

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17400 of 2018

Raj Kumar Ranjan

... .. Petitioner/s

Versus

The State of Bihar and Ors.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Brisketu Sharan Pandey, Advocate Mr. Prince Kumar Mishra, Advocate Mr. Abhishek, (<i>Amicus Curiae</i>)
For the Respondent/s	:	Mr.Satyam Shivam Sundaram, Advocate Mr. Shashi Shekhar Tiwary, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

16 07-04-2023

The above writ petition was filed in the nature of a Public Interest Litigation for better facilities to be provided in Girija Shankar Drishti Vihin Balika Vidyalaya in Jagdishpur Block of Bhagalpur district.

By Order No. 2 dated 06.01.2020, a Division Bench of this Court expanded the scope of the petition to cover all the institutions situated within the State of Bihar, meant to house and educate the students who are visually impaired. Yet another Division Bench by Order No. 5 dated 05.12.2020 emphasized the need to provide special protection for children with disabilities, from abuse, violence and exploitation in the background of the Rights of Persons with Disabilities Act, 2016



(hereinafter referred to as “the Disability Act”) enacted pursuant to and to effectuate the United Nations Convention on the Rights of Persons with Disabilities. This Court also noticed the Right of Children to Free and Compulsory Education Act, 2009 which mandated compulsory education for children up to the age of 14 years wherein Section 2 (ee) defined a child with disabilities; thus providing such right to education also to a child with disabilities. The State was thus found obligated to provide for and create infrastructure for the education of children with special needs.

From the affidavit filed by the Chief Secretary, eight specified institutions, where education is imparted to visually impaired children, and children with other disabilities were noticed. On the basis of a census of the year 2011, it was observed that there were approximately 1.72 lakh children within the age group of 3 to 14 and there was no data available as to how many among them are visually impaired. The *Amicus Curiae* had at that point itself pointed out that the State would be competent to provide the data required under Section 17 of the Disabilities Act. The State Commissioner for Persons with Disabilities was specifically impleaded after posing a question as to whether it has discharged its functions in terms of Section



80. It was observed that the Chief Secretary's affidavit does not disclose- (a) the number of students admitted in each one of the educational institutions; (b) the student-teacher ratio and (c) the infrastructural facilities in existence. The intake capacity of the different schools and whether they are competent to cater to the needs of all the eligible children of Bihar was also not clear. It was hence, specifically directed that such data should be placed before the Court through personal affidavits filed by the Chief Secretary, Government of Bihar and the State Commissioner for Persons with Disabilities.

Today, when the matter was taken up, the learned Additional Advocate General had referred to the counter affidavit filed by the Additional Chief Secretary, Education Department, Government of Bihar dated 14.10.2022 and specific reference was made to Paragraph 5.

Having looked through the specific paragraph pointed out by the Additional Advocate General, we find that it only refers to the various recommendations and schemes contemplating better facilities for the disabled but does not contain the details or the answer to the specific queries raised by this Court in the above referred orders, specifically with respect to the facilities provided to visually impaired children, which is



the focus of the present litigation.

We are of the opinion that by the nature of the orders passed, scope of the litigation should also encompass the needs of all the children with disabilities as covered under the Disabilities Act. In the above circumstances, we require the State through the Education Department to place before us the details of the visually impaired children and the children facing other impairments as covered under the Disabilities Act, who are at present admitted and continuing their studies in the eight specified institutions as seen from Order No. 5 and also the other institutions, wherein such facilities to deal with and cater to the needs of the physically challenged children, are said to have been provided by the learned Advocate General. We require such affidavit to contain tabulated details of the schools, the number of physically challenged children in each of the disabilities mentioned in the Disabilities Act, the facilities provided therein, the number of teachers with special skills to deal with such physically challenged children and also the special qualifications, such teachers have acquired. The affidavit should also contain the number of children who are day scholars and the children who have been provided with boarding facilities.



The affidavit by the Additional Chief Secretary holding charge of the Education Department shall be placed on record within a period of three weeks from today.

The State Commissioner for Persons with Disabilities shall also file an affidavit regarding the total number of children with disabilities in the State after conducting a survey/census within a period of three months from today.

Post on 26.04.2023.

(K. Vinod Chandran, CJ)

(Madhuresh Prasad, J)

P.K.P./Anushka

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