



PRESERVING THE RIGHT TO SAFE, INCLUSIVE, QUALITY EDUCATION FOR CHILDREN IN INDIA

A COMPENDIUM OF COURT RULINGS IN 2022

THE REPORT IS COMPILED BY PACTA TO PRESENT JUDGEMENTS THAT INFORM AND CATALYZE FAIR AND EQUITABLE EDUCATION ESPECIALLY FOR THE MARGINALIZED IN INDIA.

ABOUT PACTA

Pacta is a Bengaluru (India) based boutique law and policy think tank dedicated to supporting civil society organizations, universities, and non-profit initiatives. It has an unflinching commitment to provide legal and policy consulting support for public service delivery. Acknowledging the crucial role of research and scholarship for social development, Pacta engages in law and policy research through self-driven and collaborative projects. Focus areas are – Education, Philanthropy, Disability, Gender and Information Technology.

CONTENT DEVELOPMENT

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PREFACE

Education forms the foundation of every society. The Right to Education is a fundamental right guaranteed to every citizen in India. The government through its laws and policies is driving for equitable, inclusive education to ensure that “no child is left behind.” However, legal policy intentions do not always translate effectively to practice. Grievance redressals or serving of justice, for those impacted by the gaps in translation, is often left in the hands of the judicial system.

As part of an annual series of a compilation of education-related judgments, Pacta has put together cases presented before different courts, in 2022, across the country in matters concerning education. The rulings are explained in simplified versions for easy consumption by a larger audience.

The goal of the report was to compile every major judgment in 2022 to inform stakeholders in the education sector on the stand of the courts on injustice in the practice of education for children. The authors provide a short *introduction* to the topic and subsequent pages or the body of the report contains *12 judgements* from January – December 2022. Each judgement is written in the following format – Case title, Court (where the case of presided over), Citation, Date of judgement, Issue, Act (on which the rulings were made), Keywords, a Simplified version of the judgement, and the Summary of the judgement. The report ends with a brief *conclusion* on the issues.

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Preserving the Right to Safe, Inclusive, Quality Education for Children in India: A Compendium of Court Rulings in 2022

INTRODUCTION

Education is a fundamental right of every citizen in India and is enshrined in the Constitution of India (Article 29-30). The Indian judiciary plays a vital role in shaping and enforcing policies related to education. The judiciary also plays a crucial role in ensuring that educational institutions are held accountable for providing quality education to students.

Over the years, the courts in India have passed several landmark judgements related to education, ranging from admission policies to curriculum and infrastructure requirements. The courts have intervened in cases with allegations of malpractices in admissions or discrimination against specific communities.

The year 2022 witnessed several new judgments related to education in India, addressing issues such as reservation policies, balancing privacy and security interests of children, and implementing the National Education Policy (NEP) 2020. The Indian judiciary system will continue to play a crucial role in ensuring that education policies are in line with constitutional principles and are accessible to all citizens, regardless of their socio-economic status or background.

In this report, we cover important judgements related to education in the year 2022.

“Education in Mother Tongue: Balancing Fundamental Rights and Reasonable Restrictions”

SCHOOL DEVELOPMENT MANAGEMENT COMMITTEE, SHRI HARI SECONDARY SCHOOL V. STATE OF RAJASTHAN & ANR.

Court

High Court of
Judicature for
Rajasthan.

Citation

Civil Writ Petition
No. 16367/2021, 2022
LiveLaw (Raj) 3

Date of judgement

4th January, 2022

Simplified: The Shri Hari Singh Senior School Management Committee filed a petition to challenge the government's decision to turn their Hindi-medium school into an English-medium school. The Court had to decide whether the right to education includes the right to learn in one's mother tongue, and if that right is a fundamental right. The Court decided that while the right to education is guaranteed, the government can decide the medium of instruction. The Court also confirmed that the right to education in one's mother tongue is a fundamental right protected under Article 19(1)(a), but subject to reasonable limitations under Article 19(2) which can only be imposed by a law and not just an administrative order.

This Petition was filed by the Management Committee of the Shri Hari Singh Senior School, Pilwa Panchayat Samiti Dechu, Jodhpur challenging the decision of the State government to convert the Petitioner's Hindi medium school into an English medium school. Some of the important questions which came up for determination were whether the Right to Education under Article 21A includes (i) a right to receive education in one's mother tongue and (ii) whether the right to receive education in one's mother tongue is a fundamental right. On the former question, the Court, relying on a Supreme Court decision in *State of Karnataka & Anr. Vs. Associated Management of English Medium Primary & Secondary Schools & Ors.*, (2014) 9 SCC 485 observed that Article 21A guarantees the right to free and compulsory education but leaves the modalities, including the medium of instruction, of how to provide such education to the State. Right to receive education in a particular medium cannot be insisted on as a matter of right and the State was well within its competence to prescribe English as a medium of instruction. On the latter question, relying on the aforementioned judgment, the Court affirmed that the right to receive education in the mother tongue is a fundamental right protected under Article 19(1)(a), and is subject to reasonable restrictions under Article 19(2), which can be imposed only by a law and not by an administrative order.

Issue

Right to receive education in the mother tongue is a fundamental right and is subject to reasonable restrictions which can be imposed only by a law and not by an administrative order.

Act

The Constitution of India,
Right to Education Act
2009

Keywords

Mother Tongue,
Fundamental Rights,
Reasonable Restrictions

"Equal and Inclusive Education: Analyzing the Right to Education Act and its Exclusion of Religious Institutions"

ASHWINI KUMAR UPADHYAY V. UNION OF INDIA

Court

High Court of Delhi

Simplified: Validity of two sections (1(4) and 1(5)) of the RTE Act, 2009, which excluded Madrasas, Vedic Pathshalas, and religious education institutions from the right to free and compulsory education, was challenged. The Petitioner argued that this exclusion is against the Articles 14, 15, 21, and 21A of the Constitution. They claimed that education should be given in a uniform way to everyone, and that these exclusions are not fair. The Delhi High Court has asked the Central Government to respond to this matter.

This plea before the Delhi High Court challenged the constitutional validity of Sections 1(4) and 1(5) of the RTE Act, 2009 as being in contravention of Articles 14, 15, 21, and 21A of the Constitution, for excluding Madrasas, Vedic Pathshalas and institutions imparting religious education. The impugned sections provide as follows:

“ (4) Subject to the provisions of Articles 29 and 30 of the Constitution, the provisions of this Act shall apply to conferment of rights on children to free and compulsory education.

(5) Nothing contained in this Act shall apply to Madrasas, Vedic Pathshalas and educational institutions primarily imparting religious instruction ”

The Petition argues that the Right to Education contemplates that compulsory education is imparted uniformly and equally through a common curriculum. As of now, the Delhi HC has issued notice to the Central Government in this regard.

Issue

Right to Education Act should not be in contravention of the Constitution of India for excluding Madrasas, Vedic Pathshalas and institutions imparting religious education.

Act

Right to Education Act 2009, The Constitution of India.

Keywords

Religious Education, Right to Free and Compulsory Education

“Right to education cannot be unconditionally enforced against a private unaided school.”

MASTER DIVYAM BHATEJA THROUGH FATHER MR VINOD BHATEJA V. BHAI PARMANAND VIDYA MANDIR AND ORS.

Court

High Court of Delhi

Citation

W.P.(C) 8466/2022;
2022 LiveLaw (Del)
563

Date of judgement

27th May, 2022

Simplified: Rules (35 and 167) of the Delhi School Education Rules, 1973 were challenged as these rules were against the Articles 19(1)(a), 21, and 21-A of the Constitution, the Right of Children to free and compulsory Education Act, 2009, and the Juvenile Justice care and Protection Act, 2015. The Court said that the Delhi School Education Rules, 1973 are different from the RTE Act, 2009 and its rules, as they focus on improving and maintaining school education standards. The Court also said that while the RTE Act guarantees the right to education, it does not mean that private unaided schools must give it unconditionally. The Court suggested that if the Petitioner could not afford private school fees, they should try applying to a government school or seek a fee waiver under the EWS category.

Rules 35 (Striking off student’s name from the Rolls) and 167 (Striking off a student’s name from the Rolls for non-payment of fees and contributions) of the Delhi School Education Rules, 1973 were challenged on the ground that these Rules were contrary to Articles 19(1)(a), 21 and 21-A of the Constitution read with provisions of Right of Children to free and compulsory Education Act, 2009 and contrary to the provisions of Section 75 (punishment for cruelty to a child) of Juvenile Justice care and Protection Act, 2015. The Delhi High Court observed that the RTE Act, 2009 and the Rules framed thereunder are a self-contained code, whose primary intention is to provide free and compulsory education to children till the age of 14 years. On the other hand, the Delhi School Education Rules, 1973 are a distinct and independent set of Rules framed under the Delhi School Education Act, 1973 in order to improve and maintain standards and management of school education. The Court concluded that the impugned rules do not impinge upon the operation of the RTE Act. It observed that, although the RTE Act guarantees the right to education, it does not provide that “*the said right can be unconditionally enforced against a private unaided school.*” The Court also remarked that if the Petitioner could not afford the fees of a private unaided school, they were free to seek admission in a government school and may even apply under EWS category for the waiver of school fee

Issue

Although the RTE Act guarantees the right to education, it does not provide for the said right to be unconditionally enforced against a private unaided school.

Act

Delhi School Education Rules 1973, the Delhi School Education Act 1973, The Constitution of India, Right of Children to free and compulsory Education Act 2009, Juvenile Justice care and Protection Act 2015, Judges Protection Act 1985.

Keywords

Right to Education, private unaided school

“Admission Cannot Be Denied Based on Doubts About Reserved Quota Credentials”

RAMESHWAR JHA V. PRINCIPAL RICHMOND GLOBAL SCHOOL & ORS. AND OTHER RELATED MATTERS

Court

High Court of Delhi

Citation

W.P.(C) 1092/2021 &
CM APPL.
3056/2021, 2022
LiveLaw (Del) 1181

Date of judgement

16th December, 2022

Simplified: The Petitioners wanted their children to get admission to a private school under the EWS quota, which is reserved for economically weaker sections under the RTE Act, 2009. They had a confirmation letter from the Department of Education, but the school still didn't let them enroll their children. The Delhi High Court told the schools to follow the RTE Act, which means giving admission to students from economically weaker sections. The Court also asked the Department of Education to check the details of students and their parents who want to apply for the EWS quota, to make sure they are eligible. The Court said that schools can't deny admission just because they doubt the credentials of the parents or the students.

The Petitioner had sought admission of students under the EWS reserved quota in private schools under Section 2(e) of the RTE Act, 2009. Despite holding letters of confirmation by the Dept. of Education, they were denied admission. The Delhi High Court directed schools to implement the letter and spirit of the RTE Act. It also directed the Dept. of Education to verify the credentials of students and their parents' seeking admission in neighborhood schools and verify criteria for eligibility while shortlisting, allotting and notifying children eligible for admission under reserved quotas. It also clarified that doubtful credentials cannot be a ground for denying admission by the school.

Issue

Doubtful credentials of EWS reserved quota, cannot be a ground for denying admission by the school.

Act

Right to Education Act 2009, Commissions for Protection of Child Rights Act 2005, Societies Registration Act 1860, Constitution of India

Keywords

reserved quota, admissions, doubtful credentials

"Ensuring Inclusive Education: The Role of Government-Mandated Special Educators under the Right to Education Act"

SOCIAL JURIST, CIVIL RIGHTS GROUP V. KENDRIYA VIDYALAYA SANGATHAN & ANR.

Court

High Court of Delhi

Citation

W.P. (C) 5916/2022;
2022 LiveLaw (Del) 1135

Date of order

17th November, 2022,
listed on 7th March,
2023

Simplified: In this Public Interest Litigation, a complaint was filed seeking for special educators to be hired in all Kendriya Vidyalayas, as it is mandatory to hire special educators in all schools according to government guidelines. The Kendriya Vidyalaya Sangathan, which manages these schools, said they had hired 40 special educators on a temporary basis, but still needed to hire 987 more. The Court agreed with the complaint and ordered the government and the Kendriya Vidyalaya Sangathan to hire the additional 987 special educators so that the 5,625 disabled children studying in Kendriya Vidyalayas can get the education they need.

This is a PIL filed seeking appointment of special educators in Kendriya Vidyalayas across India. The Petitioners have contended that it is mandatory to appoint special educators in all schools in accordance with government prescribed criteria for appointment of special educators in exercise of powers under Section 20 of the RTE Act, 2009. Kendriya Vidyalaya Sangathan has submitted that it has engaged 40 special educators on a contractual basis and that 987 are yet to be appointed. The Delhi High Court has directed the Union Government and the Kendriya Vidyalaya Sangathan to sanction the posts of 987 special educators to accommodate the needs of 5,625 disabled children studying in various Kendriya Vidyalayas across the country.

Issue

It is mandatory to appoint special educators in all schools in accordance with government prescribed criteria for appointment of special educators in exercise of powers under Section 20 of the RTE Act, 2009

Act

Right to Education Act 2009, Constitution of India

Keywords

Special Educators,
Children with Disability,
Kendriya Vidyalayas

“Constitutional Validity of the Reservation of 10% for Economically Weaker Sections”

JANHIT ABHIYAN V UNION OF INDIA

Court

Supreme Court of India

Citation

WRIT PETITION (CIVIL)
NO. 55 OF 2019

Date of judgment

7th November, 2022

Simplified: In January 2020, the Indian government made a change to the Constitution which is called the 103rd amendment. This change allowed the State to reserve seats in higher education and government jobs for people who are economically weaker. This was challenged in the Supreme Court. The change made a new rule that states can reserve up to 10% for economically weaker people in educational institutions, including private ones that do not get government money. The same 10% limit applies to government job appointments. The Petition argued that this change is against Article 14 of the Constitution. After hearing the case, the bench of judges decided that the amendment and the reservation for economically weaker people is constitutional. They said that the 10% reservation rule for economically weaker people also applies to private schools that don't get government funding.

The Parliament of India made an amendment to the Constitution in the month of January 2020, which is the 103rd amendment. This amendment allowed the state to make reservations in higher education and public employment for people belonging to the Economically Weaker Sections (EWS), following which various petitions were filed in the Supreme Court challenging the amendment. The amendment included additional clauses to Article 15 and 16- Article 15(6) and 16(6). This amendment made under article 15 (6) allows the state to make special provisions for the benefit of people from economically weaker sections which includes reservations made in educational institutions both aided and unaided private educational institutions mentioned under Article 30(1). Such reservations given to EWS shall not exceed 10% of seats, this limit is independent of the existing reservations. This same 10% limit applies to Article 16(6) which is about the reservations made in appointment. The petitions were filed challenging the constitutional validity of the amendment stating that this reservation violates the basic principles of constitution and Article 14-equality before law.

Issue

The amendment and reservation of 10 % for EWS is constitutionally valid and it is valid even in all private unaided educational institutions.

Act

The Constitution of India

Keywords

reservation, economically weaker section

There were various contentions put forth by the petition, one of the contentions were regarding reservation made in educational institutions. The three issues framed were,

1. *If reservations can be granted solely on the basis of economic criteria?*
2. *If States can provide reservations in private educational institutions which do not receive government aid, as provided in the Amendment?*
3. *If EWS reservations are invalid for excluding Scheduled Castes, Scheduled Tribes, Other Backward Classes, and Socially and Economically Backward Classes from its scope?*

After hearing the petition, the bench consisting of five judges held that the amendment and reservation for EWS is constitutionally valid. The Court upheld the constitutionality of application of the 10% EWS reservation even in all private unaided educational institutions.

"Ensuring Hassle-Free Admission for EWS/DG Children in Private Unaided Recognized Schools under RTE Act, 2009"

JUSTICE FOR ALL V. HON'BLE LG OF DELHI AND ORS

Court

High court of Delhi

Citation

W.P.(C) 2096/2022 & CM APPL. 28430/2022, 2022 LiveLaw (Del) 1136

Date of judgment

17th November, 2022

Simplified: The Petitioner is registered as a society under the Societies Registration Act, 1860. According to the Petitioners, there are 50,000 children in Delhi who are waiting for admission in schools, but they can't get admission because of their weak social status. The government has made a rule that at least 25% of the total seats in schools should be reserved for such students. But the schools are not following this rule and the government is not doing enough to enforce it. The government has promised in Court that they will ensure that the rule is followed and have created an online portal to make the admission process easier for parents. The Court has accepted this promise and has not given any further orders. The government has been directed to make sure that the rules are followed.

The Petitioner is a registered society under the Societies Registration Act, 1860. It is stated that at present in Delhi, about 50,000 children are waiting for admissions under the quota meant for weaker sections of the society under the Right of Children to Free and Compulsory Education Act, 2009. It has been stated that the schools are not filling up the quota prescribed which is, at least 25% of the total number of seats and the Respondent/GNCTD is not at all ensuring compliance of the statutory provisions governing the field, i.e., Section 12(1)(c) of RTE Act, 2009. The Standing Counsel for Respondent/GNCTD, who is present in Court has categorically stated that the Respondent/GNCTD shall ensure that the statutory provisions contained under the Delhi School Education Act, 1973 and Delhi Right of Children to Free and Compulsory Education Rules, 2011 thereunder shall be complied with. It has also been brought to the notice of this Court on affidavit by the Respondent/GNCTD that they are evolving a transparent, uniform and hassle-free admission process under the EWS/DG Category in Private Unaided Recognized Schools in Delhi.

Issue

Children belonging to EWS/DG Category should be able to avail hassle free admission in Private Unaided Recognized Schools in Delhi under the Right of Children to Free and Compulsory Education Act, 2009.

It has also been stated that a portal has been developed where the number of vacancies is displayed and the parents can certainly apply online for the vacancies available under the admission quota. In light of the detailed affidavit, no further orders are required to be passed in the present writ petition. However, the Respondent/GNCTD is directed to ensure that the statutory provisions and the rules thereunder are strictly complied with.

Act and Rules

Societies Registration Act, 1860, Right of Children to Free and Compulsory Education Act, 2009, Delhi School Education Act, 1973, Delhi Right of Children to Free and Compulsory Education Rules, 2011

Keywords

quota, admissions, private unaided schools

“Mobile Counselling Centers in Schools: Combating Sexual Crime and Enhancing Psychological Support”

A. VERONICA MARY V THE STATE OF TAMIL NADU AND OTHERS

Court

Madurai Bench of the High Court of Madras

Citation

W.P.(MD)No.26039
of 2022, 2022
LiveLaw (Mad) 487

Date of Judgement

17th November, 2022

Simplified: Veronica Mary, a social activist, filed a petition requesting the proper functioning of counselling centers in schools to prevent sexual crimes against children. It was mentioned that the crimes against children have created fear and restlessness among the students. In 2012, the government ordered mobile counselling centers to be set up in schools to address sexual harassment, but it has not been effectively operational in any district in Tamil Nadu. The mobile counselling centers are important to prevent sexual harassment and abuse of students, provide psychological counselling, create awareness and sensitize students, and provide counselling services to teachers. The Court directed the government to address these concerns and to ensure that the mobile counselling centers are made operational if they are not already in operation.

This Petition was filed by a social activist Veronica Mary asking for proper functioning of counselling centers in schools in order to prevent sexual crimes against children. It was submitted before the Court that the sexual crimes happening against children have created a sense of fear and restlessness among the students. It was also stated that the Government had passed an order for setting up mobile counselling centers for students to resolve problems concerning sexual harassment in schools in the year 2012 but it had not been made effectively operational in any of the districts in Tamil Nadu. The function of these mobile counselling centers was to prevent the students from being sexually harassed or abused and to make psychological counselling services accessible, their duties include conducting programmes creating awareness and sensitization regarding sexual abuse among students and providing counselling services to teachers. Considering the importance of the initiative, the Court directed the government to address the concerns and if the said initiative is not operative at the moment, it should be made operative henceforth.

Issue

Mobile counselling centers in school should be made operational to prevent sexual crime against children and to make psychological counselling services accessible

Act

The Protection of Children from Sexual Offences Act 2012, The Protection of Children from Sexual Offences Rules 2020, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013.

Keywords

counselling center, sexual crime

“Government Initiative: Provision of Sanitary Pads and Girls’ Toilets in Schools”

JAYA THAKUR V. UNION OF INDIA

Court

The Supreme Court of India

Simplified: Jaya Thakur filed a petition in the Supreme Court and pleaded the Indian government to provide free sanitary pads to girls in 6th to 12th grade, and to make sure there are separate toilets for girls in all government and residential schools. The Court hasn't made any decision yet, because the case is still ongoing.

Issue

Government to provide free sanitary pads for girls studying from Class 6th to Class 12th and a separate girls' toilet in all Government aided and residential schools

Citation

Writ Petition
(Civil)
No.1000/2022

The Petitioner, Jaya Thakur filed this petition in the Supreme Court seeking directions to the Union of India and the States to provide free sanitary pads to girls studying from Class 6th to Class 12th and to provide a separate girls' toilet in all Government aided and residential schools. The Court has not come to any conclusion as the matter is still pending in Court.

Keywords

Free sanitary pads, girl's toilet

Date of Judgement

28th November 2022,
listed for the second
week of January 2023

“Reservation for Poor Meritorious Students in Private Schools: A Non-Mandatory Provision”

JAYANT KUMAR (MINOR) V. STATE OF HARYANA AND OTHERS

Court

High Court of Punjab & Haryana

Citation

CWP-13397-2022,
2022 LiveLaw (PH)
311

Date of Judgement

15th November, 2022

Simplified: The Court was hearing a case about when the government would announce the dates for students to apply to private schools for the academic year 2022-2023. The petitioner argued that a rule that allows 10% of seats to be reserved for poor but meritorious students was illegal because it hadn't been approved by the State Legislature. However, the Court decided that the rule did not have to be approved and dismissed the case.

The Court was dealing with a petition seeking issuance of directions to the Respondents to issue the Schedule for admission in Class 2nd - 8th under Rule 134A of the Rules of 2003 (amended in 2013) for the academic session 2022-2023. Rule 134A makes provision for reservation in admission to private schools for poor meritorious students to the extent of 10%. This was challenged on the ground that Section 24 (3) of the Haryana School Education Act, 1995 gives the provision for any rules made in this regard shall be laid before the house of the State Legislature. The Court dismissed the case saying that the provision is not a mandatory provision.

Issue

Provision for reservation in admission to private schools for poor meritorious students is not a mandatory provision

Act and Rules

Haryana School Education Act, 1995, Rules of 2003, Essential Commodities Act 1955, Motor Vehicles Act 1988

Keywords

reservation, private schools, admission

“Balancing Privacy and Security Interests for Children”

DELHI PARENTS ASSOCIATION & ANR. V. GOVT (NCT OF DELHI)

Court

Supreme Court of India

Citation

WP (C) 1450/2019

Simplified: Delhi Parents Association and Government School Teachers Association filed a petition to challenge two decisions made by the Delhi government. These decisions said that CCTV cameras would be installed in government school classrooms and parents would be able to watch the footage online. The parents and teachers were worried about the psychological impact this could have on the children, and that the footage could be misused or shared online. The Delhi government argued that this decision was made to protect children from abuse and bullying, and that it didn't violate their right to privacy. The Court ruled that schools must have a committee to deal with sexual harassment and should have policies in place to prevent it.

Issue

Right to Privacy is not an absolute right and does not come at the cost of safety and security of children

The Delhi Parents Association and Government School Teachers Association filed a petition challenging two cabinet decisions dated 11th September 2017 and 11th December 2017, passed by the Delhi government. The provisions for installing CCTV cameras inside the classrooms of Government schools and “online access” of such video footage to parents were given in these circulars. The Petitioners stated before the Court that this could have grave psychological impact on the children. It was also mentioned that this plea was moved after an incident when a seven-year-old child was murdered by a class 11 student. It was submitted that there is a basic expectation of privacy in places like classrooms. The concern of the parents was that the video footage could be misused by people and also it is possible to disseminate the same on social media and internet at large. An affidavit was filed by the Delhi Government in this regard where it stated that one of the major factors behind its decision is to ensure the safety and security of children, especially in light of the rampant incidents of sexual abuse and bullying. It also argued that its decision does not infringe the right to privacy as enshrined under Article 21 of Constitution of India, adding that the right like any other fundamental right is not absolute and would always be subject to reasonable restrictions by the state.

Act

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, The Constitution of India

The division bench of Justice R Mahadevan and Justice Sathya Narayana Prasad directed the school education department to coordinate with the State Commission for Protection of Child Rights to ensure that an Internal Complaints Committee is constituted in the schools as required under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The Court also said the schools may frame anti-sexual harassment policy and distribute it among students and teachers. The Court stated that it has to be ensured that every school has reporting and redressal mechanisms in place.

Keywords

Privacy, Sexual
Harassment,
Fundamental Right

“Analysis of the RPWD Act 2016: Uniform, Computer Fee and Transportation Cost as Basic facilities for Children”

MANISH LENKA V. UNION OF INDIA & ORS

Court

High Court of Delhi

Citation

W.P.(C)
14032/2022, 2022
LiveLaw (Del) 1175

Simplified: A student in class VI at Kendriya Vidyalaya in Noida filed a petition asking for books, learning materials, assistive devices and a waiver of transportation and computer fees as per the RPWD. The student claimed that the school did not provide the facilities granted by the Chief Commissioner under the RPWD Act. In reply to this, the school filed a status report saying that all the items were provided, however the student's counsel claimed that some fees were still not waived. The Court stated that facilities like uniform, computer fee and transportation cost covered under sections 16 and 17 of the RPWD Act are basic facilities for a child, and directed the school to fulfill the pleas of the student. The Court also directed the Centre to file a status report regarding transportation cost and other facilities. The case is scheduled for hearing on 22nd March 2023 before the High Court.

This is a Petition filed by a student studying in class VI at Kendriya Vidyalaya in Noida, asking for grant of books, learning materials, assistive devices and waiver of transportation and computer fees as per the RPWD. The Petitioner claims that the Chief Commissioner passed an order under the RPWD Act on October 13 and 22, 2020 saying that the books, learning materials, uniforms as well as free education and facility of scribe shall be granted to the Petitioner, yet those facilities were not granted by the school. The Kendriya Vidyalaya Sangathan and the school filed a status report saying that all the items were provided to the minor's father as requested. It was also informed that the minor student was provided with a scribe or reader during offline exams for the session 2021-22 and was promised that the student will be provided with the same facilities in future incidents too. But the Petitioner's counsel claimed that the Petitioner was not given a waiver of uniform fee, computer fee and transportation cost.

Issue

Facilities such as uniform, computer fee and transportation cost covered under Sections 16 and 17 of the RPWD Act, 2016 constitute basic facilities for a child

Act

Rights of Persons with Disabilities Act, 2016

Date of Judgement

12th December 2022,
listed on 22th March
2023

Perusing sections 16 and 17 of the RPWD Act, 2016, the Court opined those facilities such as uniform, computer fee and transportation cost covered under sections 16 and 17 of the RPWD Act, 2016 constitute basic facilities for a child. Hence the Court directed the school to fulfill the pleas of the Petitioner. The Court in terms of sections 16 and 17 of the RPWD Act, 2016 directed Centre to file a status report regarding the measures that are to be taken regarding transportation cost and other facilities. The case is again listed for hearing on 22nd March 2023 before the High Court.

Keywords

Basic facilities, RPWD

CONCLUSION

The Right to Education is a fundamental right that is essential for personal growth and development and is crucial for the progress of a nation. Access to quality education has been a challenge in India, particularly for marginalized communities. Ensuring every child has access to safe, inclusive, and quality education has been a priority for the Indian judiciary.

The compendium of court rulings in 2022 highlights the efforts made by the judiciary to uphold the Right to Education in India. The rulings emphasize the importance of ensuring that children have access to education free from discrimination and other forms of exploitation. They also underline the need for the government to take affirmative action to bridge the gap in education between different sections of society.

In conclusion, the compendium of court rulings in 2022 demonstrate the judiciary's critical role in upholding this right and ensuring that every child has the opportunity to realize their full potential. The compendium provides an essential resource for all stakeholders in the education sector.