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

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Date of Decision: 23.11.2022

% **W.P.(C) 7949/2016**

CENTRE FOR CIVIL SOCIETY

..... Petitioner

Through: Ms. Priti Kumari and Ms. Neha Singh, Advocates.

versus

DIRECTORATE OF EDUCATION & ORS

..... Respondents

Through: Mr. Gautam Narayan, ASC for GNCTD with Ms. Asmita Singh, Advocates.

Ms. Sriparna Chatterjee and Mr. Sumit Mishra, Advocates for NDMC.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

SATISH CHANDRA SHARMA, CJ. (ORAL)

1. The Petitioner / Centre for Civil Society has filed the instant petition under Article 226 of the Constitution of India as a Public Interest Litigation (PIL) exhibiting concern with respect to school education in the country.

The PIL prays for the following reliefs:

"I. Implement Section 16 of the child-centric Right to Education, 2009

a. By conducting assessment for all primary classes as well by an external party other than the teacher herself

to check

i. whether all children have achieved expected learning outcomes; and

ii. whether any targeted learning interventions or supplementary measures are required;

b. By directing the school head/ principals and teachers to provide targeted learning intervention or supplementary program of learning enhancement or additional instructions to all those children who require such instruction for achieving expected learning outcomes within the academic year;

II. Pass such further and other orders as the Hon'ble Court may deem fit in the circumstances of the present case may require;”

2. The contentions of the Petitioner centre around the implementation of the Right to Education Act, 2009 (“RTE Act”). It is submitted that the same is not being implemented in its true letter and spirit. Pertinently provisions in relation to the ‘no-detention’ policy envisaged under the RTE Act.

3. During the course of these proceedings, an affidavit has been filed by Respondent No. 1 in reply to the contentions raised by the Petitioner. The relevant paragraphs of the same read as under –

“4.6 In addition to the above, with a view to ensuring adequate assessment and intervention training/ supplemental training for students studying in Sarvodaya Vidyalaya (i.e., students from classes I to V), the following initiatives are implemented by the Answering Respondents:

4.6.1. Activity based learning in mathematics. The teachers are also being given training for the same.

4.6.2. Centralised assessment on CCE Pattern for classes

III to V by way of two Summative Assessments, which are pen-paper tests.

4.6.3. Value based books/support material is provided to students from class IV and V to inculcate moral values and focus on character building.

4.6.4. In-service training to all categories of teachers including primary teachers is planned and organised every year by SCERT.

4.6.5. Mentoring of teachers by mentor teachers to enhance the professional skills, develop innovative ideas and to use innovative methods of teaching.

4.6.6. Problem solving assessment (PSA) booklets are provided to students of classes IV and V. PSA examinations are conducted to make students familiar with OMR Sheets & Objective type examination pattern and prepare them for competitive examinations.

4.6.7. Art integrated learning is implemented, under which opportunities are created for students to perform, play role, dance, drama, theatre, drawing, creative writing, storytelling, which in turn makes the children to understand the various concepts in day today teaching learning in a better way.

4.6.8. Computer assisted learning (CAL) classes are held for better understading of the subject and making the content more interesting for the children.

4.6.9. Regular Parent Teacher Meetings are organized to make the students and parents aware about the progress of the students and academic plan under which level- wise learning support is to be given to all the students.

4.6.10. Report cards regarding scholastic as well as co scholastic performances of the students are given to all parents/students at the end of each term.

4.6.11. Excursions/ visits to monuments, historical places, museums and zoological park are organized under local tour.

4.6.12. Use of school building as teaching aid under BALA (Building As Learning Aid). ”

4. An affidavit has also been filed by Respondent No. 5/ New Delhi Municipal Corporation. Vide the affidavit; Respondent No. 5 has placed on

record the multiple efforts it has taken for the implementation of the RTE Act. Relevant portions of the same reads as under:

“1-7. That the contents of para nos. 1 to 7 of the writ petition are a matter of record and petitioner has to put strict documentary proof in support of each and every averment made by the petitioner in paras under reply. The answering respondent has no knowledge about the work of the petitioner and its members hence same is denied for want of specific knowledge. It is submitted that petitioner has made allegations about all the respondents without carrying out required research and gathering facts from the respondents concerned, therefore, the averments of the petitioner are vague and indefinite in nature. It is further pertinent to mention that Petitioner has sent a representation only to one of the district of the Directorate of Education, Govt. of NCT of Delhi and the said district office had nothing to do with conduct of assessment as mentioned in the said representation by the Petitioner. It is submitted that the petitioners had to send the representation to the Directorate of Education, Govt. of NCT of Delhi as well as the Head of Education Departments of all the three Municipal Corporations, NDMC and Delhi Cantonment Board which they have not done for the reasons best known to them. It is further submitted that answering Respondent had not received any such representation till date.

It is denied that New Delhi Municipal Council has not undertaken any assessment for targeted learning intervention in schools run by it. It is submitted that to enhance the learning level of the students studying in NDMC schools, the Project Academic Excellence was planned with the objective to ensure that the students studying in NDMC schools upto class 8th reach minimum level of learning and they should acquire minimum level of learning and they should acquire minimum competence and skills in Hindi, English & Mathematics. It is further submitted that subsequently five teams were formed to evaluate the progress of Project Academic Excellence and it was instructed that each team will assess two schools in a day. It was further decided that each team will visit the schools

randomly without any kind of prior intimation to the schools. (Circular No. D-177/Dir. (Edn.) dated 14.12.2016 on the subject Project Academic Excellence: Evaluation of the outcome reg. issued by Director (Edn.), NDMC is attached herewith and marked as 'Annexure-R1'.)

It is further submitted that on 18.10.2016 Deputy Education Officer (Administration) by the order of the Secretary, NDMC directed the HOS/Principals of all the NDMC schools to furnish the information as per enclosed Performa to achieve the expected learning outcomes in different levels through students mapping in the different subjects to know the target to be achieved so that not even a single child to be withheld in the same class. The e-mail dated 18.10.2016 sent by Deputy Education Officer (Administration) to the schools of NDMC along with Performa is annexed herewith as 'Annexure-R2.'

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9. *That contents of para no. 9 of the writ petition needs no reply as the same is about Section-16 of the RTE Act, 2009 and about a document titled as 'Classification of Provisions'. However, it is submitted that Education Department of NDMC started the baseline level mapping under Project Academic Excellence for the NDMC/Navyug schools from class 3rd to 8th from time to time to ensure that each child attains a particular level of learning and he is not detained by conducting assessments for 3rd standard to 8th standard students by way of mapping report along with inspections. For ready reference mapping report during inspection done on 24.12.2016 is attached as marked as 'Annexure-R3.'*

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12. *That the contents of para no. 12 of the writ petition are absolutely wrong and hence denied so far as NDMC schools are concerned. It is important to mention that Education Department, NDMC is continuously making the assessment and inspections to achieve the expected learning outcomes by way of conduct of CCE in all NDMC schools till 2015-16. It is further submitted that from 2016-17 alongwith CCE, Project Academic Excellence has been started to ensure that each child*

attains a minimum level of learning of his standard.

13-14. That the contents of para no.s 13-14 of the writ petition are a matter of record and hence needs no specific comments from the answering respondent. However, it is submitted that lack of assessment may be cause of declining learning level outcomes in other schools but it is not applicable in case of NDMC schools. In NDMC schools assessments are made by way of CCE as per CBSE guidelines. Moreover, the officers of Education Department, NDMC have also signed MOU with the Quality Council of India for quality assessment of NDMC and Navyug Schools. Detail of MOU-Objective-Methodology is given below:

(i) Framing minimum grade wise learning goals from classes V, VI, VII and VIII.

(ii) Evaluation and Monitoring of Learning Outcomes of students studying in the classes –V, VI, VII and VIII with reference to standard laid down and customized by QCI and suggesting way to improve learning outcomes.

(iii) Assessment of Teaching Learning activities and Teaching Ability of teachers teaching in the classes V, VI, VII and VIII based on pedagogical process suggested for desired learning outcome by NCERT.

(iv) Analysis of Teaching learning activities and teaching abilities of teachers teaching in the classes V,VI, VII and VIII and identifying gaps in teachers' teaching activities.

(v) Strategic assistance to teachers by developing action plan to bridge the gaps and to cater to their pedagogical needs including technology enabled remedial training modules for improving quality of teachers.

(vi) Impact analysis of teaching effectiveness in various subjects.

(vii) Development of Dynamic dashboard to monitor teachers' performances.

(Copy of MOU singed between Quality Council of India (QCI) and NDMC for quality assessment of NDMC and Navyug Schools is attached herewith and marked as 'Annexure-R4'). It is further submitted that ASER study by NGO Pratham is not applicable to NDMC schools.

15. That contents of para no. 15 of the writ petition are correct to the extent that without any assessments and supplemental instructions leads to abysmally poor learning outcomes among students however, the same is not applicable to NDMC schools. It is submitted that in NDMC schools baseline mapping/assessment has also been done vide circular no. D-273/Dir.(Edn.) dated 11.04.2017 issued by Director (Edn.) in continuation of the previous efforts in the year 2016. (Copy of the circular no. D-273/Dir.(Edn.) dated 11.04.2017 issued by Director (Edn.) is attached herewith as '**Annexure-R5**'). Para 3(i & iii) of the circular dated 11.04.2017 are reproduced below:

(i) Baseline level mapping/assessment will be conducted for all students of class 3rd to 8th for the academic session 2017-18 for the subjects of Hindi, English and Maths. The Baseline mapping/assessment will be started from 12th April, 2017 and should be completed by 21th April, 2017. The tools/samples/testing materials are available on the website of Directorate of Education, GNCT of Delhi. These are to be downloaded by respective HOS of the schools of NDMC/ Navyug schools and used for the assessment.

(iii) After the assessment and grouping, a consolidated report should be submitted to the Education Department latest by 25th April, 2017 which will be examined and randomly inspected by the Education Department, NDMC. The HOS shall also prepare a strategic planning for improvement of the performance of the students who are at the lower level of mapping. The HOS shall also share their strategic planning to the Education Department for further follow up in the matter.

16-19. That contents of para nos. 16-19 of the writ petition are a matter of record hence needs no specific comments from the answering respondent. However, it is submitted that the assessment of the learning ability of students of NDMC schools is being assessed by teachers and head of schools and after that assessment submitted by HOS is reviewed by the officers of Education Department, NDMC. After the

review wherever needed instructions are issued accordingly so that children should achieve expected learning outcomes. It is further important to mention that Section-24(2), Section-8(f) & (g) and Section-9(e) & (h) of the RTE Act, 2009 are being followed in Education Department, NDMC.

20-22. That contents of para no.s 20-22 of the writ petition are a matter of record hence needs no specific comments from the answering respondent. However, it is submitted that Education Department, NDMC has started to assess the learning level of children along with the monitoring of inspecting officers of NDMC for primary sections. It is further submitted that instructions from time to time have also been issued to HOS to make extra efforts to improve the learning level of the weak students in terms of RTE Act. It is further important to mention here that as explained in reply to para no.s 13-14 of the writ petition above, for an independent assessment of learning outcomes of NDMC school students and teaching process and pedagogy of the teachers teaching in NDMC/Navyug Schools NDMC has engaged QCI and signed an elaborate MOU with QCI to further improve the learning outcome of NDMC school students. It is further submitted that the Class I & II are detained under the RTE Act hence, while framing the Project Academic Excellence the assessment is started from Class III. It is important to mention that children of nursery, 1st and 2nd are assured on the CCE pattern but it is not mandatory under RTE Act and even before RTE Act 2009, Class I & II were exempted for any mandatory assessment.

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27. That contents and grounds mentioned in para no. 27 of the writ petition are absolutely denied. It is submitted that there is no ground with petitioner to file the present writ petition seeking directions against respondent no. 5 as there is no question of non-implementation of provisions of RTE Act, 2009 by the respondent no. 5. It is important to mention that till the session 2016-17 Education Department, NDMC has followed the examination pattern as FI, F2, F3, F4 followed by SI & 82 exam from Class I to VIII standard as prescribed by CBSE under RTE Act, which clearly shows that RTE Act 2009

including Section-16 is being, followed in the Education Department, NDMC till date. It further important to mention that since 2016 Education Department, NDMC is regularly assessing the academic and non-academic outcomes of students of Class I to VIII standard to ensure that every child of NDMC school could acquire a minimum learning level of his standard. It is relevant to mention that through the regular inspections by officers of NDMC Education Department, working of the teachers including Principal/HQS is being monitored and suggestions from time to time are being given to ensure that learning level of each student from Class I to Class VIII is assessed in a proper way. It is further submitted that for an independent assessment of learning outcomes of NDMC school students and teaching process and pedagogy of the teachers teaching in NDMC/Navyug Schools, NDMC has engaged QCI and signed an elaborate MOU with QCI to further improve the learning outcome of NDMC school students. It is also added that in most of the NDMC schools teaching part is being performed in Smart Class Rooms in which students understand the topic not only audio aid but also with the video aid which is more easy to understand-the topic by the students.

(i) Setting up of Smart Classes: *Under the Smart City Project, NDMC has set up smart classes in 444 class rooms from Class VI to XII in 30 NDMC/Navyug Schools to give exposure to the latest technology to the students. During the current financial year, it is proposed to introduce smart classes in all classes from class 1st to 5th for NDMC/Navyug Schools.*

(ii) Capacity Building of Teachers: *NDMC has started imparting training to all the teachers i.e. Assistant Teachers, PGT, TGT in a structured way through SCERT and by engaging resource persons/experts through NCERT/SCERT.”*

5. The aforesaid submissions made in the affidavits filed on behalf of the Respondents make it clear that in respect of the no-detention policy,

performance of the students is being assessed and all possible efforts are being made to improve performance of the students.

6. The counter affidavits filed by the Respondents make it very clear that the Respondents have taken steps in respect of implementation of Section 16 of the RTE Act. The students have not been detained under the no-detention policy, however, at the same time, monitoring of students and teachers is taking place in all the schools. The schools are providing problem – solving assessment booklets to the students, computer assisted learning classes are also being held for better understanding of subjects being taught and to make the curriculum more interesting for the children. The schools are organising regular parent – teacher meetings and the performance of the students is being assessed by the teachers. The performance of the teachers is also being assessed and various programmes are being held to improve the performance of students as well as teachers, to ensure that there is no deterioration in standards of education.

7. The counter affidavit filed by the Respondents and the arguments advanced by the Respondents make it very clear that the Respondents are strictly adhering to the RTE Act and, under the New Education Policy, steps have been taken to ensure that the performance of the students does not deteriorate.

8. The Respondents have stated in the reply that base line mapping/ assessment of students is also taking place in order to find out whether the students need extra classes/ assistance and the GNCTD, NDMC as well as other organisations ensure that the standard of education does not fall. Respondents are also holding various courses for teachers from time to time in order to ensure that the statutory provisions as contained under the Right

to Education Act are complied with. Thus, in short, the assessment of students is certainly taking place and even though there is a no detention policy in place, various programmes have been devised to assist the teachers and students. A comprehensive mechanism is in place to ensure that the education standards do not fall.

9. This Court in light of the affidavits filed by the Respondents is of the considered opinion that the Respondents have taken due care to maintain the standard of education and have moved in the right direction to improve the quality of education.

10. This Court in the light of the averments made in the reply and the arguments canvassed by the Respondents is of the opinion that no further orders are called for in the present PIL. The same stands disposed of as such.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

NOVEMBER 23, 2022

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