**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**

**WP No. 15768/2013 (EDN-Res)**

Between:

The Registrar Judicial ...Petitioner

And

The Chief Secretary,

Govt. Of Karnataka ...Respondent

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Bangalore

Date:18/11/2013

(Kathyayini Chamaraj)

Party-in-person

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**FURTHER REPORT SUBMITTED BY PARTY-IN-PERSON,**

**SMT. KATHYAYINI CHAMARAJ**

The undersigned begs to submit as follows:

**Draft of proposed Section 6A for inclusion in RTE Rules**

1. We are happy that the Sarva Shikshana Abhiyan (SSA) had invited us for a meeting to discuss a draft amendment to the RTE Rules to incorporate Section 6A on a protocol to be followed by Attendance Authorities to ensure that 100% children are enrolled and retained in formal schools. However, these changes are yet to be gazetted.

**Suggested changes to the Rules yet to be incorporated**

1. The undersigned also wishes to humbly submit that no steps seem to have been taken to bring in the following changes, that were suggested in the submission by the undersigned on 18.9.2013, which are also required to ensure 100% enrolment and retention of children.

**Redefining “Child belonging to disadvantaged group”**

1. It was suggested by the undersigned that “Child belonging to disadvantaged group” may be re-defined as “child belong to Scheduled Caste, the Scheduled Tribe, the Backward Class as specified by the Government of Karnataka., by notification under clause(d) of Section 2 of the Act; it also includes orphan, migrant and street child, child with special needs, HIV affected/infected child; child from single woman-headed household, child belonging to landless labourer, rag-picker, domestic worker, street vendor, or other casual worker in the informal sector, child living in a slum, hut, tent without basic amenities, child with disabled parent or sibling, or belonging to family run by the elderly with no other support, etc.

**Re-defining “Child belonging to weaker section”**

1. It was suggested by the undersigned that “Child belonging to weaker section” may be re-defined as a “Child belonging to such parent or guardian whose annual income is lower than the annual salary of a regular Class IV employee of the government as revised every year as per rise in cost of living”.

**Special scholarship scheme to be devised under RTE Act**

1. It was suggested by the undersigned that “Child belonging to disadvantaged group” and “Child belonging to weaker section” could be recipients, at the time of enrolment itself, of the exclusive scholarship scheme to be devised under RTE Act as per suggestion of learned Amicus Curiae, as a preventive measure so as to ensure their continuous attendance and pre-empt their dropping out.

**Need for uniform amounts and uniform criteria for scholarships**

1. It was humbly submitted by the undersigned that all children identified as per above criteria could all get the same amounts as scholarship. The amount of scholarship may be at least Rs. 1,200 per year (for both boys and girls), along with a bond of Rs. 10,000 in child’s name which matures to Rs. 1 lakh when child turns 14 or 18 years, to be issued on condition that the child attends school for all eight years on the lines of the Bhagyalakshmi Scheme for girl children from BPL families.
2. The undersigned humbly requests the Hon’ble Court to issue suitable direction to the concerned authorities in this regard.

**Other suggested changes to Rules under RTE Act**

1. The following further changes to the Rules were also suggested by the undersigned which have not yet been taken up for consideration by the government, which are also necessary to facilitate 100% enrolment and retention of children:
2. Re-define ‘free education’ as including free transportation to school beyond 1 KM
3. Fix a deadline for meeting all infrastructure in government schools as per norms under the RTE Act
4. Education officials to inspect all government schools and give reports on gaps in fulfilling norms
5. Impose penalties on officials of Appropriate Authority failing to provide schools with minimum norms
6. Fix time-frame within which all incentives and scholarships are distributed to children at the beginning of academic year
7. Put the child in a free hostel or residential school if it fails to attend school despite scholarship.
8. Protocol to be applicable to all children born after a cut-off date, perhaps to those currently enrolled in 1st to 3rd standards and those going to join school henceforward.
9. Officials to be required to put children of migrating parents in free hostels or residential schools at the source of migration so as not to disrupt their schooling.
10. Impose penalties on AAs failing to follow protocol for ensuring all children are in school
11. Create a record of all schools and children in e-format along with micro-plan for each never-enrolled or drop-out child and put in public domain for public feedback
12. Remedial teaching for currently out-of-school children to be residential in nature and of minimum duration depending on their age.
13. Declare minimum age for employment of children as 14 years
14. Impose penalties on employers employing children of compulsory school age
15. Funds for meeting norms of schools under RTE Act to be compulsorily provided to all government schools
16. The norms for pupil:teacher ratio to be based on the number of children attending the government school plus those still out-of-school in the neighbourhood.
17. Recurring costs for drinking water and electricity connections for all schools to be paid for by the state;
18. One cleaner and one attender / watchman to be appointed for every school
19. The state shall define within the Rules the expected learning outcomes of children at the end of each grade and arrange for evaluation and remedial teaching for every subject to improve learning levels.
20. The undersigned humbly requests that this Hon’ble High Court may be pleased to issue a direction to the government to implement the above suggestions for effective enforcement of the RTE Act.

**Issued Government notifications to be included into Rules**

1. The following Government notifications already issued as a result of the directions of this Hon’ble High Court need to be included in the Rules to give them the force of law as GOs may or may not be implemented:
2. GO regarding revision of definition of ‘drop-out’
3. GO regarding designating Attendance Authorities
4. GO regarding designation of local authorities to discharge duties as per Section 9 of the RTE Act
5. GO regarding designation of local authorities for redressal of grievances under Section 32 of the RTE Act

**Deficiencies in survey of out-of-school children**

1. As submitted by the government in their last submission on 18.9.13, the Education Department has taken up a survey of out-of-school children at school points. Several problems that are dogging these surveys have been widely reported in the press. These press reports are attached herewith as **Annexures W and X.**
2. Field activists with whom the undersigned is in touch have reported that teachers have been used for the survey taking them away from their teaching duties during working days of the school. Some NGOs have informed that they were not involved in the four-day preparation meetings prior to the survey but were asked to merely provide volunteers to accompany officials for the survey. They have reported that only house-based surveys will not reveal OoSC and that shops, establishments, factories, etc. should be included.

**Designated local authorities and SDMCs not involved in the surveys**

1. The undersigned had submitted at discussions called by the government that conducting surveys may not be advisable before the procedures to be followed by Attendance Authorities and local authorities were incorporated in the Rules. It was also emphasised that the capacities have to be first built of the Attendance Authorities and designated committees of the local authority -- such as the civic amenities committee at GP level, the social justice committee at taluk or municipality level of the local bodies -- about the new GOs issued on their roles and responsibilities, before surveys of OoSC are undertaken. These bodies have been newly entrusted with the responsibility of ensuring enrolment and retention of children.
2. The press reports clearly demonstrate that these committees of the local bodies, who have been designated with the duty of ensuring free and compulsory education, as well as the SDMCs of the schools, were not involved at all in the surveys of the OoSC.
3. The undersigned humbly prays that this Hon’ble Court may be pleased to direct the respondents to take up a massive and time-bound capacity building exercise of the designated committees of the local bodies and entrust them with the task of carrying out the surveys and maintain and update the data-base of children in the manner prescribed, using the software developed.

**Needed improvements in software developed for tracking children**

1. The government has developed Vidya Vahini the software for tracking OoSC. After seeing the same, it is observed that:

1. The software is not user-friendly and it is incomplete in many respects when compared to the software that was demonstrated to officials, Shiksha Manthan, developed by the NGO, M/s Pragathi Trust.
2. It appears to be only for tracking OoSC and not for keeping record of all children.
3. There is no customized micro-plan displayed for each OoSC for the actual delivery of all the available incentives/scholarships for mainstreaming and for the actions taken by Attendance Authority. It does not give:
4. whether attendance notice/attendance order has been sent to parent and enquiry done
5. whether parent has been brought before designated local authority /CWC/KSCPCR and decision taken
6. whether decision has been enforced
7. if the child is a child labourer, the name of employer employing the child;
8. action taken to penalise employer;
9. the micro-plan developed for the child;
10. action taken by concerned authority to bring back the child to school/hostel/residential school
11. details of special facilities given, in case the child is a disabled or specially enabled child and details of teacher training given.

**Pilot project for proof of concept**

1. It is humbly submitted that sponsors are available to conduct a pilot project jointly with government of the software developed, Shiksha Manthan, by the NGO Pragathi Trust, in their identified sample clusters of Bangalore & Chikkaballapur. The results can be quite relevant to the requirements of this PIL.
2. It is humbly requested that this Hon’ble Court may be pleased to direct the taking up of this pilot project for establishing the proof of concept.

WHEREFORE the undersigned prays that this Hon’ble Court may be pleased to take this report on record and issue suitable directions in the interests of justice.

BANGALORE

DATED: 18/11/13 KATHYAYINI CHAMARAJ

PARTY-IN-PERSON