

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2213 of 2019

Helping Human (NGO) having its local registered Office at-Abgila Devasthan, P.O.-Buniyad Ganj P.S.Mufassil Manpur, District Gaya through Ranjit Kumar, Resident of -Abgila Devasthan, P.O.-Buniyad Ganj P.S.-Mufassil Manpur, District Gaya

... .. Petitioner/s

Versus

1. The State of Bihar Through Principal Secretary Education 4, Dashratan Marg, Patna, Bihar 800001
2. District Education Officer, Government of Bihar, Gaya Shiksha Bhawan, Gaya Bihar-823001
3. Regional Transport Officer, Gaya Collectorate, Collectorate CIR, Gaya Bihar 823001
4. National Commission For Protection of Child Right (NPCR), through Member Sh. Priyank Kanoongo, 5th Floor, Chandralok Building, 36 Janpath, New Delhi-11000

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Kalyan Shankar, Advocate
For the Respondent/s : Mr. Prabhat Ranjan Singh, AC to AAG-13

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date : 16-03-2023

This writ application filed in the nature of public interest litigation by a Non-Governmental Organization seeks issuance of direction by this Court for safety and security of the school going children.

2. Earlier, in the order dated 02.07.2019, this Court had delineated following issues to be addressed in the beginning, concerning safety of school going children:



“(a) Whether the school building is in a proper condition and fit for holding classes or requires immediate attention and if that be so, the steps taken by the school management for its repairs.

(b) Whether the electricity connection, the wires and fittings are sound on its safety norms or require a change.

(c) The availability of drinking water within the school premises and whether its purity is being maintained.

(d) The facility provided by the each school for ensuring the safety of the school children in crossing the roads at dismissal time and whether there would be a requirement for construction of a foot over bridge.

(e) Whether there are police constables posted for ensuring safety of the children at assembly and dismissal hours of the respective schools.

(f) Whether the schools are duly fitted with fire extinguishers as well as CCTV surveillance Camera.

(g) Whether there are security arrangements to ensure that lumpen elements do not hover around the school premises disturbing not only the atmosphere of the school but also adversely affecting the security of the school children.

(h) Whether there has been a police verification of the staff employee, employed by the respective school on permanent basis or on contract.

(i) Whether the school buildings are kept free from inflammable and intoxicating items.

(j) Whether any training has been imparted to the staff and teachers of the school for securing the safety norms within the school during school hour as well as after dismissal of the school.”

3. A supplementary counter affidavit has been filed on behalf of the State wherein it has been stated *inter alia* that in the light of this Court’s order, reports were called for from all the districts of the State, pursuant to which reports were received from 13 districts and from other districts, reports were awaited. It has been further stated that the issues pointed out by this Court were discussed in a meeting held on 26.09.2019 and necessary directions were issued to the District Education Officers present in



the meeting. It has also been stated that reports from other 20 districts were subsequently received.

4. In yet another supplementary counter affidavit filed on behalf of respondent no.1, following statements have been made in paragraphs 6 and 8:-

“6. That it is submitted that by order dated 02.07.2019 this Hon’ble Court had directed the Principal Secretary, Education Department, Bihar, Patna to apprise this Hon’ble Court with regard specific queries made therein after seeking a report from the Nodal Officer in all the district of the State of Bihar.

8. That it is submitted that pursuant to the repeated persuasions and efforts undertaken through correspondences and at the state level meetings, directing the district level authority/nodal officers to send reports, that by now reports from all the 38 districts of the State have been received.”

5. Another supplementary counter affidavit was filed on behalf of the State on 14.01.2020, which is based on composite extract of the status report regarding Government and Government aided Schools in all 38 districts of the State. It has been stated, based on the said composite status report that as regards issue (a) with regard to proper condition of school buildings fit for holding classes, out of total 74861 Government and Government aided Schools in all the 38 districts of State, only 78 schools have been found to be lacking in not fulfilling the required conditions. It has also been stated that in respect of the schools where the deficiencies have been noticed, steps for repair/renovation and



reconstruction is under consideration for which a Committee of Experts would be constituted with the task to prepare an estimate after physical verification of such schools so that further step towards renovation of schools could be taken.

6. As regards issue (b) relating to electricity connection under sound safety norms, deficiencies have been noticed at 14275 Government and Government aided Schools situated in such remote areas, where proper electrification is still in process.

7. In respect of issue (c) relating to availability of drinking water within the school premises, it has been stated that as per the status report there are 12 Government and Government aided Schools which have been found to be deficient in this regard. It has been added at the same time that facility of drinking water had earlier been provided at the schools, but with the passage of time, in some of the schools where hand pumps had earlier been functional, because of certain defects or due to depletion of ground water level, the problems have arisen and after the same came to the knowledge of the authorities, steps are being taken to sort out the said deficiency.

8. As regards issue (d) on the point of facility of ensuring safety of the school children in crossing the roads and



whether there should be a requirement of construction of a foot over-bridge, following statements have been made in paragraph 9:-

“9. ... as per the said status report particularly in case of government and government aided schools, at the present requirement of over bridge has not benefited as the schools which are situated at the roads side almost everywhere there is provision of speed breaker and teachers and staff of the concerned school remain cautious at the time of opening and closing of the school. Generally at all schools foot over bridge is not required, still the matter is further being enquired into and if need arises adequate steps in this regard would be taken.”

9. As regards issue (e), it has been stated that there is no policy of the State Government to deploy constables at all the schools. Further, most of the schools out of 74861 Government and Government aided Schools are situate in remote and interior areas where there is usually no security problem and school administration as well as the guardians are prompt in ensuring safety of their wards.

10. As regards issue (f) in relation to fitting of the fire extinguishers as well as CCTV surveillance camera at the schools, it has been stated that fire extinguishers are unavailable only in marginal number of Government and non-Government schools. It has however been stated that fire extinguishers for such schools shall be procured shortly. As regards installation of CCTV cameras, it has been stated in paragraph 11 as under:-



“11. ... So far the matter with respect to CCTV camera is concerned it is mentioned that it is undisputed that security of student is important concern and school would be highly benefited by installation of CCTV camera for ensuring the safety within the premises of the school but there is some difficulty in installation of it in a large number of schools which are presently not well fenced through proper boundary wall and there is no deployment of watchman/security guard for round the clock security and without resolving these issues installation of CCTV camera may raise another concern. In such circumstance prayer for providing adequate time is being made.”

11. As regards security arrangements of schools as noted in issue (g) it has been stated that teachers and staffs of the school manage such affairs with the help of the members of Shiksha Samiti and, if required, they get proper assistance from the local police station of the concerned area.

12. Dealing with issue (h) regarding verification of staffs and teachers of schools, it has been stated that so far as private schools are concerned which are affiliated by CBSE and ICSE Board, appointments of teachers and staffs are made after due verification. It has, however, been stated that although police verification of the school staffs have not been done, but the records with respect to their identification and certificates remain with the employer.

13. With regard to the issue of providing training to the staff and teachers of the schools for securing security norms, it has been stated that the Education Department, in association with the



Bihar State Disaster Management Authority has been conducting *Mukhya Mantri Suraksha Karyakram* wherein staff and teachers of the Government and Government aided Schools have been trained. There is a programme to train staffs and teachers of rest of the schools and also for the staff of the private schools.

14. Mr. Kalyan Shankar, learned counsel appearing on behalf of the petitioner, has raised two main concerns. He has submitted that most of the schools do not have fire extinguishers which is an essential requirement for proper safety of school children. He has further submitted that the State has not duly addressed the requirements of having foot over-bridges where the school children are required to cross busy roads.

15. We have noted here-in-above the stand which the State Government has taken in its counter affidavit as regards the requirement of foot over-bridges. In our considered opinion, it should be equal concern of the State authorities to consider and examine as to what is best possible in the best interest of the safety of the school going children. We, exercising power of writ jurisdiction under Article 226 of the Constitution of India, do not have the judicially determinable parameters to record as to which are the schools which require foot over bridges. The final decision in that regard can be taken by the executive only in the light of its



policy decision, keeping safety of the school children always in mind.

16. As regards fire extinguishers, there is statement made in the counter affidavit that most of the schools have such facility. We need not comment for the present on the correctness or otherwise of the said statement. We deem it just and proper to observe that let the Principal Secretary, Education Department, Government of Bihar take all necessary steps to evaluate and take decision as regards installation/ availability of fire extinguishers in different schools in the State of Bihar.

17. Before we part with the present order, we take notice of the averments made in paragraph 9 of the supplementary counter affidavit filed on behalf of respondent no.1 on 19.11.2019 from which it appears that a three men committee comprising the State Project Director, Director, Secondary Education and Director, Primary Education has been constituted for analyzing the reports received from all the districts in cases in which the deficiencies were noticed. The committee was required to make suggestions for corrective measures, particularly keeping in view the habitat and location of the respective institutions. We hope that what has been done so far by the State Government as noticed above should be a continuous process to be regularly monitored by



the Principal Secretary, Education Department, Government of Bihar, keeping in view the School Safety Policy under the National Disaster Management Guidelines issued in February, 2016.

18. It is evident from the affidavits filed on behalf of the State Government itself that it has been found by the Committee so constituted that buildings of some of the schools are in dilapidated condition. It is expected that the Principal Secretary, Education Department, Government of Bihar shall take a policy decision to ensure regular maintenance of the school buildings in the State of Bihar.

19. This application stands disposed of in terms of the directions and observations as noted above.

(Chakradhari Sharan Singh, ACJ)

(Madhuresh Prasad, J)

Sunil/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	20.03.2023
Transmission Date	

