

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1032 of 2020

All India Student Federation through President, Bihar State Council namely Ranjeet Pandit aged about 35 Years, Male, Son of Parshuram Pandit, Resident of Village-Gajipur, P.S.-Deshari, District-Vaishali.

... .. Petitioner

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Patna.
2. The Chief Secretary, Government of Bihar, Patna.
3. The Director General of Police, Government of Bihar, Patna.
4. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
5. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Dinu Kumar, Advocate Ms. Ritika Rani, Advocate
For the Respondents	:	Mr. Arvind Kr. Sharma, Advocates Mr. Lalit Kishore, Advocate General

CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-01-2020

Heard learned counsel for the petitioner and the respondents.

Petitioner has prayed for the following relief(s):-

“A. For issuance of a writ in the nature of certiorari for quashing part of the order vide memo no. 2871 dated 03.12.19 issued under the signature of Additional Chief Secretary, Education Department, Government of Bihar as contained in Annexure 1 by which direction has been issued for partition of the students above Class V and teachers posted in government and non-government school in the state of Bihar in Human Chain on 19.01.2020 at 11.00 a.m. to 12 p.m. on



the subject of Jal Jeevan Hariyali, Nasha Mukti, prohibition of child marriage and Dowry Prohibition Act.

B. To declare and hold decision of the government of Bihar as contained in Annexure 1 for participation of students in Human Chain above class V and teachers is violation of order dated 16.01.2018 and 06.08.2018 passed in CWJC No. 992 of 2018 (Shiv Prakash Rai versus State of Bihar) and law decided by Honourable Supreme Court in Election Commission of India versus Saint Mary School and others reported in 2018(2)SCC 390 is in complete violation of Section 27 of Right of Children to free and compulsory Education Act 2009, Human right Act 1993 section 3 and 4 of African right and people write 1981, Section 17 of International School mention of Civil and Political rights 1966 to section 2(2) of Child Labour Prohibition of Regulation Act 1986.

C. To declare and hold decision of government as contained in Annexure-1 of participation of children above Class V and teachers on 19.01.2020 from 11 a.m. to 12 p.m. is out and out exploitation of children and teachers in order to achieve a political mileage at the cost of public money without allocation of the fund, misuse of the power and act of arbitrariness, malafide and bad in law.

D. Also commanding the respondents to ensure that no children above class 5 and teachers will participate in human chain on 19.01.2020 as per the order of the State Government issued on 03.12.19 is contained in Annexure 1 on subject of Jal Jivan Hariyali, Nasha Mukti, Prevention of Child Marriage Act and Dowry Prohibition Act.

E. Also to initiate sue moto contempt proceeding against R.K. Mahajan, Principal Secretary of Education Department, Government of Bihar, Patna for issuing order as contained in Annexure 1 in violation of order passed on 16.01.2018 and 06.08.2018 in CWJC No. 992/2018 as contained in Annexure 3 and 4.

F. Also for necessary relief/reliefs order orders as the petitioner is entitled in the eye of law.



We have perused the counter affidavit on behalf of the Additional Chief Secretary, Education Department filed today in Court, a copy of which is taken on record.

On 19th of January, 2020 from 11.30 A.M. till Noon, a human chain is to be formed for creating social awareness, focusing on environmental issues and various social evils, like child marriage; dowry demand; abuse of alcohol/drugs; alcohol addiction and its side effects. Also sensitizing the general public of the State's policy "Jal-Jivan-Hariyali".

For such purpose, children of certain age groups, studying in various schools of Bihar are sought to be involved. Through the children, social evils and specially child marriage, dowry and ill effects of alcohol are to be made known to the general public. Also children are to be sensitized on all such issues.

Now, who can be a better ambassador than the children in making the general masses, particularly, the deprived and the marginalized ones, explain the ill effects and adverse consequences of such mal practices? In this process do not the children get sensitized? The endeavour of the Government is to enforce the Directives Principles of the State Policy and



promote and propagate the fundamental duties and the rights enshrined under the Constitution.

To our understanding, not only, there is no prohibition under the Right to Education Act in undertaking such an exercise, but also there is no prohibition, as is sought to be canvassed in terms of the judgement rendered by this Court or by Hon'ble the Apex Court.

It is not that every child is being forced to attend the programme. In arranging for the programme, all aspects stand considered and accounted for. It is voluntary in nature and only students of Class-V and above are participating. The Government has issued instructions dated 10th of January, 2020 in that regard. It is not that there are no proper arrangements to look after the children. In fact, special care has been taken for smooth flow of traffic providing amenities, including medical facilities. Safety and security of children is not an issue.

Environmental issues of vital importance, relevance and significance need to be highlighted which is absolutely must for sustaining life, on planet earth, for all living beings.

It is our fundamental duty to value and preserve the rich heritage of our composite culture so also to protect and improve the natural environment, including forests, lakes, rivers



and wild life, and to have compassion for living creatures. We have to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

By engaging children in such programmes, we also fulfill yet another fundamental duty of promoting harmony and spirit of common brotherhood amongst all the people, transcending religious, linguistic and regional diversities. Providing opportunities for education of the children is also a fundamental duty, and education can not be confined only within the four corners of a class room or precincts of the School.

As such, for all the aforesaid reasons, not finding favour with the submission made by the learned counsel for the petitioner, the present petition stands dismissed.

(Sanjay Karol, CJ)

(Anil Kumar Upadhyay, J)

BT/-Sunil

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	21.01.2020
Transmission Date	N.A.

