**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: 03/02/2014

 (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:

1. **High-Power Inter-Departmental Coordination Committee meeting on 18.12.13:** Several issues were discussed at the High-Power Inter-Departmental Coordination Committee meeting held on 18th December 2013. The undersigned begs to humbly submit the following points on the issues raised during the meeting.
2. **Child has duty and right to undergo education:** A question raised by the government at the meeting held on 18.12.2013 was whether a child which does not ***want*** to go to school, can be forced by the state to attend school. It is humbly submitted that such a freedom to stay out of school is not given to any child under any law on free and compulsory education in any part of the world. All over the world, the meaning of ‘compulsory education’ is understood as the ‘compulsion on a child to undergo education’ as it is a public and social good. To enable a child to undergo education, both the state and parents have obligations to fulfil. It is universally accepted that a child has both ‘a duty and a right’ to undergo education. The answer as to why India is lagging behind in all the human development indicators could lie in the fact that this principle has still not been accepted in this country.
3. **Good school alone will not ensure 100% UEE:** The argument was also made that if only the school is good, all children would voluntarily come to school. Again this stand needs to be corroborated with statistics to prove that wherever there is a good school, there are no out-of-school children whatsoever in its neighbourhood**.** This is however not to dispute the fact that schools need to be of good quality.But a good school in the neighbourhood may be a necessary but not sufficient condition for enrolling and retaining all children in school. It will not solve the problems of parents who keep their children out of school for economic reasons. The recent survey of the Education Department in November 2013 has itself revealed that the main reason given by parents for not sending their children to school is economic. Again, proponents of the view that all that is needed is a good school will need to suggest what the remedy for a child should be, if it stays out of school even where there is a good school. It needs to be clarified whether those holding this viewpoint feel that a child that does not come to school even though there is a good school in the neighbourhood, can remain out of school.
4. **Persuasion of parents alone is not enough:**  It is also being voiced by certain sections that the solution to out-of-school children lies only in ‘persuasion’ of parents to send their children to school by School Development & Monitoring Committees (SDMCs) or others. It is being opined that action by government officials, such as Attendance Authorities, who are given protocols for ensuring attendance of children in schools, by bringing parents before quasi-judicial bodies or Child Welfare Committees, criminalises parents and children and creates a frightening environment for them. But the above stand fails to see that such powers already exist with officials to enforce social legislation, such as those against child marriage. Street and run-away children, etc., are already being brought before these very same Child Welfare Committees in order to protect them and not to criminalise them. Also, power to summon parents and, possibly, take charge of children in order to ensure the child’s fundamental right, may not be given to bodies such as SDMCs, and only officials in the government hierarchy may be given such powers. Making an official responsible is only an iteration of the state’s duty to ensure free and compulsory education of all children.
5. **This is again not to discount the value of persuasion in changing the attitudes of parents.** But whether a child is given its fundamental right to education or not cannot be left to be decided by the strength of the persuasive powers of SDMCs.
6. The stand emphasising persuasion as the panacea also needs to be corroborated by statistics to show how many Grama panchayats and wards in cities have achieved 100% enrolment and retention of children through ‘persuasion’ of parents alone. Also, it needs to be clarified what the remedy is for an out-of-school child, if persuasion of parents fails**.** It needs to be further clarified whether proponents of this stand hold the view that children, whose parents do not yield to persuasion, may remain out of school and forego their fundamental right to education. This stand also needs to be corroborated by citing any other country’s law which relies only on persuasion to ensure F&CEE.
7. **Need for a protocol to ensure a child is in school within a time-frame:** Hence, whether a child remains out of school because it does not want to go to school, or its parents do not send it even where there is a good school in the neighbourhood, or because its parents do not yield to persuasion, the point is that its fundamental right to education needs to be protected by a protocol which ensures that a child is in a formal learning situation, either as a day-scholar or in a free residential school, within the shortest possible time (a fortnight), as the logical conclusion of the exercise to ensure that all children are in school.
8. **Cash incentive/scholarship is not money down the drain:**  It is also being argued by some that payment of cash incentives, aka scholarships, to keep children in school is money down the drain. It needs to be noted that scholarship schemes are already in place and one is only insisting on streamlining and rationalising them to ensure that they reach all eligible children at the time of enrolment itself. If one does not give cash incentives/scholarships to the vulnerable child at the time of enrolment and the child later drops out, one will still have to spend money on the child to rehabilitate it, which would be costlier to do. It would be better to spend some money in the beginning itself as a preventive measure rather than spend even greater amounts after damage has been done to the child. This would also ensure that the child uses the existing facilities and teachers of the formal schools and that no special bridge or parallel schools, often run by NGOs, need to be set up to rehabilitate the child. The bridge or rehabilitation schools involve a double expenditure on school infrastructure, remedial teaching material, curriculum, additional teachers, etc. If the scholarship succeeds in retaining the child in school, one need not take the more drastic measure of taking charge of the child and placing it in a free government hostel, which should be a measure of last resort only.

1. **Giving cash incentives now will spare later cost to nation:** Not paying the conditional cash incentive now which would amount to about Rs. 1,09,600 (Rs. 1,200 scholarship per year + Rs. 1,00,000 bond amount) per vulnerable child over a period of eight years (as suggested by the undersigned), will cost the nation much more later. It will mean that once the child drops out, the child will remain illiterate and be a burden on society and the government for the rest of its life. Due to its illiteracy, it cannot take up skilled jobs and move out of poverty on its own. Due to its low income-earning capacity, inability to stand on its own feet and contribute productively to society, it will remain below the poverty line and have to be supported for the rest of its life with subsidised food, shelter, income supplements, tax-based social assistance and scholarships again for its children. This surely entails greater financial burden on the state than the amounts mentioned above for giving cash incentives to impel a child to come to school.
2. **Illiterate adult becomes a victim of corruption:** If this minimal investment in the child to provide it basic education is not provided, it becomes an illiterate adult who will be unable to claim services and benefits from the government due to him, such as applying for birth, death, income and caste certificates, ration cards, social security and other subsidy schemes by himself and will be dependant on middle-men to get his every work done, which is the first link in the chain of corruption in governance. He/she will be unable to fill application forms on-line or read sms messages sent to him by a government keen on rooting out corruption by introducing e-governance. He/she will become a drag on the nation hindering it from leap-frogging into an era of good governance. The government will have to continue to maintain manual processes for the benefit of the illiterate, which entail human interface and opportunities for extortion and bribery.
3. **Illiterate adult will be exploited life-long:**  An illiterate adult will be unable to read and understand the terms of employment in a written contract, know how much he owes his bond-master or what the minimum wages are that he should be receiving. Thus he will remain tied to oral agreements and remain at the mercy of persons who will exploit him all his life-long.
4. **Active citizenship in a democracy requires literate citizens:** An active citizenry which engages with the political system is a sine qua non for a democracy. An illiterate adult who cannot read newspapers, understand the workings of the local, state and central governments or engage with the political system or government actively to make them transparent and accountable, or who is swayed by political blandishments to vote for corrupt or criminal elements will weaken the entire democratic edifice.
5. **Cash incentives can help reduce IMR and MMR**: UNESCO has reported (The Hindu, 25.9.13) that if all women had completed secondary education, the under-5 mortality rate would be 61% lower in India. If all girls completed primary education the number of child brides would be reduced by half a million. This would result in 3,40,000 fewer early births and maternal deaths would be cut by two-thirds.
6. **The cash incentive is an investment and not a dole:** The aboveare national developmental goals. Hence, any measure that will help to achieve these goals should be seen as necessary investment for the nation’s development. We need to see the cash incentives not as doles but as an investment which is going to give us 700% returns (proven in studies) and lead to enhanced economic growth. This is a one-time investment we need to make to put the country on the path of equitable and ‘inclusive’ growth, which has been proclaimed to be the goal of the 12th Five-Year Plan. This is the best poverty alleviation measure we can undertake.
7. **Just this one generation needs to be helped**: It needs to be noted that we need to provide cash incentives to the family just for this one generation of first generation learners to break the vicious cycle of illiteracy-poverty-illiteracy that they are caught in. Once we educate this one generation with at least eight years of education, they will automatically educate their children without demanding incentives to do so.
8. **Free vocational training or employment support in lieu of lump sum bond amount: I**f it is felt that it is not desirable to merely hand out a bond amount of Rs. 1 lakh to a child on completion of compulsory education of eight years, the amount can be instead kept in trust for the child and used to give free vocational training of 2-4 years until the child becomes 16 or 18 years of age. Or, the amount can be given to the child as a loan for taking up higher studies or as support for taking up self-employment when it reaches 18 years. This way, the child will be capable of earning its own livelihood when it reaches 18 years and will not be a burden on parents, society or the state.
9. **Failure to enforce F&CEE is because of state being ‘soft’**: Gunnar Myrdal, writing in the sixties itself in "Asian Drama", has pointed to the lack of will to enforce free & compulsory elementary education (F&CEE) in India. He says, ".. .almost nowhere are these laws enforced, and this is true even of areas where sufficient school facilities can be provided for all children. The responsibility of parents for keeping their children in school has not become a firm part of the mores in most South Asian countries .. .and no country has an administration prepared to enforce laws that could radically change these mores. ..... Until discipline becomes the general pattern in government... and in the life of the people, it is doubtful whether this particular evil can be combated by means of legislation. At the same time, '...the tardiness in enforcing compulsory primary education in most areas and a minimum school-leaving age fails to inject urgency into the community'... .Unfortunately, the South Asian countries - being 'soft states' - are not yet prepared to meet this problem."

18. **Suggested revised definitions for "Child belonging to disadvantaged group" and "Child belonging to weaker section"** need to be incorporated into the Rules and into proposed Section 6A of Rules.  The suggested scholarship needs to be sanctioned at the time of enrolment itself of above vulnerable children in the 1st Std.

i.  “Child belonging to disadvantaged group” could be defined as follows:

* a child belonging to the 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; *(above criteria already exist in the Act and Rules)*
* Child of parents, either of whom are illiterate or who have not completed eight years of education
* Child from woman-headed household (deserted/widowed/ single woman)
* Child from family with a disabled/mentally challenged parent
* Child from senior citizen-headed household without other means of support
* Child of small/marginal farmers with less than ...... hectares of  dry land and ...... hectares of irrigated land,
* Child from casual/informal worker–headed household, such as landless labourers, unskilled construction workers, domestic helpers, rag-pickers, street vendors, etc.
* Child of family living in kuchha house, hut or tent, in declared or undeclared slum, deprived of basic amenities such as water supply and sewerage, child care services, etc.

     ii**.   “Child belonging to weaker section”** could be 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 with rise in cost of living”.

19. **Suggested scholarship amount:**   “Child belonging to disadvantaged group” and “Child belonging to weaker section” as per above suggested definition need to be automatically entitled to a special scholarship under RTE Act (as suggested by Amicus Curiae, Mr. Aditya Sondhi) at the time of enrolment itself,  irrespective of gender, caste, religion, etc., in additio*n*to all other  incentives  provided by the school**:**

* a scholarship of the Department of Education of at least Rs. 100 per month or Rs. 1,200 per year AND
* a deposit (bond) of Rs. 10,000 in the name of the child (boy or girl) which amounts to Rs. 1 lakh at the end of eight years, or when the child attains 18 years, and which the child is entitled to if he/she completes eight years of compulsory schooling;   (This will provide an incentive to the parent and child to complete eight years of schooling  and not drop-out in between.)

20.  **Measures to create awareness among parents and motivate them:** An 'individual' attendance notice to each parent whose child becomes eligible to join 1st Std, could be served by the Education Coordinators and/or anganawadi worker where available before the beginning of the academic year. This needs to be incorporated into the Rules under Section 6A.  A date may be specified in the attendance notice and  also informed orally to the parents that they are required  to attend an 'enrolment ceremony' at the school along with their child on that day.

It could be made a festive and celebratory occasion, given a catchy name like "Gnanajyothi Divasa", “Vidyadaana Divasa” or something similar. The 'lamp of education' could be lit by each child and/or the parent.  The parents can be 'honoured' in some innovative and attractive way for coming with their child for enrolment.  There should be songs, skits or street plays on education. Former drop-outs or child labourers who were mainstreamed, or their parents, may share the benefits that they have gained through education. These are some of the kinds of measures adopted by MV Foundation in AP and the UNICEF project in Davangere to motivate parents.

Parents can be given a pamphlet on the occasion on: the importance of education; the disadvantages of dropping out and of child labour; details of all the incentives and scholarship  schemes available; the eligibility norms for the scholarships; the role of the SDMC; the grievance redressal mechanisms available for any complaints; etc.  All this should also be explained orally for the benefit of illiterate parents. At the end of the 'ceremony', the parents may be asked to sign a pledge or pledge orally that they will not discontinue the education of their child before completion of the compulsory education period.  The children may also be asked to take a pledge that they will not discontinue their education.  Incentives like uniforms, books, school bags, scholarships, etc. can also be distributed the same day by a local celebrity who also addresses and motivates the parents.

This kind of ‘targeted’ motivation of parents of the children who become eligible for 1st Std., in addition to the rallies in the neighbourhood, posters in public places, ads in newspapers, announcements on radio, etc., may achieve better outcomes.

These measures would be in tune with this Hon'ble High Court’s insistence that parents need to be 'impelled' (rather than 'compelled') to enrol and retain their child in school.

**PRAYER**

WHEREFORE in light of the above facts and circumstances, the undersigned prays that this Hon’ble High Court may be pleased to Direct the Respondent No. 1 State government to:

1. Gazette Rule 6A into the Right to Education Rules incorporating the suggested ‘preventive’ protocol for bringing and retaining every child of 6-14 years without exception either in a formal school or in a free government residential school.
2. Revise the definition of “child belonging to disadvantaged section” and “child belonging to weaker section” under the RTE Act in the suggested manner.
3. Devise a special, uniform scholarship scheme under the RTE Act for all vulnerable children identified as per above definitions of “child belonging to disadvantaged section” and “child belonging to weaker section” and ensure that all eligible children are provided the suggested uniform conditional scholarship at the time of enrolment itself.
4. Initiate a targeted IEC / awareness programme for parents before the begin of the fresh academic year on the scholarships and other incentives available to children at the time of enrolment of their children to the 1st Standard.
5. Pass such other orders as the Hon’ble Court may deem fit in the interest of justice and equity.

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: KATHYAYINI CHAMARAJ

 PARTY-IN-PERSON

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**VERIFYING AFFIDAVIT**

I, Kathyayini Chamaraj, Executive Trustee of CIVIC Bangalore, residing at Apt. 001, HM Wimberly, 6 Berlie Street Cross, Langford Town, Bangalore 560025, do hereby solemnly affirm and state on oath as follows:

1. I state that I am the Intervenor in this Writ Petition and i am well aware of the facts and circumstances of the case and hence I am swearing to this affidavit.
2. I state that the submissions made in Para 1 to 20 of the accompanying application are true and correct to the best of my knowledge, ability, information and belief.

The facts stated above are true and correct to the best of my knowledge, ability, information and faith.

Identified by me

 BANGALORE

 DATED: KATHYAYINI CHAMARAJ

 PARTY-IN-PERSON