

ITEM NO.25

COURT NO.13

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 132/2016

RAJNEESH KUMAR PANDEY & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(Mr. Rishi Malhotra [Amicus Curie]...

- IA No. 50471/2021 - APPLICATION FOR PERMISSION
- IA No. 37238/2021 - APPLICATION FOR PERMISSION
- IA No. 123252/2020 - APPLICATION FOR PERMISSION
- IA No. 74824/2021 - APPLICATION FOR PERMISSION
- IA No. 23736/2019 - APPROPRIATE ORDERS/DIRECTIONS
- IA No. 97659/2018 - APPROPRIATE ORDERS/DIRECTIONS
- IA No. 174218/2018 - APPROPRIATE ORDERS/DIRECTIONS
- IA No. 146547/2019 - APPROPRIATE ORDERS/DIRECTIONS
- IA No. 146274/2019 - APPROPRIATE ORDERS/DIRECTIONS
- IA No. 16355/2020 - APPROPRIATE ORDERS/DIRECTIONS
- IA No. 190123/2019 - APPROPRIATE ORDERS/DIRECTIONS
- IA No. 21055/2018 - CLARIFICATION/DIRECTION
- IA No. 97663/2018 - CLARIFICATION/DIRECTION
- IA No. 115912/2018 - CLARIFICATION/DIRECTION
- IA No. 173591/2019 - EXEMPTION FROM FILING O.T.
- IA No. 128163/2017 - EXEMPTION FROM FILING O.T.
- IA No. 2/2016 - EXEMPTION FROM FILING O.T.
- IA No. 16358/2020 - EXEMPTION FROM FILING O.T.
- IA No. 9/2017 - EXEMPTION FROM FILING O.T.
- IA No. 74820/2021 - GRANT OF INTERIM RELIEF
- IA No. 30082/2018 - GRANT OF INTERIM RELIEF
- IA No. 86670/2016 - IA FOR IMPLEADMENT
- IA No. 27854/2017 - IMPLEADMENT, DIRECTION, OT
- IA No. 98109/2018 - INTERVENTION APPLICATION
- IA No. 126356/2017 - INTERVENTION APPLICATION
- IA No. 97652/2018 - INTERVENTION APPLICATION
- IA No. 107257/2018 - INTERVENTION/IMPLEADMENT
- IA No. 98708/2019 - INTERVENTION/IMPLEADMENT
- IA No. 190121/2019 - INTERVENTION/IMPLEADMENT
- IA No. 21051/2018 - INTERVENTION/IMPLEADMENT
- IA No. 12758/2019 - INTERVENTION/IMPLEADMENT
- IA No. 173590/2019 - INTERVENTION/IMPLEADMENT
- IA No. 174217/2018 - INTERVENTION/IMPLEADMENT
- IA No. 146544/2019 - INTERVENTION/IMPLEADMENT
- IA No. 97651/2018 - INTERVENTION/IMPLEADMENT
- IA No. 74815/2021 - INTERVENTION/IMPLEADMENT
- IA No. 30187/2018 - INTERVENTION/IMPLEADMENT

IA No. 129598/2018 - INTERVENTION/IMPLEADMENT
IA No. 146273/2019 - INTERVENTION/IMPLEADMENT
IA No. 16351/2020 - INTERVENTION/IMPLEADMENT
IA No. 146263/2019 - INTERVENTION/IMPLEADMENT
IA No. 74381/2021 - INTERVENTION/IMPLEADMENT
IA No. 6824/2021 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES
IA No. 131315/2018 - PERMISSION TO FILE ADDITIONAL
DOCUMENTS/FACTS/ANNEXURES
IA No. 6/2017 - PERMISSION TO FILE ANNEXURES
IA No. 3/2017 - PERMISSION TO FILE ANNEXURES
IA No. 1/2016 - PERMISSION TO FILE LENGTHY LIST OF DATES)

WITH

W.P.(C) No. 876/2017 (X)
(IA No. 29329/2018 - EXEMPTION FROM FILING O.T.
IA No. 7557/2019 - INTERVENTION/IMPLEADMENT
IA No. 29969/2018 - INTERVENTION/IMPLEADMENT)

CONMT.PET.(C) No. 591/2022 in W.P.(C) No. 132/2016 (X)
(FOR ADMISSION and IA No.136828/2022-EXEMPTION FROM FILING O.T.)

CONMT.PET.(C) No. 856/2023 in W.P.(C) No. 132/2016 (X)
(FOR ADMISSION and IA No.62867/2023-EXEMPTION FROM FILING O.T.)

Date : 22-08-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE C.T. RAVIKUMAR
HON'BLE MR. JUSTICE SUDHANSHU DHULIA

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Ms. Manju Jetley, Adv.

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

Taking note of the questions involved and also the requirements of each of the State not only for complying with the judgment of this Court but also to discharge the bounden obligation under the Right of Children to Free and Compulsory Education Act, 2009 (for short "the Act") this Court issued certain directions

earlier that each of the State should file specific affidavit precisely on the five aspects mentioned thereunder.

Pursuant thereto, affidavits were filed by almost all the States. Evidently, some States are yet to file such specific affidavits in terms of the order dated 14.2.2023. Be that as it may, we order that each State shall file specific affidavit containing up-to-date information and details in respect of the issues specifically mentioned in order dated 14.02.2023, which are as under:

- 1) Number of children with the special needs;
- 2) Number of special teachers enrolled;
- 3) Number/ status of vacancies;
- 4) Number of ad hoc teachers/special teachers appointed on contractual basis and actually working; and
- 5) The time-line within which they propose to fill up the vacancies and to meet with the requirements of this Court's orders dated 28.10.2021 and 02.5.2022.

In addition to these five aspects, the States shall also mention whether regular vacancies were created pursuant to the judgment of this Court.

The submissions of the learned Amicus Curiae and the arguments advanced by the learned counsel appearing for the parties would reveal that the arrangements now made are not at all sufficient to cater the needs, may be because of dirth of the qualified hands in some States. However, that cannot be a reason for not taking appropriate measures to ensure that the disabled children are given the proper care in the matter of education to achieve the purpose and object of the Act in respect of which State has a

bounden duty to perform. The affidavits would reveal lack of earnest efforts from the part of the States to achieve the purpose despite repeated orders of this Court.

In such circumstances, details with respect to all the five aspects, as referred above, and also on the creation of regular vacancies shall be filed by each State within a period of six weeks. It is made clear that in case of failure on the part of any State in compliance with the order will be viewed seriously and in such circumstances the Chief Secretary of each State may be called upon to explain the lapse.

Learned Amicus Curiae brought to our notice that the Ministry of Education (Department of School Education & Literacy) of Government of India issued a notification viz. S.O.4555(E) dated 21.9.2023. Note-1 under column carrying the caption "Norms and standards" thereunder, provides thus:- "One school and one (minimum) special education teacher norms remains intact." In such circumstances, the affidavit to be filed shall contain a specific statement as to what steps have been taken to comply with the same by each State. If such steps have not already been taken, the timeline within which steps to achieve the same is proposed to be taken shall also be indicated in the affidavit. Unfailingly, such affidavits shall be filed within the above stipulated time.

List these matters for further consideration on 17th October, 2023.

(RASHMI DHYANI PANT)
COURT MASTER

(MATHEW ABRAHAM)
COURT MASTER (NSH)