

ITEM NO.30

COURT NO.15

SECTION PIL-W

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.1000/2022

DR. JAYA THAKUR

Petitioner(s)

VERSUS

GOVERNMENT OF INDIA & ORS.

Respondent(s)

Date : 12-11-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Mr. Varun Thakur, Adv.
Mr. Deepak Goel, Adv.
Mrs. Tanuj Bagga Sharma, Adv.
Mr. Ramkaran, Adv.
Dr. M.K. Ravi, Adv.
Mr. Manoj Kumar Khanna, Adv.
M/S. Varun Thakur & Associates, AOR

For Respondent(s) Mrs. Aishwarya Bhati, A.S.G.
Ms. Archana Pathak Dave, A.S.G.
Mr. Amrish Kumar, AOR
Mr. Veer Vikrant Singh, Adv.
Mr. Rohit Pandey, Adv.
Ms. Shradha Deshmukh, Adv.

Mr. Manish Kumar, AOR
Mr. Divyansh Mishra, Adv.

Mr. Arjun D Singh, Adv.
Ms. Ankita Sharma, AOR

Mr. Guntur Pramod Kumar, AOR
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Ms. Neha Singh, Adv.

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Ms. Rajnandani, Adv.
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Mr. Avijit Mani Tripathi, AOR
Mr. T.k. Nayak, Adv.
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Mr. Vikas Bansal, Adv.

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Mr. Amit Kumar Singh, Adv.
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Mr. Karan Sharma, AOR

Mr. Akshat Kumar, AOR
Ms. Anubha Dhulia, Adv.

Mr. Amit Anand Tiwari, Sr. A.A.G.
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Ms. Devyani Gupta, Adv.
Mr. Vishnu Unnikrishnan, Adv.
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Mr. C Kranthi Kumar, Adv.
Mr. Saushriya Havelia A, Adv.
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Mr. Sravan Kumar Karanam, AOR
Mr. Aniket Singh, Adv.

Mr. Shuvodeep Roy, AOR
Mr. Deepayan Dutta, Adv.
Mr. Saurabh Tripathi, Adv.

Ms. Madhumita Bhattacharjee, AOR
Ms. Debarati Sadhu, Adv.
Ms. Srija Choudhury, Adv.
Mr. Anant, Adv.

Mr. Piyush Beriwal, Adv.
Ms. Kanu Agrawal, Adv.
Mr. Vatsal Joshi, Adv.
Mr. Harish Pandey, Adv.
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Ms. Mrinal Elkar Mazumdar, Adv.
Ms. Sansriti Pathak, Adv.
Mr. Apoorv Kurup, Adv.
Mr. Shreekant Neelappa Terdal, AOR

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

1. We take note on 10th April 2023, this Court passed the following order:-

"1 The petitioner, who is a social worker, has instituted a petition under Article 32 of the Constitution in public interest seeking a direction to the respondents - the Union of India, the States and Union Territories to ensure the provision of (i) free sanitary pads to every female child studying between classes 6 to 12; and (ii) a separate toilet for females in all government aided and residential schools. Apart from this, certain other consequential reliefs have been sought including the maintenance of toilets and the spread of awareness programmes.

2 Though the reliefs which have been sought in the petition under Article 32 are not exhaustive of the subject, the petition raises important issues of public interest bearing on the need for sanitation and menstrual hygiene for females who are studying in schools.

3 Notice was issued on 28 November 2022.

4 A counter affidavit has been filed by the Union Government as well as by some States.

5 We have heard Mr Varun Thakur, counsel for the petitioner and Ms Aishwarya Bhati, Additional Solicitor General for the Union of India.

6 The counter affidavit which has been filed by the Union of India indicates that three Ministries of the Union Government, namely, the Ministries of Health and Family Welfare, Jal Shakti and Education deal with the subject matter, to the extent to which they fall within their own domains. At the same time, it has been submitted that the States have also a vital role to play since education and health are State subjects.

7 At the present stage, we are of the considered view that it would be appropriate if the Union Government engages with all the State governments and Union Territories to ensure that a uniform national policy is formulated with sufficient leeway for the States and Union Territories to make adjustments, based on the prevailing conditions in their territories.

8 Bearing in mind the importance of the issue which has been raised, we direct that all States and Union Territories must submit their menstrual hygiene management strategies and plans which are being executed either with the help of funds provided by the Central Government or through their own funds to the Mission Steering Group of the National Health Mission within a period of four weeks.

9 The Mission Steering Group shall reevaluate the national guidelines based on the experiential learning of the previous decade or so. For this purpose, we nominate the Secretary in the Ministry of Health and Family Welfare as the nodal officer to facilitate coordination with all the other Ministries of the Union and with the State governments and the Union Territories.

10 Apart from the above direction, the States and Union Territories shall also indicate to the Mission Steering Group of the National Health Mission the appropriate ratio of female toilets for residential and non-residential schools for their respective territories. All States and Union Territories shall also indicate the steps which have been taken to provide for the availability of low cost sanitary pads and vending machines in schools and for appropriate disposal mechanisms. Besides making a provision for ensuring the availability of low cost sanitary pads and vending machines in all schools, they shall also ensure that disposal mechanisms are available in schools/school complexes with enrollment of female students in upper primary, secondary and higher secondary classes for safe disposal of sanitary pads.

11 An updated status report shall be placed on the record by the Union Government after three months.

12 List the Petition on 24 July 2023."

2. We are informed that in pursuance of the directions issued by this Court as contained in para 7 of the Order referred to above, the Union of India has framed National Policy as regards "Menstrual Hygiene for School Going Girls". The policy talks about the vision, the objections, the target the policy components the current programmes and in the last the rules and responsibilities of the stakeholders.

3. Ms. Aishwarya Bhati, the learned ASG submitted that still much is required to be done for proper and effective implementation of the policy. The learned ASG informed the Court that the Ministry of Health & Family Welfare shall coordinate with the States/UTs for drawing up their respective action plans ensuring that all aspects of Menstrual Hygiene Policy are drawn up in a comprehensive manner enabling effective roll out of the policy for school going girls of

Government and Government-Aided Schools. In addition, the stakeholder Ministries shall ensure that specific action plans to facilitate the roll out and effective implementation of the policy are duly drawn up. Special attention shall be given for sensitization and awareness activities for promoting safe menstrual hygiene practices in all the schools.

4. On the other hand, the learned counsel for the petitioner submitted that the policy framed by the Union of India in no manner takes care of the reliefs prayed for in the petition. Apart from this, according to the learned counsel, there are glaring inconsistencies in the data relied upon in the policy documents. The learned counsel pointed out that the last sub-para in clause 1 Introduction (last two lines from bottom), it has been stated that *"this improvement is largely due to increased awareness and accessibility of sanitary products, with 64.5% of girls using sanitary napkins, 49.3% using cloth and 15.2% using locally prepared napkins"*. According to the learned counsel appearing for the petitioner, the said data is incorrect as the total of all the three categories comes to 129%. According to the learned counsel, if the data relied upon by the Union of India for the purpose of framing the policy is incorrect, it will be difficult to achieve the objectives. Learned counsel submitted that the Union of India be directed to correct its data and ascertain as far as possible the ground situation prevailing across the country before finalizing the policy and implementing the same. It was also highlighted that the policy has been framed without obtaining the

necessary information or rather without assessing the ground situation.

5. Learned counsel brought to our notice that during the recent visit of the petitioner to District Damoh, Madhya Pradesh, the petitioner found that there were no peons in the schools and there was nothing like house keeping in government middle schools. The petitioner also enquired with different people residing in various districts and found that the situation was very grim. It was also highlighted that there are no facilities to provide sanitary pads in District Damoh, Madhya Pradesh, especially in middle schools (age between 12 to 15 years) and in case if any girl would need the same, the school would ask the girl to go home.

6. We request Ms. Aishwarya Bhati, the learned ASG to look into the aspects highlighted by the petitioner referred to above and clarify the position by the next date of hearing.

7. Post this matter for further hearing on 03.12.2024.

(CHANDRESH)
COURT MASTER (SH)

(POOJA SHARMA)
COURT MASTER (NSH)