

Court No. - 2

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 3156 of 2015

Petitioner :- Manendra Nath Rai

Respondent :- State Of U.P. Thru. Prin. Secy. Basic Education And 3 Ors.

Counsel for Petitioner :- M.N. Rai In Person

Counsel for Respondent :- C.S.C., Manish Mishra

Hon'ble Rajan Roy, J.

Hon'ble Om Prakash Shukla, J.

1. Vakalatnama filed on behalf of petitioner by Shri Pradeep Kumar Rai, Advocate is taken on record.

2. This Public Interest Litigation was filed in the year 2015, inter alia, being aggrieved by non-implementation of certain provisions of Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as 'Act 2009') specifically Section 12 of the Act, 2009 which reads as under :-

"12. Extent of school's responsibility for free and compulsory education.
—(1) For the purposes of this Act, a school,—

(a) specified in sub-clause (i) of clause (n) of section 2 shall provide free and compulsory elementary education to all children admitted therein;

(b) specified in sub-clause (ii) of clause (n) of section 2 shall provide free and compulsory elementary education to such proportion of children admitted therein as its annual recurring aid or grants so received bears to its annual recurring expenses, subject to a minimum of twenty-five per cent.;

(c) specified in sub-clauses (iii) and (iv) of clause (n) of section 2 shall admit in class I, to the extent of at least twenty-five per cent. of the strength of that class, children belonging to weaker section and disadvantaged group in the neighbourhood and provide free and compulsory elementary education till its completion:

Provided further that where a school specified in clause (n) of section 2 imparts pre-school education, the provisions of clauses (a) to (c) shall apply for admission to such pre-school education.

(2) The school specified in sub-clause (iv) of clause (n) of section 2 providing free and compulsory elementary education as specified in clause (c) of sub-section (1) shall be reimbursed expenditure so incurred by it to the extent of per-child-expenditure incurred by the State, or the actual amount charged from the child, whichever is less, in such manner as may be prescribed:

Provided that such reimbursement shall not exceed per-child-expenditure

incurred by a school specified in sub-clause (i) of clause (n) of section 2:

Provided further that where such school is already under obligation to provide free education to a specified number of children on account of it having received any land, building, equipment or other facilities, either free of cost or at a concessional rate, such school shall not be entitled for reimbursement to the extent of such obligation.

(3) Every school shall provide such information as may be required by the appropriate Government or the local authority, as the case may be."

3. There are rules known as Right of Children to Free and Compulsory Education Rules, 2010 made by the Central Government. Rule 11 thereof is relevant and it corresponds to Section 12 of the Act 2009. Likewise, there are rules known as Uttar Pradesh Right of Children to Free and Compulsory Education Rules, 2011 made by the State Government. Rule 8 thereof is relevant and is referable to Section 12 of the Act, 2009. The grievance is that the said rule is not being implemented in letter and spirit.

4. An affidavit was filed by the State Authorities way back in 2015. We are now in 2024 and we would like to have the latest data from the concerned department of the State Government.

5. Let a survey be got conducted by the Additional Chief Secretary/Principal Secretary, Basic Education , U.P. with regard to implementation of the aforesaid provisions of law in the entire State of U.P. A complete data be compiled as to the number of schools where such provisions are to be implemented and how far they have been implemented. If they have not been implemented or have been implemented partially then what measures have been taken by the State Authorities for ensuring a complete implementation of the same.

6. This matter shall now come up in the **fourth week of July, 2024.**

7. Shri Anand Kumar Singh, learned Standing Counsel shall communicate this order to the Additional Chief Secretary/Principal Secretary, Basic Education, U.P. for compliance. The Senior Registrar of this Court at Lucknow shall also do the same.

8. We expect that the exercise to ascertain the complete data shall be initiated immediately without wasting further time. If there are any impediments specially legal impediments in implementation of the said provisions then the same should also be brought on record with a mention as to what measures have been taken to overcome the said impediments.

9. The name of Shri Pradeep Kumar Rai, learned Counsel for the petitioner shall be shown in the cause list whenever the case is listed next.

(Om Prakash Shukla, J.) (Rajan Roy, J.)

Order Date :- 30.4.2024

Anand Sri./-