

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C)NO.483 of 2004

AVINASH MEHROTRA

.....PETITIONER

VERSUS

UNION OF INDIA & ORS.

.....RESPONDENTS

O R D E R

1. Mr.Tushar Mehta, learned Additional Solicitor General, has handed over to us a draft letter, addressed by the National Disaster Management Authority, to All the Chief Secretaries/Principal Secretaries, Department of Education, of all the States and Union Territories. It is also submitted, that the National Disaster Management Authority shall send similar communications to the Ministry of Human Resource Development for being implemented with reference to schools under its jurisdiction.

2. The aforestated draft letter is extracted hereinbelow:

"Letter to Chief Secretaries/Principal Secretaries,
Dept. of Education - States

Dear Sir,

The safety environment in the schools for children is one of the most important priority area for the Central Government as well as for National Disaster Management Authority. Incidents of death / injury of school children in a natural disaster, fires and other disasters highlight the need to focus on making schools

absolutely safe by taking all measures which are required to be taken.

2. The Disaster Management Act, 2005 is a Statute specifically enacted by Parliament for prevention and mitigating effects of disasters and for undertaking a holistic, coordinated and prompt response in a disaster situation. The National Disaster Management Authority is constituted under the same Act and is exercising the statutory powers vested upon it under the said Act.

3. The National Disaster Management Authority (NDMA) formulated the National Disaster Management Guidelines on School Safety Policy in 2016 with a vision of safety of school children. This is a mandatory statutory requirement to be implemented in each of the schools in the country. These guidelines clearly spell out the roles and responsibilities of different stakeholders for preparing plans, developing capacity, incorporating risk reduction in the syllabus, and improving coordination and synergy at all levels. Section 39 (a) of the DM Act 2005 mandates the Departments of State Governments to take measures necessary for prevention of disasters, mitigation, preparedness and capacity building in accordance with the guidelines laid down by the National Authority and the State Authority.

4. The Guidelines on School Safety Policy, 2016 prepared by the National Disaster Management Authority are statutory in nature and are statutorily required to be complied with scrupulously without any deviation. Special attention should be paid to fire safety. All the requirements to ensure safety of children in schools mentioned in the said Policy of 2016 are statutory in nature and everyone involved in the process of ensuring safety of children are statutorily bound by the same.

5. NDMA circulated the copy of the guidelines on 9th January 2017 to Secretaries of Department of Revenue and Disaster Management, State Governments /UTs Administration, Vice Chairpersons of SDMA and Director of Department of School Education and Literacy, Ministry of Human Resource Development (MHRD) for further dissemination and implementation at appropriate levels in the State. A copy of the letter was also marked to all Chief Secretaries of the States/UTs.

6. The copy of the said Guidelines is being enclosed again with this communication. Section 5 of the said Guidelines titled as "Action Points for Stakeholders" details the institutional and operational roadmap for implementation of the Guidelines as well as mentions

the specific set of actions to be taken right from the National Level to Local Level (up-to school level) to strengthen school safety measures.

7. The Hon'ble Supreme Court of India is also pleased to direct time-bound implementation of the said guidelines. The State Governments/UTs are directed to prepare a State/UT specific action plan along-with timeframe for implementation of the guidelines and submit the same within one month of receipt of this letter to Department of School Education & Literacy, MHRD and NDMA.

8. As per the provisions contained in the Act which provides for a three-tier system viz. National Disaster Management Authority, the State Disaster Management Authority and District Disaster Management Authority, the effective implementation of the policy is possible only if the compliance with the said policy is ensured at the level of District Disaster Management Authority as contemplated under Section 25 of the Act. The District Authority consists of the Collector or District Magistrate or Deputy Commissioner, as the case may be, as its Chairperson and includes elected representatives and Superintendent of Police, Chief Medical Officer etc. as its members. It shall be the duty of the District Disaster Management Authority constituted under Section 25 of the Act to ensure compliance with the National Disaster Management Guidelines on School Safety Policy, 2016 and to monitor such compliance.

9. It is observed that the Central Board of Secondary Education Schools [CBSE], Kendriya Vidyalaya Sangathan Schools [KVS], Sarva Shiksha Abhiyan [SSA] do not fall within the jurisdiction of the State Administration or District Education Officer of each district in a State. For the purpose of administration of these schools, the Central Government can directly monitor them. However, so far as the implementation of National Disaster Management Guidelines [School Safety Policy] 2016 is concerned, it is imperative that a nodal officer is earmarked who can ensure adherence and compliance to the said policy by all above referred schools and who is functioning at local district level.

10. It is, therefore, requested that the Department of School Education & Literacy, MHRD issues necessary instructions to the schools as well as to the Chief Secretaries of each State directing that the district education officer working under the State Administration would be the Nodal Officer for ensuring

adherence and compliance of the aforesaid guidelines even for Central Board of Secondary Education Schools [CBSE], Kendriya Vidyalaya Sangathan Schools [KVS], Sarva Shiksha Abhiyan [SSA] within his jurisdiction.

11. Considering the devastating result in the event of non discharge of Statutory functions for prevention of such disasters, it is necessary that the National Disaster Management Authority and the State Government identifies a responsible officer in each District in the country to function as a Nodal Officer to ensure strict, mandatory and scrupulous compliance with the Statutory guidelines referred above so as to ensure that in the event of failure or negligence of such Nodal Officer, responsibility can be fixed.

12. Under the circumstances, it is directed that the District Education Officer of each District shall be declared to be a "Nodal officer" with responsibility, liability and obligation as well as powers and functions to ensure strict compliance with the National Disaster Management Guidelines [School Safety Policy], 2016 within the district of his jurisdiction.

The District Disaster Management Authority as constituted under Section 25 of the Act shall periodically monitor his functioning and ensure that the District Education Officer as a Nodal Officer discharges his duty for strict adherence and compliance with the directives / guidelines contained in the said Policy of 2016. The Chief Secretary of each State will satisfy himself about the due discharge of functions by the District Disaster Management Authority as well as District Education Officer as a Nodal Officer and would send a report containing compilation of quarterly reports received by him from the District level authorities / nodal officer to the Department of School Education & Literacy, Ministry of HRD as well as NDMA.

13. The Department of School Education & Literacy, Ministry of HRD and NDMA will jointly monitor the implementation of the said guidelines at the national level through periodical meetings for each State and periodical reviews. The joint monitoring of the implementation of such safety guidelines shall be done by Joint Committee consisting of representations of both Department of School Education & Literacy, Ministry of HRD and NDMA to be constituted by NDMA."

3. We are satisfied, that the determination at the hands of the Union of India fully satisfies the parameters required to be

implemented on the subject under consideration. We therefore approve the same. We also hereby direct, that the same shall be implemented in letter and spirit by all concerned authorities. The determination recorded hereinabove effectively disposes of all the issues canvassed in the instant writ petition. The same is accordingly hereby disposed of.

.....CJI.
(JAGDISH SINGH KHEHAR)

.....J.
(Dr.D.Y.CHANDRACHUD)

NEW DELHI;
AUGUST 14, 2017.

ITEM NO.18

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s).483/2004

AVINASH MEHROTRA

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR EXEMPTION FROM PERSONAL APPEARANCE ON IA 6/2010
FOR ON IA 7/2011 FOR EXEMPTION FROM FILING O.T. ON IA 8/2011
FOR [PERMISSION TO FILE ANNEXURES] ON IA 9/2017
FOR EXEMPTION FROM FILING O.T. ON IA 10/2017)

Date : 14-08-2017 These matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s) Mr.Prashant Kumar, Adv.
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Ms.Deepa Kulkarni, Adv.

Dr.Monika Gusain, Adv.

Mr.Raja Chatterjee, Adv.
Mr.Chanchal Kr.Ganguli, Adv.
Mr.Adeel Ahmed, Adv.

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

The writ petition is disposed of in terms of the signed
order.

(SATISH KUMAR YADAV)
AR-CUM-PS

(RENUKA SADANA)
ASST.REGISTRAR

(Signed order is placed on the file)