

ITEM NO.4 Court 4 (Video Conferencing) SECTION XIV

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

Petition(s) for Special Leave to Appeal (C) No(s).4351/2021

(Arising out of impugned final judgment and order dated 18-09-2020 in WPC No. 3004/2020 passed by the High Court of Delhi at New Delhi)

ACTION COMMITTEE UNAIDED RECOGNIZED PRIVATE SCHOOLS Petitioner(s)

VERSUS

JUSTICE FOR ALL & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.37333/2021-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 08-10-2021 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Shyam Divan, Sr. Adv.  
Mr. Kamal Gupta, Adv.  
Mr. Harshvardhan Jha, Adv.  
Mrs. Yugandhara Pawar Jha, AOR  
Mr. Sparsh Aggarwal, Adv.  
Mr. Aabhaas Sukhramani, Adv.  
Mr. Aman Pathak, Adv.  
Mr. Sanam Tripathi, Adv.  
Mr. Adith Deshmukh, Adv.

For Respondent(s) Mr. Khagesh Jha, Adv.  
Ms. Mohini Priya, AOR  
Ms. Shikha Sharma Bagga, Adv.  
Mr. Mayank Singhal, Adv.

Mr. Santosh Kumar Tripathi, Adv.

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

1 The Division Bench of the High Court of Delhi, by its judgment dated 18 September 2020 which is impugned in the Special Leave Petition, has dealt with a matter of crucial importance to the future of young children, particularly those

belonging to the Economically Weaker Sections<sup>1</sup>/Disadvantaged Group<sup>2</sup> pursuing their education in private unaided schools and government schools.

2 The issue before the High Court of Delhi, *inter alia*, pertained to the need to ensure that the EWS and DG students admitted under the 25% carve - out must be provided the necessary wherewithal to ensure that they are on an equal platform, during the course of the pandemic, when schools across the country are providing online instruction. The High Court of Delhi has directed that once a school has voluntarily selected Synchronous Face-to-Face Real Time Online Education as its mode and method of imparting education, private unaided schools and government schools must, under Section 12(1)(c) and Section 3(2) of the Right of Children to Free and Compulsory Education Act 2009<sup>3</sup>, supply the gadgets and equipments of an optimum configuration as well as an internet package for that purpose to EWS/DG students enrolled by them. The cost of such gadgets and equipment as well as the internet package have been directed to be provided free of cost to EWS/DG students, subject to the right of the institutions to claim reimbursement from the State in accordance with the provisions of Section 12(2).

2 The judgment of the High Court of Delhi was challenged by the Government of NCT of Delhi in SLP(C) No 13267 of 2020 and by the Union of India in SLP(C) No 14901 of 2020. Notice was issued on 10 February 2021 by a Bench presided over by Hon'ble the Chief Justice of India and the operation of the judgment of the High Court was stayed.

3 The present Special Leave Petition is by the Action Committee of Unaided Recognized Private Schools. Since two Special Leave Petitions are already

1“EWS”

2“DG”

3“RTE Act”

pending, notice shall issue and the present Special Leave Petition shall be tagged with SLP(C) No 13267 of 2020.

4. The issue which has been raised in these proceedings needs early resolution. Despite the receding curve of the Covid-19 pandemic, the need to provide adequate computer based equipment and access to online facilities to EWS/DG children is of utmost importance. During the course of the pandemic, schools increasingly turned to online education to avoid young children being exposed to the pandemic. The digital divide has produced stark inequality in terms of access to education. Children belonging to EWS/DG suffer the consequence of not being able to fully pursue their education and many may have to drop out because of a lack of access to internet and computers. The managements of unaided recognized schools have come to Court with a plea that the High Court of Delhi, while directing them to bear the cost of providing equipment as well as internet package left them to seek reimbursement from the State. On the other hand, the State has submitted that it does not have the requisite resources. In this process, the needs of young children who represent the future of the country are being ignored. The State cannot wash its hands off the obligation imposed particularly by Article 21 A of the Constitution. A solution has to be arrived at, at all levels of the government both in the States and in the Centre to ensure that adequate facilities are made available to children across social strata so that access to education is not denied to those who lack resources. Otherwise, the whole purpose of the RTE Act of enabling the mainstreaming of EWS/DG students with the other students even in the unaided schools will stand defeated. Article 21A of the Constitution has to become a reality and if, that is to be so, the needs of children from the underprivileged sections to receive adequate access to online education cannot be denied. This will not only cover the unaided schools, but government schools as well as aided schools.

- 5 The Government of the NCT of Delhi, should formulate a plan of action to effectuate the salutary object and purpose of the RTE Act on the issue for providing realistic access to education to EWS/DG students in schools. The Government of India must also engage with all the State Governments having regard to the provisions of Section 7 under which the Central Government and the State Governments have a concurrent responsibility for providing funds for carrying out the purpose of the RTE Act. We expect both the Centre and the States to take up the matter in close coordination on an immediate basis so that a realistic and a lasting solution can be found.
- 6 The Registry may seek an administrative direction of Hon'ble the Chief Justice of India so that the earlier batch of Petitions and the present Special Leave Petition can be listed together at an early date before an appropriate Bench in order that a practicable, reasonable and workable solution can be found in the interest of providing access to computers and internet facilities to the young citizens of India belonging to the economically weaker sections and disadvantaged groups who are constitutionally entitled to free and compulsory education in terms of Article 21A.

**(SANJAY KUMAR-I)**  
**AR-CUM-PS**

**(SAROJ KUMARI GAUR)**  
**COURT MASTER**