

PMB

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**PUBLIC INTEREST LITIGATION NO. 107 OF 2021**

Nikita d/o Narayan Gore .. Petitioner  
vs.  
The Union of India  
Ministry of Health and Family Welfare  
and ors. .. Respondents

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Dr. Abhinav Chandrachud a/w Mr. Vinod P. Sangvikar, Ms. Unnati Ghia and Ms. Pranita Kulkarni for petitioner.

Mr. D. P. Singh a/w Mr. Aditya Thakkar for respondent no.1-UOI.

Mr. P. P. Kakade, Government Pleader a/w Mr. B. V. Samant, AGP for State.

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**CORAM : DIPANKAR DATTA, CJ. &  
M. S. KARNIK, J.**

**DATE : JULY 25, 2022**

**P.C. :**

**1.** By the order dated June 27, 2022 passed by us, we granted liberty to the petitioner to file an additional affidavit bringing on record the unclean and unhygienic state of affairs in the washrooms and toilets for the young girl students in Government aided schools, within two weeks. We had also recorded that as the second petitioner had passed away recently, the particulars of such petitioner may be deleted from the cause title and that the PIL petition may be prosecuted by the first petitioner as the sole petitioner.

**2.** In compliance of our order, the petitioner filed an additional affidavit dated July 11, 2022, placing on record the materials indicating the unclean and unhygienic state of affairs in the washrooms and toilets for the young girl students in Government aided schools. In the affidavit, the petitioner states to have conducted a small survey in rural areas in Maharashtra. It is alleged by the petitioner that no proper steps have been taken by the Government for proper and effective menstrual hygiene management for the school going girls. It is further stated that the facilities of clean and separate toilets for girls necessitates 24 hours water supply in schools, vending machines filled with sanitary pads and safe disposal of used pads; these are all measures which should be looked into effectively for proper implementation of the Menstrual Hygiene Management Guidelines. While conducting the survey, the petitioner observed that in some schools vending machines were available, but there were no sanitary pads filled in that machine; while in some other schools there was no vending machine or proper toilet facilities. The poor water supply for washing or flushing, the poor hygienic conditions of toilets, washbasins, unclean and contaminated mugs for washing in the toilets are major issues of concern as per the petitioner's observation. In respect of those girl students who bring pads on their own, the question of disposal of those pads remains unaddressed. Due to lack of proper bins/disposal facilities, the petitioner observed that the sanitary pads or other

menstrual articles were found at toilet corners or kept in the windows.

**3.** Learned counsel for the petitioner submitted that the concept of monitoring of data related to Menstrual Hygiene Management practices in schools was in its nascence. Learned counsel submitted that there was no existing database of school based data on such measures. In his submission the Menstrual Hygiene Management was conceptualized comprehensively with different components as documented in guidelines, the data on its implementation was limited, and its enforcement requires the focused attention of the State. Learned counsel submits that, the rights of girl children under Articles 14, 15, 19 and 21 of the Constitution of India would not only include a right of access to a basic necessity such as sanitary napkins, but also the availability of facilities that would enable the use of such sanitary napkins in a safe and hygienic manner. It is submitted that the presence of adequate clean water supply in clean toilets, as well as facilities for the disposal of sanitary napkins, is essential to the success of the Menstrual Hygiene Management Guidelines, and warrants the active participation of the State.

**4.** Having gone through the averments made in the additional affidavit-in-reply filed by the petitioner and the photographs annexed thereto, we cannot help but lament on the sorry state of affairs pertaining to the upkeep and hygiene of the toilets in some of the Government aided

schools which are brought to our notice by the petitioner. The issue as regards unclean and unhygienic state of affairs in the washrooms and toilets for the young girl students raised in this PIL petition affects the right of every girl child to live with dignity. We have no hesitation in observing that any failure on the part of the authorities/concerned schools to provide for such basic facilities to the young girl students would amount to denial of a basic human right to live with dignity apart from compromising on the health of these children.

**5.** Learned AGP made an attempt to justify the State's stance that the picture is not as grim as is being painted by the petitioner and in most of the schools the toilets and washrooms facilities are upto the mark. If the submission of learned AGP is indeed correct, we would not hesitate to express our satisfaction and appreciate the efforts on the part of the State Government, the Zilla Parishads, the Corporations, the Councils, the Panchayats under whose authority the schools are being run and encourage them to keep up the good work. Our endeavour is only to ensure that the constitutional goal of safeguarding the right to live with dignity for the girl child is not compromised in any manner.

**6.** We need to be completely satisfied about the current state of affairs regarding the washroom and toilet facilities in Government aided schools with a special focus on rural areas. The photographs placed on record by the petitioner,

depicting the condition of the washrooms and toilets, to say the least, is distressing. If what the petitioner submits is true, we may have to consider directing the State to adopt a co-ordinated and comprehensive approach in resolving the concern expressed, whereupon we can move closer to the object of achieving the right to live with dignity for the girl children.

**7.** Learned AGP expressed some reservations about the manner in which the survey was conducted by the petitioner sans any authority. In order to avoid any slugfest between the parties in such matters of seminal importance, we find it appropriate to take the assistance of Secretaries of the District Legal Services Authority (hereafter "the DLSA", for short) within the territorial jurisdiction of the principal seat of this Court in obtaining reports about the conditions of washrooms and toilets in the Government aided schools. The concerned Secretaries of the DLSA themselves or through their authorised representatives including those from the Taluka Legal Services Committee, shall carry out randomly, surprise inspection of at least 15 (fifteen) Government aided schools of which some of them should be from the rural/remote areas in the district and submit such reports on or before August 22, 2022 to this Court through the Member Secretary, Maharashtra Legal Services Authority (hereafter "MSLSA", for short). The Member Secretary, MSLSA shall co-ordinate with the concerned Secretaries of the DLSAs in securing effective compliance of

these directions. The Secretary, MSLSA to ensure that the copy of this order is made available to the concerned Secretaries of the DLSA.

**8.** In case it is noticed that the condition of the washrooms and toilets is so pathetic and unhygienic that it needs immediate attention, the Secretaries may call upon the concerned authorities of the local bodies/schools to take emergent steps in this regard. The Principal/staff of the concerned schools to render necessary co-operation in carrying out this exercise that may include photography or videography of the existing washrooms and toilets.

**9.** The State in the meantime to file a detailed response to the concerns expressed in the PIL petition as well as those in the additional affidavit filed on behalf of the petitioner on July 11, 2022 including the steps taken by the Government for proper and effective menstrual hygiene management for the school going girls.

**10.** Stand over to **August 22, 2022.**

**(M. S. KARNIK, J.)**

**(CHIEF JUSTICE)**