

ITEM NO.14

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.132/2016

RAJNEESH KUMAR PANDEY & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(With appln.(s) for intervention and exemption from filing O.T.)

WITH W.P.(C) No.876/2017 (X)

Date : 04-12-2017 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE A.M. KHANWILKAR
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Mr. Ashok Agarwal, Adv.
Mr. Prashant Shukla, Adv.
Mr. Dushyant Parasar, Adv.
Ms. Shreya Mishra, Adv.
Mr. Satyajeeet Kumar, AOR

For Respondent(s) Mr. Maninder Singh, ASG
Mr. A.K. Panda, Sr. Adv.
Mr. Amit Shurma, Adv.
Mr. Vijay Prakash, Adv.
Mr. Gurmeet Singh Makker, AOR

Mr. Anuvrat Sharma, AOR

Mr. N.M. Popli, Adv.
Ms. Anuja Saxena, Adv.
Mrs. B. Sunita Rao, AOR

Ms. Pallavi Mohan, Adv.
Ms. Sanjana Srikumar, Adv.
Ms. Nivedita Saksena, Adv.
Ms. Rashmi Nandakumar, AOR

Ms. Aishwarya Bhati, AAG
Mr. Vinay Garg, AOR
Mr. Upendra Mishra, Adv.

Ms. Uttara Babbar, Adv.
Ms. Akanksha Choudhary, Adv.
Ms. Bhavana D., Adv.

UPON hearing the counsel the Court made the following
O R D E R

In pursuance of our earlier order, an affidavit has been filed by the Special Secretary Primary Education, Government of U.P., Lucknow.

It is stated in the affidavit that the State of U.P. is keen to have special schools having special teachers for imparting education to the disabled children who cannot be imparted education in normal schools. Ms. Aishwarya Bhati, learned Additional Advocate General appearing for the State of U.P. relying on the affidavit and the instructions has submitted that sixteen special schools have already been established and the teachers have been appointed and presently the schools are functional. The special schools are imparting education to visually impaired, hearing and speech impaired, mentally disabled and physically disabled children. It is submitted by her that the schools have residential facilities and they also admit students who belong to non-residential category. A chart has been filed indicating to the said effect.

We have been apprised that seven schools for visually impaired are situated in Lucknow, Gorakhpur, Banda, Saharanpur and Meerut and five schools for hearing and speech impaired in Gorakhpur, Bareilly, Agra, Farukhabad and Lucknow. As far as the mental disability is concerned, there are two schools which are running at Allahabad and Lucknow. There are two special schools for the physically disabled at

Lucknow and Pratapgarh. That apart, submits Ms. Bhati that seventeen more schools are under construction.

At this juncture, learned counsel for the petitioners have drawn our attention to Section 2(m) of the Rights of Persons with Disabilities Act, 2016 (for short, 'the 2016 Act'). The said provision defines "inclusive education", which reads as follows:-

"'inclusive education' means a system of education wherein students with and without disability learn together and the system of teaching and learning is suitably adapted to meet the learning needs of different types of students with disabilities".

Learned counsel have also commended us to Section 16, which reads as follows:-

"16. Duty of educational institutions.- The appropriate Government and the local authorities shall endeavour that all educational institutions funded or recognised by them provide inclusive education to the children with disabilities and towards that end shall -

(i) admit them without discrimination and provide education and opportunities for sports and recreation activities equally with others;

(ii) make building, campus and various facilities accessible;

(iii) provide reasonable accommodation according to the individual's requirements;

(iv) provide necessary support individualised or otherwise in environments that maximise academic and social development consistent with the goal of full inclusion;

(v) ensure that the education to persons who are blind or deaf or both is imparted in the most appropriate languages and modes and means of communication;

(vi) detect specific learning disabilities in children at the earliest and take suitable pedagogical and other measures to overcome them;

(vii) monitor participation, progress in terms of attainment levels and completion of education in respect of every student with disability;

(viii) provide transportation facilities to the children with disabilities and also the attendant of the children with disabilities having high support needs."

Stress is laid on Sections 16(i) and (iv).

Section 17 of the 2016 Act provides for specific measures for promotion and facilitation of inclusive education so that the students who have been suffering from any kind of disability are not kept away from the main stream of education.

Ms. Aishwarya Bhati shall apprise this Court on the next date of hearing by way of an affidavit how the State is going to work out the provisions of the Act by providing inclusive education in the State. The affidavit shall be filed by the Secretary, Department of Education, Government of U.P. The said authority while filing the affidavit shall keep in view the language employed in Section 3 of the Act which deals with equality and non-discrimination. The affidavit shall also contain the number of disabled children in the State of U.P. and the categories of the disability.

Though an affidavit has been filed with regard to the establishment and imparting of education to the disabled students who requires special teaching, yet we think it appropriate to get the same verified by a two-Member Committee and, accordingly, we nominate Mr. Rishi Malhotra and Mr. Gopal Shankaranarayanan, learned

counsel, as the members of the Committee, who shall visit the schools and file a report within six weeks hence. The State of U.P. shall make all arrangements for the visit and assessment by Committee.

List the matter in the third week of January, 2018.

(Chetan Kumar)
Court Master

(H.S. Parasher)
Assistant Registrar