

ITEM NO.32

COURT NO.5

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SMW (C) No(s). 6/2021

IN RE : CHILDREN IN STREET SITUATIONS

(IA No. 65924/2022 - APPLICATION FOR PERMISSION
 IA No. 60182/2022 - APPLICATION FOR PERMISSION
 IA No. 53637/2022 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 25345/2022 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 6462/2022 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 6393/2022 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 25655/2022 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 165478/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 25546/2022 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 64697/2022 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 25476/2022 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 19193/2022 - EXEMPTION FROM FILING O.T.
 IA No. 2125/2022 - EXEMPTION FROM FILING O.T.
 IA No. 25540/2022 - EXEMPTION FROM FILING O.T.
 IA No. 42125/2022 - INTERVENTION APPLICATION
 IA No. 26600/2022 - INTERVENTION/IMPLEADMENT
 IA No. 42135/2022 - PERMISSION TO APPEAR AND ARGUE IN PERSON)

WITH

SMW(C) No. 4/2020 (PIL-W)

(IA No. 86654/2021 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 64373/2021 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 106490/2021 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 74294/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 66078/2021 - CLARIFICATION/DIRECTION
 IA No. 8020/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 29795/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 103990/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 139238/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 74139/2020 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 79258/2020 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 29743/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 66077/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 103479/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 137902/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 76604/2020 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 14581/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 103339/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 137767/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 6264/2022 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 61484/2020 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 76104/2020 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 14448/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 65469/2021 - EXEMPTION FROM FILING AFFIDAVIT

IA No. 87334/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 134784/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 164115/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 59084/2020 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 75739/2020 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 14077/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 65158/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 106492/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 155722/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 75234/2020 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 13962/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 155677/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 74593/2020 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 9708/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 56612/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 66729/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 105604/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 148051/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 9678/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 66079/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 105407/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 139251/2021 - EXEMPTION FROM FILING AFFIDAVIT
 IA No. 30270/2021 - EXEMPTION FROM FILING O.T.
 IA No. 74135/2020 - EXEMPTION FROM PAYING COURT FEE
 IA No. 74292/2020 - INTERVENTION APPLICATION
 IA No. 66075/2021 - INTERVENTION APPLICATION
 IA No. 86651/2021 - INTERVENTION APPLICATION
 IA No. 58712/2020 - INTERVENTION/IMPLEADMENT)

Date : 09-05-2022 These matters were called on for hearing today.

CORAM :

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IA 42125/2022

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UPON hearing the counsel the Court made the following
 O R D E R

SMW(C) No. 4/2020.

Considering the submissions made by the learned Amicus Curiae on 02.05.2022 that there are a large number of children who have dropped out of schools due to various reasons, we directed the NCPCR to

examine the matter and give suggestions about the course of action to be taken by State Governments/Union Territories in ensuring the continuance of education of children, especially at the elementary school level.

The NCPCR has filed an affidavit on 07.05.2022, in which it has been stated that Standard Operating Procedures (SOP) for implementation of Section 12(1) (c) of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act, 2009) has been formulated in the year 2021. The information that was furnished by 13 State Governments/Union Territories in respect of 152 districts, shows that 1,25,052 children have dropped out of school or are not attending school regularly. The suggestions made by the NCPCR relating to the identification of children who have dropped out of school and measures for ensuring the continuance of education of such children, are as follows:

“9.1.1. That the District Education Officers (DEOs) of the district should do the mapping of such children who have been absent from his/her school for 30 consecutive working days and that those children should be treated as drop out children.

9.1.2. That a child of 6-14 years of age should be considered out of school if he/she has never been enrolled in an elementary school or if after enrolment has been absent from school without prior intimation for a period of 30 days or more.

9.1.3. That child who has never been enrolled in

school (as defined in Section 2(n) of RTE Act, 2009) for formal education should also fall under the category of out of school.

- 9.1.4. That child once enrolled into formal system of education/school, if does not complete 8 years of compulsory elementary education, should be treated as an out of school child.
- 9.1.5. That all children above the age of 14 years, who do not fall under the purview of RTE Act, 2009 but have had to drop out of school due to financial constraints during the COVID pandemic shall be treated as an out of school child.
- 9.1.6. That the District Education Officers and District Child Protection Officers should identify various reasons responsible for children being out of school should be done.
- 9.2.1. That in case of death of one or both parents of child and/or the earning member of the family and/or the parents/guardians have lost their livelihood and the child is studying in private school, the expenditure on elementary education of such children in the same school may be borne by the appropriate Government under Section 12(1) (c) of the RTE Act, 2009.
- 9.2.2. That for this purpose, the child along with guardian/any member of the family where the child is studying shall approach the District Magistrate and the Child Welfare Committee (CWC) of the district.
- 9.2.3 That the children who have lost both or single parent or parents/guardians who have lost their livelihood can get their income certificate made through the district authorities. The District Child Protection Officers shall provide assistance to such children in procuring the income certificate. Based on the income certificate and the child's eligibility, the child shall be then admitted into a school under Section 12(1)(c) of the RTE Act, 2009.
- 9.2.4 That all categories of schools entrusted

with the responsibility under Section 12(1) of the RTE Act, 2009 whether aided, unaided or private schools shall implement the provision of Section 12(1)(c) of RTE Act, 2009 and try to include children who have lost their both or either of the parent after April 2020 under the provision so as to ensure that their education is not disrupted.

- 9.2.5 That every school, including schools having minority institution status and all residential schools shall also follow the procedure and ensure that no such child is forced to leave the school in any manner against the child's choice and due to non-payment of fees.
- 9.2.6 That for the classes above VIII (which is generally beyond RTE application), where children have lost one or both parents of the child and/or the earning member of the family and the child is studying in private school, the State Government shall devise guidelines for the schools and/or issue necessary directions and/or devise a policy for reimbursing the expenditure on education of these children.
- 9.2.7. That the District Child Protection Officers through the individual child care plan of the child can assess and examine the educational needs of the child. The data of children who need financial assistance for education can be forwarded to the District Education Officers. The District Education Officers can then provide these children with scholarships (as per their eligibility) and/or provide financial aid through donors, NGOs/CSOs etc."

Mr. Gaurav Agrawal, learned Amicus Curiae, submitted that the State Governments/Union Territories should comply with the suggestions made by the NCPCR without fail. We take note of the serious problem of discontinuance of education of children caused due to the pandemic as well as other

situations arising therefrom which we cannot envisage. However, the facts that have been placed before us pertaining to the number of children who have discontinued elementary education would show that, for whatever reason, a worryingly large number of children have not been attending schools. There is an obligation on the part of the State Governments/Union Territories to ensure that education is not disrupted and in case of such disruption, steps to be taken by the State Governments/Union Territories are specified in the relevant statutes.

The State Governments/Union Territories are directed to comply with the suggestions made by the NCPCR in its SOP dated 25.06.2021 and the recommendations reproduced above. The NCPCR is directed to have a web portal on which the information relating to the action taken by the State Governments/Union Territories for continuance of the education of children is updated. The NCPCR is directed to file an affidavit after examining the reports sent by the State Governments/Union Territories within a period of 8 weeks from today. The State Governments/Union Territories may approach the NCPCR for any modification/clarification of the SOP.

One of the issues that is flagged by the NCPCR

is that migration certificates are not being issued promptly by schools when the parents of children studying in schools are moving from one place to the other. The State Governments/Union Territories are directed to instruct the concerned authorities to ensure that migration certificates are issued to those children who are moving away from the place of their education.

For implementation of the suggestions made by the NCPCR, a nodal officer under Rule 2B(2) of the Child Labour (Prohibition & Regulation) Rules, 2017 is required to be appointed, according to the NCPCR. The further suggestion that is made is that nodal officers should identify those children who are not attending and have dropped out of schools.

After hearing learned counsel for the parties, we direct that the State Governments/Union Territories shall appoint district-wise nodal officers, either from the Education Department or from the Women and Child Welfare Department, who in turn shall instruct Anganwadi workers, Asha workers, health workers etc. to personally inform those parents whose children have discontinued education about the recommendations made by the NCPCR and orders passed by this Court. The nodal officer shall also take appropriate action to place the children back in the schools from which they have dropped out,

so long as continuing in the same school is in the best interests of the relevant child. The status report about the appointment of nodal officers and the action taken for ensuring the continuation of the education of children shall be filed by the State Governments/Union Territories within a period of 6 weeks from today. The said information shall also be furnished to the NCPCR.

Wide publicity shall be given by the State Governments/Union Territories to the suggestions made by the NCPCR as well as orders passed by this Court.

List on 01.08.2022 at the end of the Board.

SMW (C) No.6/2021

After persuading the State Governments/Union Territories to identify Children in Street Situations (CiSS), have them produced before the Child Welfare Committees and to get their social investigation reports prepared as required under the SOP of the NCPCR, we have earlier directed the State Governments/Union Territories to frame policies for rehabilitation of such children. We are informed that the details of those children who have been identified to be in street situations have been furnished to the NCPCR.

Learned Amicus Curiae has brought to our notice the information that is provided by the State of

Tamil Nadu, detailing the manner in which the State proposes to rehabilitate those children who have found begging, engaged in vending on the streets or rag picking. Learned Amicus Curiae has also brought to the notice of this Court that the other State Governments have also furnished information. The affidavits filed by the State of Tamil Nadu may be circulated to all the other Advocates-on-Record representing the State Governments, who are directed to get instructions from their respective State Governments/Union Territories and provide further information relating to the steps that are required for rehabilitation of these specific categories of CiSS. Without waiting for further orders, the State Governments/Union Territories are directed to take immediate steps for rehabilitation of the children, in accordance with the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 and the rules made thereunder.

List on 01.08.2022 at the end of the Board.

IA No.53637/2022

List next week.

(Geeta Ahuja)
Court Master

(Anand Prakash)
Assistant Registrar