open.
- (b) As prayed for it shall be open for the petitioner to approach any one of the respondents' including the respondent no.3, namely, Principal Secretary, Department of Disaster Management, Government of Bihar, Patna; respondent no.06. namely, District Education Officer, Patna and respondent no.07. namely, District Education Officer, Patna venting out his grievance.
- (c) As and when any such request is received from the petitioner, the said authority(s) shall positively decide the same in accordance with law, within a period of four weeks thereafter. An opportunity of hearing shall be afforded.
- (d) Needless to add the authority shall consider all factors, including the fact that petitioner is imparting education to the children through an electronic mode.
- (e) Liberty is reserved to the petitioner to take recourse to such remedy as are otherwise available, including



approaching this Court, on the same and subsequent cause of action.

Writ petition stands disposed of with aforesaid observation/directions.

(Sanjay Karol, CJ)

(S. Kumar, J)

sujit/-

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