

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

D.B. Public Interest Litigation Petition No.3673/2013

26.11.2014

HON'BLE THE ACTING CHIEF JUSTICE MR.SUNIL AMBWANI
HON'BLE MR. JUSTICE J.K.RANKA

Ms. Naina Saraf, counsel for petitioner.
Mr. N.M.Lodha, Advocate General assisted by
Mr. Sheetanshu Sharma, counsel for State-respondents.

1. In this writ petition, filed in public interest, this Court is monitoring the directions issued by Hon'ble Supreme Court to provide the essential facility of toilets in the schools in the State of Rajasthan.

2. On 22.08.2014, this Court passed the following order:

"No one appears on behalf of the petitioner.

Shri Sunil Kumar Verma, OIC, PHED, Shri Maninder Jit Singh, A.En., Rajasthan Council of Elementary Education and Shri Avdhes Kumar Sharma, OIC, College Education, appears for the respondents.

In this writ petition, filed in the public interest, this Court is monitoring the facilities of toilets, more particularly separate toilets for boys and girls in the Government Primary and Upper Primary Schools as well as the Colleges in the State of Rajasthan.

The Court had expressed its serious concern over the non-availability of the toilets in 215 out of 66455 Government Primary and Upper Primary Schools, and the non-existence of separate toilets for boys and girls in 1149 schools. The position in the colleges is also not better. In the report submitted by the Joint Director (Project), College Education, Rajasthan, Jaipur, out 179 colleges, 21 colleges have no arrangements for any common room, and for 1,36,351 girls, there are only 773 toilets.

During the course of hearing of the writ petition on 17.07.2014, it was admitted that large number of colleges and schools do not have adequate facilities of drinking water and the lack of arrangements of water, and due to lack of arrangements of water, most of the toilets remain uncleaned.

Shri Sunil Kumar Verma, OIC, appearing for the P.H.E.D., states that they have received a copy of the petition and that they will be filing their reply with regard to availability of water connections and the steps taken to provide water connection to all the schools and colleges.

Shri Maninder Jit Singh, A.En., Rajasthan Council of Elementary Education, Jaipur, informs the Court that as on 21.08.2014, out of 215 schools, which do not have toilet facilities, and in 1149 schools which have only one toilet, 4 toilets have been constructed under the Sarva Shiksha Abhiyan and 101 are under construction; 156 toilets have been constructed under the Nirmal Bharat Abhiyan, and 263 toilets are under construction. He submits that the toilets which are under construction, will be completed within a period of three months.

Let the P.H.E.D. to file its reply within a month. The Rajasthan Council of Elementary Education will also submit the progress report about the construction of 364 toilets, and the proposals as well as budgetary sanction for construction of remaining toilets in the schools. The College Education, Rajasthan at Jaipur will also file its affidavit stating as to whether budget has been provided for 21 colleges, in which there are no arrangements of toilets, and separate toilets for boys and girls have been constructed in 179 colleges, as his earlier report did not clarify as to whether each of the 179 colleges has separate toilet for boys and girls. Let a clarification be also made in the next report to be submitted by him.

List on 14.10.2014."

3. In compliance of the aforesaid order, the progress report has not been submitted so far.

4. Learned Advocate General appearing for the State-respondents submits that out of 215 schools, in which there were no toilets, the construction of toilets in 176 schools, and out of 1149 schools, in which there is one toilet, the construction work is almost complete in 700 schools. He states that the work, which was for construction of toilets in these schools, will be completed within a period of 15 days, and that

the construction of toilets in remaining schools will also be completed very soon.

5. Learned counsel appearing for the appellant submits that the schools are being established in the State of Rajasthan without the provision of toilets. She states that the figures have been provided by the State Government to dress up the matter. In fact, wherever the construction of toilets have been started, the authorities have built just a few walls, without any door, roof and availability of water. She submits that even in the Jaipur, which is the most modern district in the State of Rajasthan, there are no toilets available in most of the government primary and upper primary schools, and that the existing toilets are mere structure of 2 or 3 walls for hiding behind them with no provision of water. In absence of proper toilets in the schools, the boys and girls are dropping out of schools. The parents do not want to send their children, specially the girl child, as there are no proper toilets in the schools.

6. Learned counsel appearing for the appellant has relied upon the study of "Bharat Gyan Vigyan Samiti, Rajasthan", which has studied the scheme of merger of schools in five districts of Rajasthan, and has submitted the following report on the infrastructure facilities in Adarsh Schools:

"Infrastructure facilities in Adarsh Schools:

Table 3.7: School Infrastructure

S.No.	Basis	Number of Schools
1	No Building	1
2	Lack of rooms	18
3	Toilets	30
4	Drinking Water	17
5	Playground	20

- One school has no building, and was running on the road
- Most schools in which merger has taken place are encountering the issue of space constraint. With in Jaipur City 18 out of 31 schools do not have the rooms to accommodate new students and 1 school without building.
- Unavailability of Toilets: 30 out 31 schools in Jaipur do not have toilets in adequate shape with no running water. Sanitation and cleaning of these toilets has emerged as a grave issue as there is no sweeper employed by the government for the same neither are any funds allotted for this purpose. It is children that themselves do the cleaning in these schools or the teachers in these schools bear this expense.
- In 17 out of 31 schools clean drinking water is not available.
- In 20 out of 31 schools playground is not present.
- There is lack of sanitation facilities in most schools and there is lack of funding in and in most cases teachers pay for sanitation themselves.
- Most schools do not have electricity.

For instance in Adarsh Schools- Rajkiya Uchh Madhayamik Vidhyalya, Sodala, in which Rajkiya parathamik vidhayalya, Sodala, Jaipur and Rajkiya prathamik vidhayalya, Ashokpura, Jaipur.- school were merged, and the in primary section of Samaveshit school, there was restriction on children to use the toilets as the toilets in the primary section were broken because of metro construction so small children also have to go to the senior section to use toilets, in which there are only two toilets for Girls and two for boys, just 4 toilets for 453 students. The children are allowed to use the toilets only in interval time, as the small children are not allowed to go during teaching hours they dirty the class room, as one teacher said that “bache toh chote hain bar bar jana padta par sir jane nai date hain toh bache class me dari gandi karte hain”. The principal says “bache

bimar thodi hain jo har ghante toilet jana padta h interval me jaya". It is a fact that children don't get chance to go interval as there is a rush and then not during the school hours. This is a very serious issue children are studding in inhuman conditions. These Adarsh schools are just namesake and in no way meet the legal standards detailed in the Right to Education Act, 2009."

7. We are pained to observe that despite the orders passed by the Hon'ble Supreme Court and this Court, the State Government has only provided figures of making budgetary provision and for construction of toilets in just about more than half schools, where the toilets are not existing.

8. We are not impressed with the progress shown and relied on by learned Advocate General that the constructions of toilets, in 176 schools, where there were no toilets, and 700 out of 1149 schools, where there was one toilet and no separate provision for girls, will be completed very soon, as we are not only concerned with the non-availability of toilets, but also non-availability of proper toilets facilities with perfunctory means. There is no use of such toilets for the girls which provides for only walls to hide, without any door, roof and any facility of water.

9. We are also pained to observe that the Government, which claims to be committed to the cause of development of girl child and her education, is not providing basic facility for them to study in schools. It is only when the Courts have intervened in the matter and passed orders on such basic issues that the facts have been admitted. If there are no

proper toilets available in schools for both boys and girls, the promise of school education for all the children will only be a dream.

10. Considering the facts and circumstances of the case, we permit the Bharat Gyan Vigyan Samiti, Rajasthan, 80/200, Patel Marg, Mansarovar, Jaipur to carry out review survey of about 100 schools both at Jaipur and in semi rural and rural areas. The report may be submitted before the court for consideration.

11. In the meantime, the assurance given by the learned Advocate General may be carried out by the State Government, and that the construction of toilets may be completed in the schools where the construction is going on, and may be undertaken where the toilets have not been provided so far. We do not propose to give any time limit to execute the orders passed by this Court by the State Government. This is an obligation, which must be fulfilled without any further delay. We make it clear that the provision of toilet means a proper toilet, which has proper constructions, with doors, a roof and availability of water. If these facilities are not provided, the toilet cannot be treated as proper toilet to be used by the children in the schools.

12. The Department of School Education will give a sum of Rs.50,000/- to the Bharat Gyan Vigyan Samiti, Rajasthan by a cheque, to be given to learned counsel appearing for the

petitioner within a week. The report will be submitted within one month.

13. List for further orders on 16.01.2015.

(J.K.RANKA),J.

(SUNIL AMBWANI),ACTING C.J.

Mohit
M/15

All corrections made in the judgment/order have been incorporated in the judgment/order being emailed.
Mohit Tak, P.A.



सत्यमेव जयते