**IN THE SUPREME COURT OF INDIA**

W.P. (C) No. 631 of 2004

Decided On: 29.03.2011

Appellants: **Environmental and Consumer Protect. Found.**  
**Vs.**  
Respondent: **Delhi Administration and Ors.**

**Hon'ble Judges/Coram:**  
Dalveer Bhandari and Deepak Verma, JJ.

**JUDGMENT**

GUJARAT:

1. In pursuance of the directions of this Court, an affidavit has been filed by the Chief Secretary, Government of Gujarat, in which it is indicated that there are total number of 32,749 primary schools in the State of Gujarat, out of those schools drinking water facility is available in 31,909 schools and in the remaining 840 schools there is no drinking water. Similarly, toilet facility is available in 32,092 schools whereas 657 schools are without toilets. 31,776 schools have electricity whereas 973 schools are without electricity. 22,583 schools have play grounds whereas 10,166 schools do not have play ground; 28,805 schools have boundary walls whereas in 3944 schools there is no boundary wall; 30,314 schools have ramps for physically challenged children whereas 2435 schools do not have that facility.

2. In the affidavit it is also indicated that in each primary school there are adequate number of teachers and to bridge the gap between the requirement, as per the Right to Education Act and actual availability, the State of Gujarat has recruited about 16,000 teachers before the beginning of the current academic year and the State has planned to recruit about 13,000 teachers in the year 2011-12 for filling the vacancies arising due to retirement and upgradation of 6,500 schools to Class VIII (Middle School). It is further mentioned in the affidavit that freshly cooked Mid-Day meals is served to the children in all Government primary schools.

3. We direct the State of Gujarat to remove the deficiencies with regard to the infrastructural facilities in the primary schools as expeditiously as possible, in any event, within three months from today.

CHHATTISGARH:

4. The Chief Secretary of the State of Chhattisgarh has filed an affidavit annexing therewith a chart, in which it is indicated that there are total number of 47,141 primary and upper primary schools in the State. Out of them drinking water facility is available in 38,022 schools whereas the remaining 9,119 schools do not have drinking water facility. Similarly, toilet facility is available in 27,415 schools whereas 19,726 schools are without toilets; 12,484 schools have electricity whereas 34,657 schools are without electricity; 9,955 schools have boundary walls whereas in 37,186 schools there is no boundary wall.

5. In the chart it is also indicated that the sanctioned strength of the Headmasters for the Primary Schools is 32,540 whereas only 17,334 Headmasters are working and remaining 15,206 posts of Headmasters are vacant. Similarly, the sanctioned strength of the Assistant Teachers/SKG-3 is 89,768 while the working strength is 82,728 and the vacancies are to the tune of 740.

6. In the Upper Primary Schools, the sanctioned strength of Headmasters is 13,391 whereas the working strength is only 6,681 and there is vacancies of 6,710 posts. The sanctioned strength of Teachers/SKG-2 is 57,617 whereas the working strength is 47,670 and 9,947 posts of Assistant Teachers/SKG-2 are vacant.

7. The situation in the State of Chhattisgarh is extremely alarming and unless all the vacancies are filled up on priority basis and basic infrastructural facilities are provided in the schools, the State would not be able to preserve and protect the fundamental rights of the children guaranteed under Article 21(A) of the Constitution of India. We, therefore, direct the State to take immediate steps to fill up the vacancies and ensure that basic infrastructural facilities are augmented within three months from today. The Chief Secretary is directed to file a further affidavit on or before 30th June, 2011. We make it clear that no further time will be granted for this purpose. KEARLA:

8. In pursuance of the directions of this Court, the Chief Secretary of the Government of Kerala has filed a comprehensive affidavit, the relevant paragraphs of which are extracted hereunder:

4. In pursuance of the above judgment the details regarding basic facilities such as water, toilets, urinals, electricity, boundary walls, mid-day meal facility and requisite number of teachers of the primary schools in the State of Kerala is submitted below.

5. In the Central Government pattern the primary section includes classes upto 8th standard. However in the State of Kerala, the 8th standard comes under Secondary section. Primary and secondary sections are functioning together in the same schools and compound, in majority of places. As such it is difficult to furnish the details of the basic facilities such as water, urinals, toilets etc. provided in the primary section separately. Hence, the details furnished include both the primary and secondary section.

6. As per the existing norms, the total requirement of toilets in Government and Aided schools in the State comes to 37,334 and that of urinals is 97,112. Out of the 37,334 numbers of toilets required, 34,833 numbers were completed. The construction of 628 numbers of toilets is in progress and the construction of balance 1,873 numbers is to be taken up. Out of the 97,112 numbers of urinals required, 81,474 numbers were completed and the construction of 3,597 numbers is in progress and the remaining 12,042 numbers is to be taken up. It may be noted that 3,597 numbers of toilets were constructed, covering 2,882 schools under the Total Sanitation Campaign (TSC) in the State. Also under the Total Sanitation Campaign (TSC) an additional number for 3,662 toilets were proposed, covering 1,294 schools. Providing girl friendly toilets and urinals with running water in Government schools in minority concentrated areas is also being implemented by Suchitwa Mission with the financial assistance of Minority Affairs Department of the State in the schools of minority dominated areas. These works are proposed to be completed before 31.5.2011. The construction of 610 numbers of toilets and 1608 urinals are under progress under the above scheme.

7. There are no schools in the State with absolutely no urinal or latrine facility in the State; though some schools don't have enough number of units commensurate to the strength of the students.

8. Sufficient water facility is available in all the Government/Aided schools in the State.

9. As far as the electricity is concerned all the primary schools in the State have electric connection except in 277 schools.

10. In the State there are 2,047 Nos. of schools having pucca boundary walls. There are 897 numbers of schools have boundary walls which are damaged and requires maintenance. There are 38 numbers of schools having barbed wire fencing. There are 593 numbers of schools, which are having no boundary walls. There are 1,155 numbers of schools which are having primary built boundary walls. In 88 numbers of schools the construction of boundary walls is in progress.

11. In the State, mid day meal scheme is implemented in primary section of all schools, with kitchen-shed facility.

12. All the schools in the primary section of the State are having the requisite number of teachers.

9. On the whole, the condition of the schools in the State of Kerala seems to be better as compared to the other States. However, we direct the State to augment the remaining facilities in the primary and upper primary schools, within three months from today and affidavit in this regard may be filed by the Chief Secretary of the State on or before 30th June, 2011.

WEST BENGAL:

10. In pursuance of the directions of this Court, the Chief Secretary to the Government of West Bengal has filed an affidavit, relevant paragraphs of which are extracted hereunder:

5. Based on updated information, kept and maintained by the Government of West Bengal, it is stated that across the nineteen districts including Kolkata, spreading the State of West Bengal, 50,169 recognized aided primary schools exist. Out of those 50,169 primary schools, potable drinking water facility is available in 50,008 primary schools; toilets are available in 49,441 primary schools; electricity in 12,076 primary schools; mid-day meal facilities are available in 46,625 primary schools and boundary wall is there in 15,904 primary schools. Similarly, out of 10,799 recognized aided upper primary schools in West Bengal, 10,295 are having potable drinking water facility; 9,578 are having toilets; 8,122 are having electricity; 5,497 are having kitchen shed and 6599 recognized aided primary schools are having boundary walls. As per Section 19(2) of the Right of Children to Free and Compulsory Education Act, 2009, the State Government has already drawn up a plan for increasing such facilities in schools which do not have any of the above facilities within a period of 3 (three) years from the commencement of the Act, i.e. 31/03/2013.

6. Based on upgraded information, kept and maintained by the Government of West Bengal, it is further stated that in 50,169 numbers of primary schools there are 61,90,157 students who are prosecuting their studies at the primary level. There is at present sanctioned posts of 1,98,682 primary school teachers; additionally there is also sanctioned posts of 25,781 para teachers at the primary level. Thus, the State does have the sanctioned posts of the required numbers of teachers as per requirement specified under the Right of Children to Free and Compulsory Education Act, 2009. In fact the sanctioned strength of regular primary teachers far exceeds such requirement. However, it may also be stated that out of the total 1,98,682 numbers of sanctioned posts of teachers in primary schools, about 68,000 posts had fallen vacant in recent past and could not be filled up during 2005-2009 due to various pending litigations. The State Government has, however, taken steps in August 2009 to fill up the vacant posts of teachers in primary schools and about 49,886 numbers of vacant posts of teachers have since been filled up and remaining vacancies are expected to be filled up shortly.

7. Similarly, at the upper primary level for the purpose of teaching 56,71,000 students in 10,799 numbers of existing schools, there is a sanctioned strength of 1,22,684 post of regular teachers. Additionally, 27,949 para teachers are also there to teach such students. Under the standards set up b the said Act of 2009, 1,62,061 regular teachers are required to teach 56,71,000 students in the upper primary level in West Bengal. From these figures it is evident that the umber of sanctioned posts is slightly lower than the required number of teachers in terms of the said Act of 2009 at the upper primary level. However, the State Government has already taken steps to increase the sanctioned posts of regular teachers at the upper primary level by another 39,510. It may also be stated here that sanction has already been accorded to set up additional 5,676 upper primary schools throughout the State. Out of this, 4,031 upper primary schools have already been set up. The State Government has also sanctioned total 12,093 new posts of teachers for the aforesaid 4,013 newly set up upper primary schools. The additional requirement of teaching posts for the existing and the newly set up upper primary schools as per Right to Education Act, 2009 comes to 39,510. The State Government has already taken steps to create additional 39,510 posts of Assistant Teacher for existing and newly set up upper primary schools across the State to meet the statutory obligations under the Right to Education Act, 2009. It may also be stated here that the Government of India has already relaxed the time limit for filling up the vacant posts of teachers as required under Section 25(1) of the Right to Education Act, 2009.

11. We direct the State to augment the basic infrastructural facilities in the schools and an affidavit, giving therein the details of the infrastructural facilities provided in the schools, be filed by the Chief Secretary on or before 30th June, 2011. It is made clear that no further time for this purpose shall be granted.

ANDHRA PRADESH:

12. The Principal Secretary to the Government of Andhra Pradesh has filed an affidavit annexing therewith a chart giving the details of basic facilities in the Government schools as per DISE 2009-2010.

13. We direct the State to provide basic infrastructural facilities in the schools and an affidavit, giving therein upto date position of the infrastructural facilities provided in the schools, be filed by the Chief Secretary on or before 30th June, 2011.

HIMACHAL PRADESH:

14. In pursuance of the directions of this Court, the Chief Secretary to the Government of Himachal Pradesh has filed an affidavit, the relevant paragraphs of which are reproduced below:

2. In this context it is respectfully submitted that as per District Information System for Education (DISE) data as on 30.09.10, there are 10711 functional Govt. Primary schools having 422760 students in class 1 to 5 in the State of Himachal Pradesh. The Pupil Teacher Ratio in the State at primary level is 16:1 which is far better than 30:1 prescribed under the Right of Children to Free and Compulsory Education Act. The State has already provided teachers posts in the Primary Schools as per the schedule annexed to the Right to Education Act. The State has also implemented a policy for reemployment of teachers in the schools till the completion of academic session to ensure the availability of teachers to the students throughout the academic year. Under this policy, a teacher retiring during the mid academic session is re-engaged till the completion of academic session. In order to ensure the availability of trained Primary School teachers to fill up the resultant vacancies the State has synchronized the pre-service training to the availability of vacancies in the State.

3. That out of 10,711 Government Primary Schools in Himachal Pradesh, 10,418 schools are having drinking water facilities and in the remaining 293 schools the drinking water facility being provided in convergence with IPH department (Irrigation & Public Health) under Nation Rural Drinking Water Mission (NRDWM) to cover them by the end of 2011-12. In order to ensure the availability of drinking water to the Primary school children, the State has posted one part time water carrier in every Primary School.

4. That 6433 Govt. Primary Schools are having separate toilets for girls and 3524 Govt. Primary Schools at present have common toilets. Further, separate toilets for girls have been sanctioned and are under construction in the remaining 4278 Primacy Schools. Besides, 2261 common toilets have also been sanctioned for construction in 2010-11.

5. That at present 6509 Govt. Primary Schools have boundary walls and the construction works of boundary walls in 1622 schools is in progress. Besides this, boundary walls for 769 schools have also been sanctioned during the 2010-11.

6. That at present, 5932 Govt. Primary Schools have Kitchen Sheds for MIDM. Funds have been provided and construction work for kitchen sheds is in progress in the remaining 4779 Govt. Primary Schools.

7. That at present, 5264 Govt. Primary Schools have electricity facilities. A proposal to cover the remaining 5447 primary schools has been made in the annual Work Plan & Budget for the year 2011-12 under RTE/SSA.

8. That at present, 5708 Govt. Primary Schools have ramps for children with special needs. 1100 new Primary Schools are proposed to be covered for ramps in the year 2011-12. This facility will be extended to all the schools in a phased manner.

9. That there is no school running without classroom of the Sate, at present there are 31,331 class rooms in the Govt. Primary Schools of the State. Average number of students per classroom in the State is 13 and average School Classroom Ratio is 1:3.

15. We direct the State to provide basic infrastructural facilities in the schools and an affidavit, giving upto date position of the infrastructural facilities provided in the schools, be filed by the Chief Secretary on or before 30th June, 2011.

ASSAM:

16. In pursuance of the directions of this Court, the Chief Secretary, Government of Assam has filed an affidavit, the relevant paragraphs of which are reproduced below:

3. That in its order dated February 8, 2011, this Court observed that '...in order to get comprehensive information regarding basic facilities such as potable drinking water, toilets, both for boys and girls, electricity, boundary walls, mid-day meal facility and whether the primary schools have requisite number of teachers, we would like all the District Collectors and Magistrates in the country to submit a report to the Chief Secretary/Administrator of the State/Union Territory and the Chief Secretaries are directed to file a comprehensive affidavit before this Court within 6 weeks from today. This has become imperative for implementation of the fundamental rights enshrined under Article 21A of the Constitution...

4. Pursuant to this Court's direction in its order dated February 8, 2011, the Government of Assam has sought information from all of the 27 districts of the State of Assam regarding existing facilities of Government and provincialised schools in Assam and reports have been received from the Deputy Commissioners of 26 districts and the Director, Education, Bodoland Territorial Council for Baska District. It is pertinent to mention herein that Basks District is under the Sixth Schedule Area of Bodoland Territorial Council and education is transferred subject. The report has been produced herein in the form of a Chart for this Hon'ble Court's kind perusal. The above-mentioned Report and a Statement of district-wise status of existing facilities in Government Elementary Schools in the State of Assam have been annexed herewith and are marked as Annexure-A.

5. It is submitted by the deponent herein that there are some schools where Drinking Water facilities are not available and in respect of toilets there are some schools where Common Toilet facilities are available. The State Public Health Engineering Department is implementing the scheme for Drinking Water supply to the schools and the said department is also constructing Common Toilet under School Sanitation Block Scheme. It is pertinent to mention herein that under the Common Toilet Scheme there are toilets in the same block both for boys and girls and the girl's toilets are separated from the boy's toilet by a partition wall. Further, the Sarva Siksha Abhiyan, Assam is taking special initiative for construction of a large number of girl's toilet (above 10,000) in its Annual Work Plan & Budget, 2011-12.

6. That as regards availability of electricity in schools, there is electricity mainly in schools located in urban and semi-urban areas, but it is mostly lacking in schools of rural and remote areas.

7. That in respect of Boundary Wall, the Sarva Siksha Abhiyan, Assam is taking initiative to submit a proposal for construction of Boundary Walls in the elementary schools in a consolidated proposal under Right to Education Act, 2009 which may take sometime.

8. That it is respectfully submitted that there is shortage of school teachers for which the Government of Assam has taken steps to meet the shortage by rationalization of posts of teachers. Fresh recruitment of teachers has not taken place since 2001 as there are directions of the Hon'ble Gauhati High Court, in certain matters filed before it, not to make fresh recruitment of teachers till regularization of the services of Operating Black Board (OBB) teachers without leave of the Hon'ble Court. The regularization of the service of OBB teachers has already been made and leave petition has been moved before the Hon'ble Gauhati High Court.

9. That it is respectfully submitted by the deponent herein that all the elementary schools, except un-aided Non-Government Education Institutions, in the State of Assam have been covered under Mid-Day-Meal.

17. We direct the State of Assam to provide basic infrastructural facilities in the schools and an affidavit, giving therein upto date position of the infrastructural facilities provided in the schools, be filed by the Chief Secretary on or before 30th June, 2011.

RAJASTHAN:

18. In pursuance of the directions of this Court, the Chief Secretary to the Government of Rajasthan has filed an affidavit, the relevant paragraphs of which are reproduced below:

3. In so far as the position of vacancies of teachers in the Government Primary/Upper Primary Schools is concerned, it is submitted that total number of vacant posts of teachers in the Primary and Upper Primary government schools in the State of Rajasthan is 61,708. Of these, 53,816 posts are of Teachers Grade-III and the remaining 7,892 posts are of Teachers Grade-II. The State Government has already taken a decision for recruitment of 9,000 Teachers Grade-II and 41,000 Teachers Grade-III during the current financial year. However, it is submitted that in accordance with the provisions of Right of Children to Free and Compulsory Education Act, 2009 the National Council for Teacher Education has while prescribing the minimum qualifications for persons eligible for appointment as teachers in the Primary and Upper Primary schools, laid down a condition that all such persons should first pass the Teachers Eligibility Test to be conducted by the State Government in accordance with the guidelines which have been prescribed by the National Council for Teacher Education for the conduct of Teachers Eligibility Test. Accordingly, the State Government is taking action for organizing the Teachers Eligibility Test. Thereafter, action for recruitment of the 50,000 teachers as mentioned above.

4. That for basic information regarding elementary education, DISE (District Information System for Education) survey is conducted by Department of School Education, Rajasthan in September every year. This survey is conducted as per the guidelines issued by Ministry of Human Resource Development, Govt. of India from time to time.

5. That out of 76,656 government Primary/Upper Primary schools, 73,234 schools are housed in their own buildings and 2549 schools are being run in rented/other buildings. Thereafter, only 873 schools are under building-less category. In most of these cases it is not possible to construct government building due to non-availability of land in the area where these schools are situated. The State Government is making all efforts for allotment of land for building-less schools. In the last three years buildings have been constructed for 1527 building-less schools which did not have their own buildings. Similarly 54,319 government primary/upper primary schools have boundary walls in the form of either pucca boundary wall or barned wire fencing/hedges etc. 26,049 schools require construction of boundary wall. Efforts are being made for construction of boundary walls for the remaining schools in a phased manner.

6. 49,471 government primary/upper primary schools have ramps to facilitate access to children with special needs (CWSN). Beside this, 464 resource teachers and 493 care givers have been engaged for providing education to CWSN.

7. That it is also stated that 94.62% schools (71,460) in the State have toilet facilities. Similarly, 65.05% schools (49,125) in the State have separate toilet facilities for boys and girls. Only 4,060 schools do not have the facility of toilet. Efforts are being made to provide separate toilet facilities for boys and girls by March 2012 in the government primary and upper primary schools under the Centrally Sponsored Scheme of Sarva Shiksha Abhiyan and Total Sanitation Campaign, a scheme of Rural Development Department.

8. That as per DISE 2010, 71,612 schools have potable drinking water facility in the form of pipe line connection, hand pump or Rain Water Harvesting structures. The coverage of drinking water facility in government elementary schools is 94.82% in the State. The remaining gaps (3,908) will be fulfilled under Sarva Shiksha Abhiyan and various schemes of State Public Health Engineering Department. In some of the desert districts where water is scarce to low rainfall, water supply is being ensured by School Management Committee and local communities through water tankers.

9. That as per DISE-10 data, out of 75,520 government primary/upper primary schools, only 20,579 (27.24%) schools have electricity and efforts are being made to provide electricity to all the schools under the Rajiv Gandhi Vidhutikaran Yojna.

10. That 48,467 schools have kitchen shed for preparation of mid-day meal. The target of the State Government in the year 2010-11 was to provide kitchen sheds in 10,098 schools under National Mid Day Meal Scheme and sincere efforts are being made by the State Government to ensure the hygiene factor.

11. That the Right of Children to Free and Compulsory Education Act, 2009 has been notified and implemented from 1st April, 2010. As per the provisions of this Act, it is mandatory to provide basic infrastructure facilitate such as class rooms, Headmaster room, separate toilets for boys and girls, clean and adequate drinking water, electrification, boundary wall & play ground to each school. The State Government is committed for providing basic infrastructure in the government schools in accordance with the provisions of this Act under different schemes such as Sarva Shiksha Abhiyan and in convergence with other rural development schemes such as MPLAD, MLALAD, TSC, NRDWP etc. During the current financial year (2010-11) provision for construction of 7486 classrooms, 10,537 headmaster rooms, 2881 girls toilets, 965 drinking water facilities, 3910 electric facilities, 5742 boundary wall have been made under Sarva Shiksha Abhiyan. The remaining infrastructure gaps are being worked out on the basis of RTE and the same shall be filled up in phased manner subject to availability of funds in the forthcoming years.

19. We direct the State of Rajasthan to complete the recruitment process of teachers and provide other infrastructural facilities in the schools as expeditiously as possible and file an affidavit, giving therein upto date position of the infrastructural facilities provided in the schools. The affidavit be filed by the Chief Secretary on or before 30th June, 2011.

GOA:

20. In pursuance of the directions of this Court, an affidavit has been filed by Mr. Sanjay Kumar Srivastava. The relevant information as obtained form the said reports of the District Collectors is reproduced below:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Status of Govt. Primary Schools in Goa | | | | | | |
| District | Number of Schools | Schools without water facility | Schools without toilets | | Schools without Electricity | Schools without Compound walls |
| Boys | Girls |
| North Goa | 563 | 9 | 38 | 97 | 3 | 143 |
| South Goa | 354 | 26 | 52 | 51 | 11 | 126 |
| Total | 917 | 35 | 90 | 148 | 14 | 269 |

21. Annexure R-I to the said affidavit, deals with mid-day meal and Annexure R-II deals with status of Government primary schools. It is indicated in Annexure R-II that total number of Govt. Primary Schools are 917 and the vacant position of primary teachers as on 31.1.2011 are 73. Interview for the same has already been conducted and the Government is already in the process of filling upto these vacancies.

22. We direct the Government of Goa to provide other infrastructural facilities in the schools as expeditiously as possible, in any event, within three months from the date of this order and an affidavit, giving therein upto date position of the infrastructural facilities provided in the schools, be filed by the Chief Secretary on or before 30th June, 2011.

ANDAMAN & NICOBAR:

23. The Chief Secretary of the Andaman & Nicobar Administration has filed a comprehensive affidavit, the relevant paragraphs of which are reproduced herein below:

8. At present there are 307 Government schools functioning under the Directorate of Education throughout the Islands. District wise category of schools are given in the table below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Type of School | South Andaman | North Middle Andaman & Nicobar | | Total |
| Primary School | 56 | 95 | 22 | 173 |
| Middle School | 23 | 17 | 12 | 52 |
| Secondary Schools | 15 | 19 | 06 | 40 |
| Sr. Secondary Schools | 22 | 13 | 07 | 42 |
| Total | 116 | 144 | 047 | 307 |

9. Out of 307 schools, 236 are in Revenue areas (including Great Nicobar Island), 43 schools (41 in Nocobar district, 01 in South Andaman district and 01 in North & Middle Andaman district) are in Tribal areas and 28 schools are in reserved forest areas. Out of these 307 schools, 262 schools (227 schools in Revenue area, 33 schools in Tribal areas and 02 schools in forest area) have separate toilet facility for boys and girls, 45 schools (where 26 schools are located in reserved forest areas, 10 schools in tribal areas and 09 schools in Revenue area) have only temporary toilet facilities. Permanent constructions in reserved forest areas are not permissible as such, katcha structures are available. However, in remote tribal and rural areas where the facility under construction in 09 schools (08 in Tribal area, 01 in Revenue area). Provision is kept in plan 2011-12 for providing permanent toilets for separate boys and girls in 10 schools (08 in revenue area and 02 in Tribal areas) except the 26 schools which are located in reserved forest areas.

10. That regarding schools which are provided with water supply facilities, it is submitted that out of 307 schools, 269 schools are provided with water supply facilities, of which 250 schools are getting piped water supply and 19 schools are meeting their water supply needs using wells. The remaining 38 schools (19 schools in Forest area, 05 in revenue area and 14 in tribal area) manage their water supply needs through other means which are locally available water sources such as streams and seasonal Nallahs etc.

11. That with regard to the schools having the provision of electricity, it is submitted that out of 307 schools, 257 schools are provided with electricity. Remaining 50 schools (25 in reserved forest area and 13 in remote revenue localities and 12 in tribal area) do not have provision of water supply. In these remote areas, power supply has not been extended or is available only during evening hours when the schools are not in operation.

12. That with regard to the supply of cooked mid day meals (MDM), the benefit is extended to 311 schools (304 Govt. schools, 02 Govt. Aided Schools and 05 Local body schools). Out of 307 Govt. schools, MDM scheme is implemented in 304 schools; the remaining 03 schools are not covered under this scheme as these schools have no primary and upper primary classes attached. Other than this, in this UT cooked MDM is also extended to 36 Alternative Innovative Education (AIE) and Education Guarantee Scheme (EGS) centres.

13. That in the UT of A & N Islands, the MDM scheme is outsourced through the Self Help Groups, Mahila Mandals, Registered Women Cooperative Societies and Individuals. At most places, mid day meals are cooked in their respective kitchens and the cooked MDM is transported to the respective schools. Supervision and monitoring of cooking process and distribution to ascertain hygienic condition is continuously being done by the school level MDM Committees, Block level Committees and District level Committees. Mid Day Meals in every school is cooked and supplied as per the weekly menu prepared by the respective school MDM committees. To ascertain the nutritional value of the cooked MDM in conformity with the guidelines issued by the Govt. of India, the services of external agencies such as; Health Department, Home Science Department of the Govt. College (JNRM) Port Blair are also availed periodically.

14. 32 Schools of UT Administration have permanent kitchen-cum-store facility. Proposal for construction of 244 (excluding 28 schools which are in the reserved forest area) MDM kitchen-cum-store had been sent to the Ministry of Human Resources, Govt. Of India (MHRD) for the sanction of fund. MHRD had asked us to submit revised estimates for construction of permanent Kitchen-cum-store for these 244 schools. During the year 2008-09 MHRD released an amount of ` 165.60 lacs towards the cost of construction of 276 Nos. of Kitchen-cum-Stores at the rate of ` 60,000/- per unit cost for A & N Islands. Considering the market price index of this UT as PWD code, the construction of kitchen sheds at the rate of ` 60,000/- per unit is not feasible. Thus this UT Administration requested MHRD vide this office letter No. 7-&&/Edn./PS/2008-09/755 dt. 12/02/2009 to enhance the unit construction cost to ` 4.5 lacs per unit or 7.5 times of the sanctioned costs.

15. MHRD vide its letter No. 1-1/2009-Desk (MDM) dtd. 31/12/2009 directed this UT Admn. to submit the area requirement of Kitchen-cum-Stores to be worked out as prescribed by the MHRD. Accordingly the Directorate of Education vide letter No. 6-227/Edn./MDM/Coress/2009-10/181 dtd. 18/01/2010 submitted a detailed proposal of ` 16.5 crores for construction of 244 Kitchen-cum-Stores in Primary & Upper Primary Schools of this UT. In response to which MHRD had issued a L.O.A. for an amount of d 45.09 lakhs as 75% contribution towards the construction of 05 Kitchen Sheds which was received by this office on 22/03/2010. Since there was no time available to utilise the same within that financial year as such, the funds were surrendered vide letter No. 6-227/Edn./MDM/Coress/2009-10/2745 dtd. 31/03/2010. However the Ministry has again asked this UT to submit revised estimate for construction of 244 Kitchen cum Stores. Revised estimates are being prepared for inclusion of the same in Annual Work Plan Budget (AWP & B), 2011-12.

16. In order to ensure the safety of students and the structural assets during any fire hazards, installation work of the fire fighting equipments in 130 Govt. Schools are in progress. The remaining 177 schools would be covered in a phased manner in the subsequent Annual Plans.

17. That out of 307 schools, only 155 schools have playground facilities. Due to the paucity of land under revenue areas, the remaining schools could not be provided with playground facilities. However, efforts are on for seeking allotment of land near the schools for development of playground wherever possible. Moreover, mini stadia, available at 08 places, with one more under construction, are also being used for sports and games activities of a number of schools located nearby.

24. We are very happy that the Chief Secretary has dealt with all the relevant issues in the said affidavit. We appreciate the learned Chief Secretary's submitting comprehensive picture of primary education in the State of Andaman and Nicobar. We direct the Administration of Andaman & Nicobar to complete the process of recruitment as expeditiously as possible, in any event, before 30th June, 2011 and ensure that the basic infrastructural facilities as made available in the schools before the said date. Let the Administration file a further affidavit on or before 30th June, 2011.

25. Despite two orders of this Court, the following States have not filed their affidavits:

1. Madhya Pradesh

2. Bihar

3. Punjab and Haryana

4. Uttarakhand

5. Jharkhand

6. Jammu & Kashmir

7. Maharashtra

8. Sikkim

9. Uttar Pradesh

10. Arunachal Pradesh

11. Nagaland

26. A last opportunity is granted to these States to file their affidavits within four weeks from today, failing which the Chief Secretaries of the concerned States shall remain present in Court on the next date of hearing.

27. List this matter for further direction on 29th April, 2011.

**IN THE SUPREME COURT OF INDIA**

Writ Petition (Civil) No. 631 of 2004

Decided On: 29.04.2011

**Environmental and Consumer Protect. Found**  
**Vs.**  
Respondent: **Delhi Administration and Ors.**

**Hon'ble Judges/Coram:**  
Dalveer Bhandari and Deepak Verma, JJ.

**ORDER**

1. In compliance of the order of this Court dated 8.2.2011, the Chief Secretary to the Government of Madhya Pradesh has filed an affidavit after obtaining the requisite information from the District Collectors and Magistrates in the States. In the affidavit it is mentioned that in the State of Madhya Pradesh, there are 83,663 Government primary schools. Out of them, 74,083 schools have the facility of potable drinking water.Learned Counsel for the State submits that looking to the gravity and urgency of the matter, drinking water facility would be provided in all the schools by 31.5.2011.

2. It is further mentioned in the affidavit that out of 83,663 Government primary schools, only 27,272 schools have toilet facility for boys and girls separately. Learned Counsel for the State seeks time for construction of toilets in the remaining schools. Similarly, out of83,663 primary schools, only 4,568 schools have electricity, 21,567 schools have boundary walls. All the schools have been provided Mid-day Meal facility. Only 33,061 schools have teachers as per the RTE Act. In the affidavit, it is also mentioned that there are about 53,164 posts of teachers to be filled in the primary schools in the State of Madhya Pradesh.

3. It appears the conditions of primary schools are far from satisfactory. We direct the State to provide basic infrastructure facilities in all the Government primary schools as early possible, in any event, within six months from today. This is imperative, otherwise Article 21A of the Constitution - right to free and compulsory education of children would become meaningless.

BIHAR:

4. In pursuance of the directions of this Court, the Chief Secretary to the Government of Bihar has filed an affidavit in which it is mentioned that all the 38 District Magistrates of the State of Bihar have been directed by the Principal Secretary of the Department of Human Resource Development and the Chief Secretary of the State to furnish report regarding availability of basic facilities in accordance with the directions of this Court. It is further stated in the affidavit that consolidated reports are yet to be received from the District Magistrates. We direct the the Chief Secretary to collect the said information and file a supplementary affidavit before this Court.

5. This affidavit is based on the information available with the District Information of School Eduction data for 2009-2010. It is indicated in the affidavit that there are 67,822 schools and out of the

67,822 schools, only 26,910 schools have separate toilets for girls, 12,601 schools have separate toilets for boys and 32,848 schools have common toilets. Out of

67,822 schools, only 2,654 schools have electric connection, 62,730 schools have facility of potable drinking water, 21,102 schools have play grounds, 59,941 schools have buildings and 38,928 schools have constructed boundary walls. Mid-day Meal facility is provided in all the schools.

6. The Chief Secretary in its affidavit has mentioned that the State require additional 3,14,906 teachers and 38,298 instructors and as per the requirement, qualified teachers are not available in the State. A request has been made to the Government of India to relax the eligibility criteria for teachers in the State of Bihar.

We direct the State to provide the facility of drinking water in all the Government primary schools onor before 31st May, 2011 and other infrastructural facilities be provided in the schools as early as possible, in any event, within six months from today.

PUNJAB:

The Chief Secretary to the Government of Punjab has filed an affidavit in which it is mentioned that there are 13,397 primary Schools and 6,235 upper primary schools in the State of Punjab and out of them, 12,977 primary schools and 5,987 upper primary schools are having common toilet facility, Similarly, out of 13,397 schools, 8,607 primary schools and 5323 upper primary schools have separate toilet facilities for girls. Out of 13,397, 13,306 primary schools have drinking water facility and 6141 have drinking water facility, 12,060 primary schools have electricity, 12,625 schools have boundary walls and 9,787 schools have play ground.

Learned Counsel for the State of Punjab undertakes to file an affidavit regarding the strength of teaching staff in the Government schools within eight weeks from today.

7. We direct the State to provide the facility of drinking water in all the Government schools on or before 31st May, 2011 and other infrastructural facilities in the schools be provided as early as possible, in any event, within six months from today.

HARYANA:

The Chief Secretary to the Government of Haryana has filed an affidavit in which it is mentioned that there are 14,785 primary Schools in the State and out of them, 14,377 schools have potable drinking water, 14,675 schools have electric connection and 14,112 schools have proper boundary walls, 14,758 schools have fire safety facility. All the schools in the State of Haryana have provisions for separate toilets for boys and girls and Mid-day Meal facility is available in all the schools.

We direct the State of Haryana to provide the facility of drinking water in all the Government schools on or before 31st May, 2011 and other infrastructural facilities, including the upto date strength of teachers, in the schools be provided as early as possible, in any event, within six months from today.

UTTARAKHAND:

The Chief Secretary to the Government of Uttarakhand has filed an affidavit in which it is indicated that there are 12,493 primary schools and 3010 upper primary schools, 2 combined primary and upper primary schools. 1637 upper primary schools have been affiliated with High School and Inter Colleges and thus

8. total number of schools related to primary education is 17142. As regards the availability of basic facilities in the schools, 15,788 schools have drinking water facility, 11,572 schools have separate girls toilets and 6628 schools have boys toilets, 29218 schools have common toilets, 5373 schools have electricity, 8894 schools have play grounds and 8314 schools have ramp and railing for physically incompetent persons. The total number of sanctioned posts of primary teachers is 17,672 out of which there are vacancies to the tune of 3073. Mid-day Meal is being provided in the 12,785 schools.

We direct the State to provide the facility of drinking water in all the Government schools on or before 31st May, 2011 and other infrastructural facilities in the schools be provided as early as possible, in any event, within six months from today.

JHARKHAND:

The Chief Secretary to the Government of Jharkhand has filed an affidavit in which it is indicated that there are 39,778 primary schools. Out of them, 34,563 schools have drinking water, only 2044 schools have electricity, 8076 schools have boundary walls and 27,211 schools have toilet facility for boys and 22,459 schools have toilet facility for girls.

We direct the State to provide the facility of drinking water in all the Government schools on or before 31st May, 2011 and other infrastructural facilities in the schools be provided as early as possible, in any event, within six months from today.

MAHARASHTRA:

9. The Chief Secretary to the Government of Maharashtra has filed an affidavit in which it is mentioned that there are 97,157 primary schools in the State of Maharashtra. Out of them, 89,338 schools have facility of drinking water, 71,612 schools have electricity connection, 55,171 schools have boundary walls and 29,628 schools have common toilets, 69,053 schools have toilet facility for girls, 63,143 schools are having ramp facility and 30,568 schools have kitchen sheds.

We direct the State to provide the facility of drinking water in all the Government schools on or before 31st May, 2011 and other infrastructural facilities in the schools be provided as early as possible, in any event, within six months from today.

SIKKIM:

The Chief Secretary to the Government of Sikkim has filed an affidavit in which it is indicated that there are 778 primary schools. Out of them, 662 schools are having drinking water facility, 469 schools are having electricity, 349 schools have boundary walls and 734 schools have toilet facility.

We direct the State to provide the facility of drinking water in all the Government schools on or before 31st May, 2011 and other infrastructural facilities in the schools be provided as early as possible, in any event, within six months from today.

UTTAR PRADESH:

10. The Chief Secretary to the Government of Uttar Pradesh has filed an affidavit in which it is mentioned that there are 1,46,959 primary schools in the State. Out of them, 1,28,868 schools have drinking water facility through hand pump, facility of electrification is available in 76,729 schools, 72,205 schools have boundary walls, 1,33,502 schools have toilet facility for boys, 1,24,865 schools have toilet facility for girls, ramps are available in 1,34,747 schools and kitchen-sheds are available in 1,28,376 schools.

We direct the State to provide the facility of drinking water in all the Government schools on or before 31st May, 2011 and other infrastructural facilities in the schools be provided as early as possible, in any event, within six months from today.

ARUNACHAL PRADESH:

The Chief Secretary to the Government of Arunachal Pradesh has filed an affidavit in which it is indicated that there are total number of 1690 primary schools in the State and all these schools have basic infrastructural facilities. Mid-day Meal facility is also available in all the schools. Hence, no further directions are necessary.

PUDUCHERRY:

The Chief Secretary to the Government of Puducherry has filed an affidavit in which it is indicated that there are 710 schools in all, out of which 433 schools are managed by the Government of Puducherry

11. directly. The remaining schools are private unaided. All these 433 Government schools have been provided with the facilities of potable drinking water, electricity, pucca boundary walls, play ground, basic fire safety measure, Mid-day Meal, telephone connection. There is not a single school without toilet/urinal. However, in many schools the number of toilets are less than the norms prescribed under the Pondicherry School Education Rules, 1996. Hence, no further directions are necessary.

JAMMU and KASHMIR:

The Commissioner/Secretary to the Government, Education Department of Jammu and Kashmir has filed an affidavit in which it is mentioned that there are 21,695 Government schools in the State of J & K. Out of them, 18,264 schools have drinking water facility and provisions are being made to make available the facility in the remaining 3431 schools. Out of the 21,695 schools, 6394 schools have common toilets, 3537 schools have separate toilets for girls and 2247 schools have toilets for boys, 1711 schools have electricity facility, 4405 schools have boundary walls and 2755 schools have ramps facility for children with special needs.

We direct the State to provide the facility of drinking water in all the Government schools on or before 31st May, 2011 and other infrastructural facilities in the schools be provided as early as possible, in any event, within six months from today.

TRIPURA:

12. The Chief Secretary to the Government of Tripura has filed an affidavit in which it is indicated that there are 4386 recognized schools in the State. Out of them, 3251 schools have drinking water facility, 627 schools have electricity, 315 schools have boundary walls, 1908 schools have girls toilet and 3298 schools have kitchen-sheds.

We direct the State to provide the facility of drinking water in all the Government schools on or before 31st May, 2011 and other infrastructural facilities in the schools be provided as early as possible, in any event, within six months from today.

KARNATAKA:

The Chief Secretary to the Government of Karnataka has filed an affidavit in which it is mentioned that there are 46,400 primary schools. Out of them, 41,556 schools are having potable drinking water, 42,595 schools are having electricity, 26,283 schools have boundary walls, 40,750 schools have separate toilets for boys, 34,798 schools have separate toilets for girls and Mid-day meal facility is available in 45,962 schools.

We direct the State to provide the facility of drinking water in all the Government schools on or before 31st May, 2011 and other infrastructural facilities in the schools be provided as early as possible, in any event, within six months from today.

TAMIL NADU:

13. The Chief Secretary to the Government of Tamil Nadu has filed an affidavit in which it is indicated that there are a total of 16,198 primary schools. Out of them, 15,761 schools have potable drinking water, 15,430 schools have electricity, 8287 schools have boundary walls and 7026 schools have toilet facilities for boys and 8854 schools have toilet facilities for girls. Midday meal facility is available in 16,187 schools and ramps facility is available in 11,505 schools.

We direct the State to provide the facility of drinking water in all the Government schools on or before 31st May, 2011 and other infrastructural facilities in the schools be provided as early as possible, in any event, within six months from today.

List this matter for further directions on 26th July, 2011.

**IN THE SUPREME COURT OF INDIA**

W.P. (C) No. 631 of 2004

Decided On: 18.10.2011

Appellants: **Environmental and Consumer Protect. Found.**  
**Vs.**  
Respondent: **Delhi Administration and Ors.**

**Hon'ble Judges/Coram:**  
Dalveer Bhandari and Dipak Misra, JJ.

**JUDGMENT**

1. Mr. Ravindra Bana, Learned Counsel for the Petitioner submits that the directions of this Court for providing drinking water in all the schools have been complied with by all the States and the Union Territories excepting the State of Uttar Pradesh and Jammu & Kashmir.

2. Learned Counsel appearing for the State of Uttar Pradesh submits that except in 300 schools, potable drinking water has been provided in all other schools and he gives assurance to the Court that within one week from today, drinking water would be made available in the remaining 300 schools.

3. Learned Counsel appearing for the State of Jammu & Kashmir submits that by 31st October, 2011, drinking water would be made available in all the schools in the State of Jammu & Kashmir.

RE: PROVISION FOR TOILETS IN THE SCHOOLS:

4. We have heard the Learned Counsel for the parties. It is imperative that all the schools must provide toilet facilities. Empirical researches have indicated that wherever toilet facilities are not provided in the schools, parents do not send their children (particularly girls) to schools. It clearly violates the right to free and compulsory education of children guaranteed under Article 21-A of the Constitution.

5. We direct all the States and the Union Territories to ensure that toilet facilities are made available in all the schools on or before 30th November, 2011. In case it is not possible to have permanent construction of toilets, at least temporary toilets be provided in the schools on or before 30th November, 2011 and permanent toilets be made available by 31st December, 2011.

6. We direct the Chief Secretaries/ Administrators of all the States/Union Territories to file their affidavits on or before 30th November, 2011.

7. List this matter for further directions on 5th December, 2011.

**IN THE SUPREME COURT OF INDIA**

W.P.(C) No. 631 of 2004

Decided On: 12.03.2012

Appellants: **Environmental and Consumer Protect. Found**  
**Vs.**  
Respondent: **Delhi Administration and Ors.**

**Hon'ble Judges/Coram:**  
Dalveer Bhandari and Dipak Misra, JJ.

**ORDER**

1. On 13th January, 2012 this Court interalia passed the following order:

Right to free and compulsory education of children of the age group of six to fourteen years is part of fundamental rights guaranteed under Article 21A of the Constitution. This right cannot be enjoyed by children unless basic infrastructure is provided by the State. While keeping this in view, we in our order dated 18.10.2011 directed all the States and Union Territories to ensure that basic toilet facilities are made available in all the schools on or before. 30th November. 2011. The experience and empirical survey have revealed that the parents are reluctant to send their children, particularly girls, to schools where basic toilet facilities are not available. The direct consequence is breach of children's fundamental rights guaranteed under Article 21A of the Constitution. We also made it clear in our ' order that if it is not possible to provide permanent toilets, then at least temporary toilets be provided in the schools on or before 30th November, 2011 and permanent toilets be made available by 31st December, 2011.

The Chief Secretaries of various States were directed to ensure that separate permanent toilets for boys and girls are constructed in all the schools in their respective States on or before 31st March, 2012 and in case it was not possible to construct permanent toilets, then at least temporary toilet facilities were directed to be made available on or before 28th February, 2012 and it was directed that an affidavit to that effect shall be filed by the Chief Secretaries on or before 28th February, 2012.

2. In pursuance of the aforesaid directions of this Court, affidavits have been filed by the States of Uttar Pradesh, Assam, Meghalaya, Mizoram, Chhattisgarh, Punjab, Nagaland, West Bengal, Andhra Pradesh, Maharashtra, Uttarakhand, Odhisha, Karnataka, Jharkhand, Himachal Pradesh, Goa, Municipal Corporation of Delhi and the Union Territory of Lakshadweep. These States/Union Territories in their respective affidavits have indicated that they have either constructed the toilets for boys and girls or they would complete it before the stipulated date that is before 31st March, 2012.

3. According to the Office Report dated 3rd day of March, 2012, following States have not filed their affidavits:

1. Tripura

2. Tamil Nadu

3. Sikkim

4. Gujarat

5. Bihar

6. Rajasthan

7. Jammu & Kashmir

8. Madhya Pradesh

9. Kerala

4. In the interest of justice, we grant one more opportunity to these States to file their respective affidavits within two weeks from today, failing which the Chief Secretary of the State concerned shall remain present in this Court on the next date of hearing. No further time shall be granted.

5. Learned Counsel appearing on behalf of the Ministry of Drinking Water and Sanitation has handed over an affidavit of Sujoy Mojumdar, Director (Water), Ministry of Drinking Water and Sanitation, Government of India. In the affidavit it is mentioned that under the "Total Sanitation Campaign" (TSC), the Central Government supplements the efforts of the States in providing sanitation facilities in the rural areas, including identified existing rural Government schools and Anganwadis by providing them with financial assistance and technical support. It is further submitted in the affidavit that under the TSC, at present, School Sanitation Hygiene Education Programme is operational in 607 Districts spread across 30 States and Union Territories and a total of 11,99,117 school toilets have been financially assisted under the TSC. The cumulative progress of school toilets unit blocks financially assisted under the TSC in the entire country till 29.2.2012 are as follows:

Project Objectives-13,14,636

Project Performance -11,99,117

Percentage-wise progress - 91.21%

6. In paragraph 9 of the said affidavit it is stated that provision of sanitation facility in Government schools is made by States within their TSC allocation. Out of the total of `3068.51 crore approved for School Sanitation under TSC, `2268.28 crore (cumulative) has been reported as expenditure and utilized by the States. The State-wise details of financial progress and utilization under TSC till 29.2.2012 are tabulated and enclosed along with the affidavit.

7. In paragraph 10 of the affidavit it is mentioned that as per information provided by the Department of School Education and Literacy, Ministry of Human Resource Development, the number of Government schools with sanitation facility available, as per their District Information System for Education (DISE) 2010-11 is as under: Total Number of Govt. Schools - 10,96,064 Government Schools with Girls Toilet 6,24,074 Government Schools with Boys/Common Toilet - 8,24,605

8. Let copies of this affidavit be supplied by the Registry to the Learned Counsel appearing for the States/Union Territories within one week from today.

9. Mr. Ravindra Bana, Learned Counsel appearing on behalf of the Petitioner submits that after this Court has dealt with the problem of electricity, potable drinking water and toilets for boys and girls in the Government schools, the other main problem which is still persistent in most of the schools is regarding teachers and infrastructure. In order to ensure compliance of Article 21A of the Constitution, it is imperative that schools must have qualified teachers and basic infrastructure.

10. Learned Counsel appearing on behalf of the National University for Educational Planning and Education undertakes to file a comprehensive affidavit giving therein up-to-date position about the availability of teachers and infrastructure in schools.

11. Let a comprehensive affidavit be filed by all the States/Union Territories regarding teachers and infrastructure in schools within three weeks from today, with an advance copy to the Learned Counsel for the Petitioner and the counsel for the States/Union Territories. List this matter for further directions on 9th April, 2012.

**IN THE SUPREME COURT OF INDIA**

Writ Petition (Civil) No. 631 of 2004 (Under Article 32 of the Constitution of India)

Decided On: 03.10.2012

Appellants: **Environment and Consumer Protection Foundation**  
**Vs.**  
Respondent: **Delhi Administration and Ors.**

**Hon'ble Judges/Coram:**  
K.S. Panicker Radhakrishnan and Dipak Misra, JJ.

**JUDGMENT**

**K.S. Panicker Radhakrishnan , J.**

1. This Court's jurisdiction under Article 32 of the Constitution of India has been invoked by the Petitioner, a registered charitable society, seeking various directions to improve the conditions of Government and aided schools and also school run by the local authorities so that the constitutional objective of providing free and compulsory education under Article 21A of the Constitution of India would be a reality.

2. The Writ Petition was filed in the year 2004 and since then, several interim orders have been passed giving directions to the States and the Union Territories to provide the basic infrastructure facilities like toilet facility, drinking water, class rooms, appointment of teachers and all other facilities so that children can study in a clean and healthy environment. While the matter was pending before this Court, the Parliament enacted the Right of Children to Free and Compulsory Education Act, 2009 (in short 'the RTE Act'). The constitutional validity of theRTE Act was challenged before this Court and this Court, vide its judgment dated 12.4.2012 in Society for Unaided Private Schools of Rajasthan v. Union of India and Anr.  : (2012) 6 SCC 1, upheld its validity and gave various directions, some of which are as follows:

(a) In exercise of the powers conferred upon the appropriate Government Under Section 38 of the RTE Act, the Government shall frame rules for carrying out the purposes of this Act and in particular, the matters stated under Sub-section (2) of Section 38 of the RTE Act.

(b) The directions, guidelines and rules shall be framed by the Central Government, appropriate Government and/or such other competent authority under the provisions of the RTE Act, as expeditiously as possible and, in any case, not later than six months from the date of pronouncement of this judgment.

(c) All the State Governments which have not constituted the State Advisory Council in terms of Section 34 of the RTE Act shall so constitute the Council within three months from today. The Council so constituted shall undertake its requisite functions in accordance with the provisions of Section 34 of the Act and advise the Government in terms of Clauses (6), (7) and (8) of this order immediately thereafter.

(d) Central Government and State Governments may set up a proper Regulatory Authority for supervision and effective functioning of the Act and its implementation.

3. This Court, therefore, directed the Central Government, appropriate Government and other competent authorities functioning under the RTE Act to issue proper directions/guidelines for its full implementation within a period of six months from the date of the pronouncement of that judgment. This Court also directed all the State Governments to constitute State Advisory Council within three months from the date of that judgment. Advisory Councils so constituted were directed to discharge their functions in accordance with the provision of Section 34of the RTE Act and advise the Government in terms of Clauses (6), (7) and (8) of this Court's order. The necessity of constituting a proper Regulatory Authority for effective functioning of the RTE Act and its implementation was also highlighted. The Central Government was also directed to frame rules, in exercise of its powers Under Section 38 of the RTE Act, for proper implementation of the RTE Act.

4. On the basis of directions issued by this Court in this Writ Petition, some of the States have responded by furnishing the details of infrastructure facilities available in the schools situated in their respective States. This Court noticed that some of the schools have not provided proper toilet facilities for boys and girls and in some of the schools, it was noticed, that there is no provision for drinking water as well. Detailed interim orders were passed by this Court on 29.4.2011 and 22.9.2011. On 18.10.2011, this Court passed the following order:

We have heard the Learned Counsel for the parties. It is imperative that all the schools must provide toilet facilities. Empirical researches have indicated that wherever toilet facilities are not provided in the schools, parents do not send their children (particularly girls) to schools. It clearly violates the right to free and compulsory education of children guaranteed under Article 21A of the Constitution.

We direct all the States and the Union Territories to ensure that toilet facilities are made available in all the schools on or before 30th November, 2011. In case it is not possible to have permanent construction of toilets, at least temporary toilets be provided in the schools on or before 30th November, 2011 and permanent toilets be made available by 31st December, 2011.

We direct the Chief Secretaries/Administrators of all the States/Union Territories to file their affidavits on or before 30th November, 2011.

5. Again, on 5.12.2011, this Court reiterated the directions as follows:

In our previous order dated 18.10.2011, we clearly indicated that it is imperative that all the schools must provide toilet facilities; empirical researches have indicated that wherever toilet facilities are not provided in the schools, parents do not send their children (particularly girls) to schools.

It clearly violates the right to free and compulsory education of children guaranteed under Article 21A of the Constitution. Office Report dated 3rd day of December, 2011 indicates that despite opportunity granted, the States of Tamil Nadu, Gujarat, Chhattisgarh, Meghalaya, West Bengal, Arunachal Pradesh, Punjab, Goa, Tripura and Union Territory of Lakshadweep have not filed their affidavits. One more opportunity is granted to these States/Union Territory to file their affidavits. Let the affidavits be filed within two weeks from today. No further time shall be granted for this purpose.

We are told that the Ministry of Drinking Water and Sanitation is the concerned ministry. We request the learned additional Solicitor General appearing on behalf of the Union of India to take instructions from the Ministry of Drinking Water and Sanitation and file an affidavit within four weeks from today, indicating therein the latest position about the problem of drinking water in the country.

6. The situation that we get in few States has been elaborately dealt with by this Court in its interim order dated 13.1.2012. Some of the States have taken some positive steps, but some the States still lag behind. Taking note of all those aspects, this Court passed an order on 12.3.2012, the operative portion of which reads as follows:

The Chief Secretaries of various States were directed to ensure that separate permanent toilets for boys and girls are constructed in all the schools in their respective States on or before 31st March, 2012 and in case it was not possible to construct permanent toilets, then at least temporary toilet facilities were directed to be made available on or before 28th February, 2012 and it was directed than an affidavit to that effect shall be filed by the Chief Secretaries on or before 28th February, 2012.

In pursuance of the aforesaid directions of this Court, affidavits have been filed by the States of Uttar Pradesh, Assam, Meghalaya, Mizoram, Chhattisgarh, Punjab, Nagaland, West Bengal, Andhra Pradesh, Maharashtra, Uttarakhand, Odisha, Karnataka, Jharkhand, Himachal Pradesh, Goa, Municipal Corporation of Delhi and the Union Territory of Lakshadweep. These States/union Territories in their respective affidavits have indicated that they have either constructed the toilets for boys and girls or they would complete it before the stipulated date that is before 31st March, 2012.

According to the Office Report dated 3rd day of March, 2012, following States have not filed their affidavits:

1. Tripura

2. Tamil Nadu

3. Sikkim

4. Gujarat

5. Bihar

6. Rajasthan

7. Jammu and Kashmir

8. Madhya Pradesh

9. Kerala

In the interest of justice, we grant one more opportunity to these States to file their respective affidavits within two weeks from today, failing which the Chief Secretary of the State concerned shall remain present in this Court on the next date of hearing. No further time shall be granted.

Learned Counsel appearing on behalf of the Ministry of Drinking Water and Sanitation has handed over an affidavit of Sujoy Mojumdar, Director (Water), Ministry of Drinking Water and Sanitation, Government of India. In the affidavit it is mentioned that under the "Total Sanitation Campaign" (TSC), the Central Government supplements the efforts of the States in providing sanitation facilities in the rural areas, including identified existing rural Government schools and Anganwadis by providing them with financial assistance and technical support. It is further submitted in the affidavit that under the TSC, at present, School Sanitation Hygiene Education Programme is operational in 607 districts spread across 30 States and Union Territories and a total of 11,99,117 school toilets have been financially assisted under the TSC. The cumulative progress of school toilets unit blocks financially assisted under the TSC in the entire country till 29.2.2012 are as follows:

Project Objectives - 13,14,636

Project Performance - 11,99,117

Percentage-wise progress - 91.21%

In paragraph 9 of the said affidavit it is stated that provision of sanitation facility in Government schools is made by States within their TSC allocation. Out of the total of Rs. 3068.51 crore approved for School Sanitation under TSC, Rs. 2268.28 crore (cumulative) has been reported as expenditure and utilized by the States. The State-wise details of financial progress and utilization under TSC till 29.2.2012 are tabulated and enclosed along with the affidavit.

In paragraph 10 of the affidavit it is mentioned that as per information provided by the Department of School Education and Literacy, Ministry of Human Resource Development, the number of Government schools with sanitation facility available, as per their District Information System for Education (DISE) 2010-11 is as under:

Total Number of Govt. Schools - 10,96,064

Government Schools with Girls Toilet - 6,24,074

Government Schools with Boys/Common Toilet - 8,24,605

Let copies of this affidavit be supplied by the Registry to the Learned Counsel appearing for the States/Union Territories within one week from today.

Mr. Ravindra Bana, Learned Counsel appearing on behalf of the Petitioner submits that after this Court has dealt with the problem of electricity, potable drinking water and toilets for boys and girls in the Government schools, the other main problem which is still persistent in most of the schools is regarding teachers and infrastructure. In order to ensure compliance of Article 21A of the Constitution, it is imperative that schools must have qualified teachers and basic infrastructure.

Learned Counsel appearing on behalf of the National University for Educational Planning and Education undertakes to file a comprehensive affidavit giving therein up-to-date position about the availability of teachers and infrastructure in schools.

Let a comprehensive affidavit be filed by all the States/Union Territories regarding teachers and infrastructure in schools within three weeks from today, with an advance copy to the Learned Counsel for the Petitioner and the counsel for the States/Union Territories.

7. We notice that some of the States have not fully implemented the directions issued by this Court in Society for Unaided Private Schools of Rajasthan (supra) as well as the provisions contained in the RTE Act. Considering the facts that this Court has already issued various directions for proper implementation of the RTE Act and to frame rules, there is no reason to keep this Writ Petition pending.

8. We also notice that Section 31 of the RTE Act has also conferred certain functions on the National Commission for Protection of Child Rights and also on the State Commissions. Section 31 reads as follows:

31. Monitoring of child's right to education.-

(1) The National Commission for Protection of Child Rights constituted Under Section 3, or, as the case may be, the State Commission for Protection of Child Rights constituted Under Section 17, of the Commissions for Protection of Child Rights Act, 2005, shall, in addition to the functions assigned to them under that Act, also perform the following functions, namely:-

(a) examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation;

(b) inquire into complaints relating to child's right to free and compulsory education; and

(c) take necessary steps as provided Under Sections 15 and24 of the said Commissions for Protection of Child Rights Act.

(2) The said Commissions shall, while inquiring into any matters relating to child's right to free and compulsory education under Clause (c) of Sub-section (1), have the same powers as assigned to them respectively Under Sections 14 and 24 of the said Commissions for Protection of Child Rights Act.

(3) Where the State Commission for Protection of Child Rights has not been constituted in a State, the appropriate Government may, for the purpose of performing the functions specified in Clauses (a) to (c) of Sub-section (1), constitute such authority, in such manner and subject to such terms and conditions, as may be prescribed.

We are confident that those statutory authorities will also examine and review the safeguards for the child's rights and recommend measures for their effective implementation.

9. We are, inclined to dispose of this Writ Petition with a direction to all the States to give effect to the various directions already given by this Court like providing toilet facilities for boys and girls, drinking water facilities, sufficient class rooms, appointment of teaching and non-teaching staff etc., if not already provided, within six months from today. We make it clear that these directions are applicable to all the schools, whether State owned or privately owned, aided or unaided, minority or non-minority. As the writ petition is disposed of, no orders are required to be passed on applications for intervention and impleadment and the same are disposed of.

10. We make it clear that if the directions are not fully implemented, it is open to the aggrieved parties to move this Court for appropriate orders.