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

% Judgment delivered on: 03.11.2023

+ W.P.(C) 10123/2020

MS. KANIKA GUPTA MINOR THROUGH
GUARDIAN AND FATHER SHRI AMIT GUPTA

..... Petitioner

versus

UNION OF INDIA & ORS

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Anshumaan Sahni, Advocate

For the Respondent : Ms. Monika Arora, CGSC with Mr.
Subrodeep Saha, Mr. Yash Tyagi
Advocates for R-1 & 2.

Mr. Satyakam, ASC, GNCTD/R-3.

CORAM:**HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)**

1. The present petition is in the nature of Public Interest Litigation filed under Article 226 of the Constitution of India, 1950, seeking following prayers:-

“a) Issue a Writ of Mandamus or any other appropriate writ/order/direction in the nature thereof to the Respondents directing them to formulate a Committee under the Chairmanship of Secretary, Department of Empowerment of Persons with Disabilities, Ministry of social Justice and



Empowerment, Government of India and the Terms of Reference of the Committee must include drafting up and implementing of a Nationwide Plan to impart "skill learning and vocational training" to Children with Special Needs starting from the age group of 7-17 years and to Persons with Special Needs, especially to those that are intellectually challenged/ specially abled, and to place such persons in gainful employment; which would help them develop as individuals away from the academic line and would also ensure that as they grow into adults they can dream of attaining financial independence; and/or

b) Issue a Writ of Mandamus or any other appropriate writ/order/direction in the nature thereof to the Respondents directing them to draft and implement a nation-wide policy as above including supporting, incentivizing and subsidizing NGOs/ other organizations/persons, providing support and assistance to CWSN through vocational training;

c) Issue a Writ of Mandamus or any other appropriate writ/order/direction in the nature thereof to the Respondents directing them to draft. and implement a nation-wide plan to provide adequate training and support to the teachers for CWSN in terms of the Judgment and Order dated 14.10.2019 passed by this Hon'ble Court in WP(C)2953/2012. ”

2. The case of the petitioner is that the Petitioner herein is a class XII student in Delhi Public School, R.K. Puram, and also an active and a responsible member of the community. In the course of her school curriculum and daily life, the Petitioner has noticed that there are many Children with Special Needs (for short "CWSN") alongside her, who are intellectually impaired and/ or suffering from autism spectrum disorder, cerebral palsy or suffering from other forms of disabilities, who have the inability to garner skills needed for daily living and due to the same they are unfortunately phased out of the system and are also



unable to independently, financial or otherwise, take care of themselves.

3. According to the petitioner, the plight of CWSN had motivated the Petitioner to study and research about their rights, whereof, she came across the judgment dated 14.10.2019, passed by this Court in the matter titled as '*G. Hema Gowri vs. Union of India and Ors.*' bearing *W.P. (C) No. 2953/ 2012*, whereby this Court had directed the Respondents to take into account the suggestions made by the Petitioner therein and to consider forming a committee and assign the work to such Expert Committee to draft and implement a nationwide plan to impart skill learning and vocational training to children with special needs starting from the age group of 7-17 years and to the persons with special needs, especially to those who are intellectually challenged/ specially abled and to place such children/ persons in gainful employment.

4. Petitioner contends that the even after passing of substantial time from the judgment, no such committee has been formulated, let alone a specific policy in this regard being drafted, as a result of which, intellectually challenged CWSN are at a severe loss with respect to their financial independence and living with dignity.

5. Notice was duly issued in the present petition on 28.01.2021, consequent thereto Respondent No. 1/Union of India (for short "**UOI**") & Respondent No.2/ Ministry of Human Resources & Development (for short "**MHRD**") had filed joint counter affidavit in the present matter.

6. According to the affidavit filed by the Union of India, the Department of Empowerment of Persons with Disabilities, Ministry of Social justice & Empowerment, implements the National Action Plan



(NAP) for Skill Training of the PwDs in the age group of 18-59 (working age group) to enhance their employability both in Public & Private Sector. It is stated that the scheme is applicable to all categories of Disabilities including persons with Autism, Cerebral Palsy, Intellectual Disability as covered under the Rights of Persons with Disabilities Act, 2016 (the “Act”). The affidavit also refers to some of salient features of the National Education Policy (NEP), 2020 focusing on inclusion of children with disabilities in the mainstream education.

7. As per the affidavit, the aforesaid policies cover the concerns raised by the Petitioner. It was submitted that the implementation of the programme lies with the respective State Governments in collaboration with the Union Ministries and as such the implementation of the aforesaid policies are effectively in the domain of GNCTD.

8. From time to time, this Court had passed relevant orders which need not be dilated upon. Consequently, vide the order dated 24.11.2022, this Court, after perusing the joint affidavit filed on behalf of UOI and MHRD, had passed the following order:-

“1. The Union of India has filed a detailed affidavit and the same reveals that Union of India under the National Action Plan for School Training of the People with Disabilities in the age group of 18-59, is making endeavours to enhance employability of People with Disabilities. It has also been stated that the National Education Policy, 2020 framed by Union Ministry of Education has included policy/directions for children with disabilities in the matter of education. Details of the same have also been furnished in the affidavit. However, there is no affidavit on behalf of GNCTD.

2. Let an affidavit be filed by GNCTD within six weeks’ time. It is needless to mention that the steps taken by the



Union of India for the betterment of people with disabilities will be followed by GNCTD, including the Samagra Sikhsha which is an integrated scheme for School Education that covers children from Classes I to XII, which in turn is a dedicated component for Inclusive Education for Children with Special Needs.”

9. In compliance of the order dated 24.11.2022, the Respondent No.3/GNCTD has also filed an affidavit while addressing the issues and concerns raised in the present petition and had provided a detailed set of steps undertaken and the strategic road map to be followed in future.

10. We have perused the aforesaid detailed affidavit of GNCTD. The bullet points as formulated, based on the information contained in the affidavit dated 19.09.2023, filed on behalf of GNCTD are as follows:-

- I. Admission of Children with Disabilities:*
- II. Reservation in admission process of Children with Disabilities:*
- III. Services of Trained (i) Graduate Teacher (TGT) (ii) Special Education Teachers (SETs) and (iii) Resource Person (RP) for CWSN:*
- IV. Screening and Identification of CWSN:*
- V. Separate Inclusive Timetable for SETs/RP (CWSN)- TOT-SETs/Special Educators/RP (CWSN)*
- VI. Educational Program Planning and Preparation of Individualised Education Plan:*
- VII. Regular Meeting of Parents of Children with Disabilities and TGT (SET)/Special Educator/ RP (CWSN) is conducted:*



- VIII. *Examination, Evaluation and promotion of CWSN:*
- IX. *Information and Communication Technology (ICT):*
- X. *Camps for Assessment and Distribution of Aids & Appliances:*
- XI. *Assessment of Children with Intellectual Disability:*
- XII. *Assessment of Children with Specific learning disabilities:*
- XIII. *In-Service Hands-on Cross Disability Training of Special Education Teachers:*
- XIV. *Training of General Educators and Orientation of Educational Administrators:*
- XV. *District level & State Level Celebration of International Day of Persons with Disabilities:*
- XVI. *Provision of Braille Books is made available for all children with Blindness:*
- XVII. *Monthly Orientation Program of TGT -Special Education Teachers(SETs)/RP (CWSN) Removal of Architectural Barriers has been initiated in collaboration with PWD to ensure Barrier Free Access:*
- XVIII. *Financial Assistance to CWSN:*
- XIX. *Provision of 'Transport Allowance @ Rs.1500/- per annum to CWSN with Loco-motor Disability, Cerebral Palsy, Leprosy Cured, Muscular Dystrophy, Multiple Disability, Multiple Sclerosis, Intellectual Disability, Hearing Impairment and Visual Impairment.*
- XX. *Provision of 'Reader allowance' @ Rs 2500/- per annum to CWSN with visual Impairment, Specific Learning Disability*



(SLD), Autism Spectrum Disorder (ASD) and Intellectual Disability (ID).

- XXI. Provision of 'Girls Stipend' @ Rs 2000/- per annum to girls having disabilities as per the RPWD Act 2016. The amount has been increased in order to ensure the sustenance in girls in the education system.
- XXII. Provision of Top-Up Scholarship @ Rs 1600/- per annum to CWSN enrolled in class I-XII.
- XXIII. Provision of Scribe Allowance @ Rs. 100/- per annum for each paper per CWSN for formative and summative exam. This money is being allocated to the schools for the arrangement of the scribes required for different examinations.
- XXIV. Ayah/Helper Attendant:
- XXV. Resource Centre for providing therapeutic services to CWSN:
- XXVI. Grievance Redressal:
- XXVII. Resource Room at School level:
- XXVIII. Talent Promotion Scheme for the Children with Disabilities (CWD) studying in the Delhi Government Schools:
- XXIX. Para Sports at State & District Level Schools:
- XXX. Compliance of the Order dated 04.10.2019 of this Hon'ble Court in W.P.(C) 2953 of 2012 titled 'G. Hema Gowri vs. Union of India and Ors', a detailed Policy of Inclusive Education Program in schools of DoE, Govt. of NCT of Delhi has been prepared which includes the provisions for pre-vocational education and the same has been implemented by the department. It is pertinent to mention here that only pre-



vocational training is being imparted to the CWSN students as per the prevalent policy of DoE, GNCT of Delhi.

XXXI. Provision for aids, appliances and equipment for CWSNs:

XXXII. Functional Curriculum for children with cognitive impairments.

XXXIII. Vocational Education (skill subject) at Secondary Level in all the Govt. Schools.

11. The GNCTD in pursuance of the aforesaid avowed policies has also issued a Notification No.5.320/DDE(IEB)/Admin.Cell/2023/7132-7138 dated 01.09.2023 directing the Heads of Schools of the all the schools of Directorate of Education (DOE) to ensure that the Special Educators (Primary) posted in the school should prepare and implement the illustrative time table in respect of CWSN, enclosed with the said notification. The said notification is annexed to the said affidavit.

12. From the aforementioned affidavit filed on behalf of Respondent No.-3/GNCTD, it can be seen that the concerns raised on behalf of petitioner have been sufficiently addressed. The same is also concurred and reiterated by the learned counsel for the petitioner, who on the basis of the such detailed affidavit of GNCTD, has made the statement that the petitioner is fully satisfied with the action plan of respondents in pursuance of his grievances and requests that the present petition be disposed of with the directions to respondents to adhere to and implement the policy as provided in the affidavit, in all earnest.

13. In view of the statement so made by the learned counsel for the petitioner, as also after perusing the affidavits filed on behalf of respondents, this Court is of the considered opinion that the grievances



so raised or the reliefs as sought through the present petition, have been sufficiently and aptly addressed by the respondents through their various plans and schemes as enumerated above.

14. In the light of the fact that since the reliefs sought in the present petition are for the betterment of future prospects for the Children with Special Needs (CWSNs), this Court, without any hesitation, directs the respondents to scrupulously adhere to and implement the policies in letter and spirit and in all earnest, as enumerated in their affidavits, with a timely reassessment of the same to counter any grievances or challenges, if any so arises, in future.

15. With the aforesaid observations, the petition stands disposed of.

(TUSHAR RAO GEDELA)
JUDGE

(SATISH CHANDRA SHARMA)
CHIEF JUSTICE

NOVEMBER 03, 2023

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