

IN THE HIGH COURT OF JUDICATURE AT PATNA

(Court on its own motion)

Civil Writ Jurisdiction Case No. 7124 of 2020

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**Court on its own motion on the basis of news item titled
“School shut, no mid-day meal, children in Bihar village
back to work selling scrap” published in the Indian
Express, dated July 6 2020.**

Versus

1. The State of Bihar through its Chief Secretary,
Government of Bihar, Patna.
2. The Department of Health & Family Welfare through
its Principal Secretary, Government of Bihar, Patna.
3. The Department of Education, Government of Bihar
through its Principal Secretary.

.....Respondent/s

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**CORAM: HONOURABLE THE CHIEF JUSTICE
AND
HONOURABLE MR. JUSTICE S. KUMAR**

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**(The proceedings of the Court are being conducted by Hon’ble the
Chief Justice/ Hon’ble Judges through Video Conferencing from
their residential offices/residences. The Advocates and the Staff
joined the proceedings through Video Conferencing from their
residences/offices.)**

The matter was taken up twice in the pre and post-lunch Session.

ORDER

1. 06.07.2020 A news item titled “School shut, no mid-day
meal, children in Bihar village back to work selling scrap”



was published in the Indian Express, dated July 6 2020.¹ The article highlights the plight of children in the District-Bhagalpur, Bihar for non-availability of mid-day meals due to shutting of the schools and Anganwadi centres amidst the COVID-19 pandemic.

2. According to the news item, ever since the lockdown, families and children who come from poor socio-economic backgrounds are facing economic hardships and as a result are unable to put food on the table. Children who are most prone to malnutrition are the worst sufferers of the ongoing pandemic. This is on account of shutting down of the Anganwadi centres and suspending the supply of mid-day meals to children under the various schemes rooted by the Government. As per the news item, a sum of Rs.114.21 to children from classes 1-5, and Rs.171.17 to children from classes 6-8 is being remitted directly into the bank accounts of the parents. Incidents were reported where no money stands remitted into the bank accounts of parents since April 2020. For earning, many families, including young children, are being forced into garbage collection or begging.

3. The news item reads thus:

“School shut, no mid-day meal, children in Bihar village back to work selling scrap

¹ Available at: <https://indianexpress.com/article/india/school-shut-no-mid-day-meal-children-in-bihar-village-back-to-work-selling-scrap-6491830/>



Children at the Musahari tola in Badbilla village of Bhagalpur. Many parents say they haven't got payments meant for meals since May 3.

IN THE arms of a young girl, three years old, is another child that isn't yet one. She struggles with his weight, slight as he is, trying to feed him out of a bottle. It is a burden that is heavy to bear. But the fight against hunger for children of the Musahari tola in Badbilla village of Bhagalpur has been a daily challenge. In this lockdown, that burden has only become heavier.

A microcosm of Bihar, Bhagalpur is the focus of a month-long series by The Indian Express to understand the pandemic's effects in small town India. It has a city that is aspirational, but its villages still suffer from issues that have plagued the State for decades. Such as malnutrition.

According to the National Family Health Survey 2015-16, 48.3 per cent children (below 5 years) were classified as "stunted" and 43.9 per cent as "underweight" in Bihar, much above the national average of 38.4 and 35.7 per cent. Gains have been made, with these percentages at 55.6 and 55.9 in 2005-06. But over the past three months, one of the primary weapons in the fight against malnutrition has stopped: mid-day meals in school.

"Hum jaate thhe (We used to go)," the 20 of them shout together, raising their hands. "Haan (Yes)," they shout, asked if they got food in school. "Nahin (No)," they say, more quietly, asked if they have any food during the day now that schools are shut. And what was their favourite day in school? "Friday," they shout, the one day in the week when eggs were served.

The children of the Musahari tola, a Mahadalit colony, went primarily to government schools, either in Dudhela or a little further in Shahbad, with a few going to Sultanganj town.

The menu included rice, roti, vegetables, dal, soya and, of course, Friday eggs. This backbone of nutrition has disappeared.

At the tola, Dinu Manjhi holds out a steel plate with a lump of rice, salt, a smidgen of dal and chokha (boiled



potatoes). “There is nothing else,” he says. Residents say there are 250 voters in the tola with a population of close to 1,000. Ravaged by caste discrimination and poverty, every working man or woman has only two jobs: Garbage collection or begging. Those are drying up, too. Hira Manjhi earned Rs 300 a day from a contractor to collect waste in Sultanganj, 2 km away. “Now, we only go two days a week,” he says. His two children are too young to go to school, but they did go to the local anganwadi for one meal a day. That is shut, too.

Meena Devi says that about a month ago, government officials gave every ration-card holder 5 kg of rice or wheat, and 1 kg of dal under the PM Garib Kalyan Ann Yojana. “Nobody has come after that. How long do they think 1 kg of dal lasts for a family? Without the mid-day meal in school, we ask people in the village and Sultanganj for food,” she says.

District Magistrate Pranav Kumar says that according to a government programme, money has been sent to the accounts of children, or their guardians, in lieu of mid-day meals. “This is for the period when schools are shut,” he says. The move is based on an order issued by the state government on March 14, a day after schools were first shut. The order calculated the money based on the value of food being distributed: For 15 days, Rs 114.21 to children from class 1-5, and Rs 171.17 for those from classes 6-8. The cost of a full stomach? Between Rs7.61 and Rs 11.41 a day.

But the residents of Badbilla say they have received no help. Sunil Gupta, principal of the Shanti Devi Kanya Vidyalaya in Sultanganj, says that “until lockdown-2, some money had come, which had been transferred to bank accounts...for the month of April”. But after lockdown-2 ended on May 3, she says “nothing has happened at all”. “I had a total of 265 children, and the money would go to the parents’ accounts. But the amounts are a joke,” she says.

Subhash Gupta, District Programme Officer in charge of mid-day meals, says, “Money is going straight to their accounts from a centralized system. Payments have been made till May... The rough number of children enrolled in Bhagalpur is 5.25 lakh.”



However, school teachers say it is unlikely that these meagre amounts will go towards feeding children. Anjani Kumar, a teacher at the MS Madhyamik Vidyalaya, Khurd Kajrauli, a government school on the outskirts of Bhagalpur, says, “Most of these children come from poor families. Money is often sent to accounts for school uniforms, and when you ask children where their new clothes are, they say their parents had to use the money. The midday meal was the sole reason why they came to school.”

With the Government extending the closure of schools at least till July 31, Keshav Desiraju, former Union Health Secretary, points to “serious questions that must be answered on education and malnutrition”. “Online education cannot be the only answer, it can only be supplementary. And with mid-day meals, the Government must look at ways where food can be delivered to the home for children,” he says.

At the Musahari tola, there are no pucca houses or Swachh Bharat Abhiyan toilets. Every day, when the women go to nearby fields, they face angry farmers who chase them away. And in the absence of school, each child now goes to beg or collect waste, earning Rs 10-20 for plastic scrap. It is long and hard work, and Sunny Kumar has an answer for what they eat when they step out. “Bengma pakadte hai (We catch bengma),” he says. “Bengma” is the local word for frog.”

4. The news article highlights an issue of public importance and relevance. It concerns the welfare of children hailing from the lower most strata of the society; the marginalized, downtrodden, socially and economically deprived section of the society. Adequate nutrition is essential for school children’s health and wellbeing. Children are kept away from schools and Anganwadi centres to restrict the spread of COVID 19. As a result, many nutrition



deficient children who rely heavily on government schemes to meet their daily nutrition requirements have been put at risk. The disruption and closure of schools across the State will have a negative impact not just on children's right to education but also in specific cases, their right to adequate food.

5. As per Article 47 of the Constitution, the State has a duty to raise the level of nutrition and standards of living of its people and improve public health. Section 5 of the National Food Security Act 2013 provides for nutritional support to children by way of meals at Anganwadi centres and schools run by the Government. The constitutional and statutory mandate needs implementation in letter and spirit.

6. Accordingly, the relevant issue that arises is whether the State is fulfilling its statutory and constitutional mandate of providing food and nutritional security to children who have been adversely impacted by the closure of schools and Anganwadi centres due to the Pandemic COVID-19. The secondary issue that arises is that with the closing down of schools, what measures can be adopted to prevent school children from indulging in begging and garbage collection.



7. Considering the importance of the issues, we take cognizance of the news article and issue notice to the State. We wish to clarify that the present proceedings may not be misunderstood as a direction to opening and recommencing classes.

8. The registry is directed to register petition as 'Court on its Own Motion on the basis of news item titled "*School shut, no mid-day meal, children in Bihar village back to work selling scrap*" published in the Indian Express, dated July 6 2020.

9. Following will be added as respondents:

1. The State of Bihar through its Chief Secretary, Government of Bihar, Patna.
2. The Department of Health & Family Welfare through its Principal Secretary, Government of Bihar, Patna.
3. The Department of Education, Government of Bihar through its Principal Secretary.

10. Mr. Vikash Kumar, learned Stand Counsel-XI, appearing for the State accepts notice. He undertakes to file an affidavit on all the issues within the next two days. The same be filed during the course of the day.

11. Perhaps, for meeting the minimum nutritional requirement of a child, Anganwadi Centre; Community Centre(s) or the schools can be opened up, for a limited



purpose of providing food to the children. This, of course, has to be in conformity with the directions issued by the authorities for meeting with the situation of the current Pandemic Covid-19. Let the State take a conscious decision on this aspect.

12. However, in the interregnum, we direct the respondents herein to ensure that no child is pushed into or indulges in any activity of rack picking or beggary, more so on account of lack of food.

13. Ms. Chhaya Kirti, learned counsel who is present in the Virtual Court is appointed as amicus curiae.

14. List on 08.07.2020.

15. Learned Registrar (List) shall ensure that a copy of this order is supplied to Shri Vikash Kumar, learned Standing Counsel-XI, appearing for the State and Ms. Chhaya Kirti.

16. Paper book be supplied to all concerned.

(Sanjay Karol, CJ)

(S. Kumar, J.)

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