

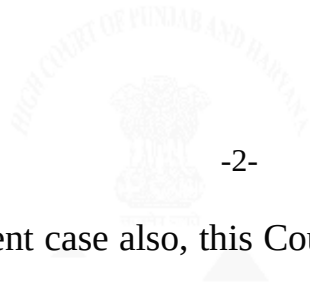
VIKRAMJEET SINGH VS STATE OF PUNJAB AND ORS.

Present: Mr. Sunny Singla, Advocate
for the petitioner.

Mr. Surya Kumar, AAG, Punjab.

1. The petitioner has filed the present petition under Article 226/227 of the Constitution of India with a prayer to issue a writ in the nature of Certiorari for quashing the action of respondents No. 3 & 4 for not relieving the petitioner from present place of posting i.e Government Middle School Tapiala, District, Amritsar, in compliance of the transfer order dated 31.08.2024, passed by the respondents.

2. During the course of hearing before this Court, learned counsel for the petitioner as well as learned State counsel have informed the Court that the petitioner, who is a Hindi teacher, is the only teacher available in the Middle School, at this moment and no other teacher for any other subject was available. At this stage, learned State counsel was directed to seek instructions with regard to the state of affairs in Government Middle School, Tapiala and from the submissions made by learned State counsel, it is apparent that no proper facilities and staff are available in the said school. Rather, the facts of the present case clearly highlight the sorry state of affairs in the Government schools in the State of Punjab and it appears that the higher officers of the Education Department are completely oblivious of such conditions in Government schools, which are functioning without any teachers, Principals/Head Teachers, toilets and other basic amenities.



3. In the present case also, this Court is also extremely pained to note that in Government Middle School, Village Tapila, only one room is available for three classes i.e. 6th to 8th class and only two toilets are available to the students. There is no separate toilet for staff members/teachers at the school. Shockingly, there is no Head Master/any other staff member in the school and the Principal of some other Government Girls Senior Secondary School is having the additional charge of the post of Head Master of the present school. The said Principal is also holding an additional charge of another school situated at Beas, Amritsar as well.

4. Since, the petitioner, who is a Hindi teacher, is unfortunately the only available teacher in the school, at this moment and no infrastructure is available, only 09 students have been admitted in the present school. Since, there is no infrastructure/teachers in the school, it is a matter of common knowledge that the parents may not be inclined to send their wards to the said school, which is further proved from the fact that only 09 students have been admitted in the school. This Court has also reasons to believe that even those 09 students belong to the poorest/lowest strata of the society, who probably might be coming to the school only to take mid-day meal. Apart from that, it is a matter of common knowledge that the students of 6th to 8th class are taught various subjects. However, only 01 Hindi teacher is available in the entire school. Even, the Court has been informed that Mrs. Gagandeep Kaur, Computer teacher also comes to the school twice a week, whereas, she is posted in some other school on regular basis. Even, classrooms for teaching the students are not available and there is no proper playground in the school. Even,

there is no proper boundary wall of the school. No Clerk/Sweeper/Watchman has been ordered to be posted in the school.

5. To provide free and compulsory education to all the children of this country between the age of 6 to 14 years, the Parliament had inserted Article 21- A in the Constitution of India by way of Constitution (86th Amendment) Act 2002 and the same has been reproduced below:-

21-A. Right to Education- *The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine”.*

6. After the insertion of Article 21-A in the Constitution of India, the Parliament had enacted the Right of the Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the ‘Act of 2009’) and as per the “Statement of Objects and Reasons” of the ‘Act of 2009’, the Act was proposed to be enacted to provide-

(a) that every child has a right to be provided full time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards;

(b) 'compulsory education' casts an obligation on the appropriate Government to provide and ensure admission, attendance and completion of elementary education;

(c) 'free education' means that no child, other than a child who has been admitted by his or her parents to a school which is not supported by the appropriate Government, shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education;

(d) the duties and responsibilities of the appropriate Governments, local authorities, parents, schools and teachers in providing free and compulsory education; and

(e) a system for protection of the right of children and a decentralized grievance redressal mechanism.

7. Section 3 of the said Act provides for right of the child to free and compulsory education and the same has been reproduced below:-

3.Right of child to free and compulsory education.-[(1) Every child of the age of six to fourteen years, including a child referred to in clause(d) or clause (e) of section 2, shall have the right to free and compulsory education in a neighbourhood school till the completion of his or her elementary education.]

(2) For the purpose of sub-section (1), no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the elementary education.

(3)A child with disability referred to in sub-clause (A) of clause (ee) of section 2 shall, without prejudice to the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), and a child referred to in sub-clauses (B) and (C) of clause (ee) of section 2, have the same rights to pursue free and compulsory elementary education which children with disabilities have under the provisions of Chapter V of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996):

Provided that a child with "multiple disabilities" referred to in clause (h) and a child with "severe disability" referred to in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999) may also have the right to opt for home-based education”.

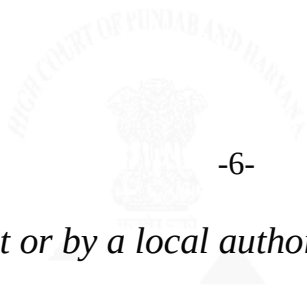
8. Section 6 of the ‘Act of 2009’ provides for duty of the appropriate Government and local authority to establish school, which is as follows:-

6. *Duty of appropriate Government and local authority to establish school.-*

For carrying out the provisions of this Act, the appropriate Government and the local authority shall establish, within such area or limits of neighbourhood, as may be prescribed, a school, where it is not so established, within a period of three years from the commencement of this Act.

9. Still further, Section 7 of the 'Act of 2009' clearly provides that the Central Government and the State Government shall have concurrent responsibility for providing funds for carrying out the provisions of this Act. The Central Government shall prepare the estimates of capital and recurring expenditure for the implementation of the provisions of this Act and the Central Government is under a legal duty to provide to the State Governments, as grants-in-aid of the revenues from time to time in consultation with the State Government. Still further, Section 8 of the 'Act of 2009' clearly provides that it shall be the duty of the appropriate Government to ensure the availability of neighbourhood school as specified in Section 6; to provide infrastructure including school building, teaching staff and learning equipments; ensure and monitor admissions, attendance and completion of elementary education by every child; ensure good quality elementary education conforming to the standards and norms specified in the Schedule, ensure timely prescribing of curriculum and courses of study for elementary education. Apart from that, Section 26 of the 'Act of 2009' provides for filling up vacancies of teachers and the same has been reproduced below:-

26. *Filling up vacancies of teachers-* *The appointing authority, in relation to a school established, owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate*



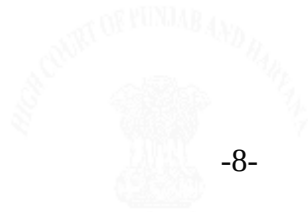
Government or by a local authority, shall ensure that vacancy of teacher in a school under its control shall not exceed ten per cent of the total sanctioned strength.

10. Still further, in terms of the Section 19 and 25 of the ‘Act of 2009’, a Schedule has been appended to the Act, which provides for mandatory norms and standards for a school and the same has been reproduced below:-

Sr. No.	Item	Norms and Standards	
1. Number of teachers: (a) For first class to fifth class		Admitted Children	Number of teachers
		Up to sixty	Two
		Between sixty-one to ninety	Three
		Between ninety-one to one hundred and twenty	Four
		Above one hundred and fifty children	Five plus one Head Teacher
(b) For sixth class to eight class		Above Two hundred children	Pupil-Teacher Ratio(excluding Headteacher) shall not exceed forty.
		(1) At least one teacher per class so that there shall be at least one teacher each for— (i) Science and Mathematics; (ii) Social Studies; (iii) Languages. (2) At least one teacher for every thirty-five children. (3) Where admission of children is above one hundred— (i) a full time head-teacher; (ii) part time instructors for— (A) Art Education; (B) Health and Physical Education; (C) Work Education.	



{1A. Number of Special Education Teachers for children with special needs (a) For first class to fifth class (b) For sixth class to eighth class	One Special Education Teacher for every ten pupils with disabilities enrolled. One special Education Teacher for every fifteen pupils with disabilities enrolled Note:1 One school and one (minimum) special education teacher norms remains intact. Note:2 Adhoc or special provision of Itinerant Special Education Teacher under special circumstances as per the Pupil Teacher Ratio specified above may be done in cluster of schools in case of- (i) adequate number of special education teachers are not available, (ii) school is a single teacher school having only one general education teacher. This may be done with the conditions that the allotment of (i) not more than four schools:- and (ii) distance between any two allotted schools should not be more than five kilometres so that Special Education Teacher gets the required time to provide necessary interventions at each school level. Note 3: The condition of number of schools and distance covered under Note 2 shall remain intact till minimum of fifty percent of the pupil Teacher Ratio is maintained and the Special Education Teacher and schools make effort to bring more students with disabilities to classrooms to maintain required pupil teacher Ratio. In case the minimum fifty per cent of Pupil
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	Teacher Ratio is not achieved, one by one nearby schools shall be added]
2. Building	All-weather building consisting of— (i) at least one class-room for every teacher and an office-cum-store-cum-Head teacher's room; (ii) barrier-free access; (iii) separate toilets for boys and girls; (iv) safe and adequate drinking water facility to all children; (v) a kitchen where mid-day meal is cooked in the school; (vi) Playground; (vii) arrangements for securing the school building by boundary wall or fencing.
3. Minimum number of working days/instructional hours in an academic year	(i) two hundred working days for first class to fifth class; (ii) two hundred and twenty working days for sixth class to eighth class; (iii) eight hundred instructional hours per academic year for first class to fifth class; (iv) one thousand instructional hours per academic year for sixth class to eighth class.
4. Minimum number of working hours per week for the teacher	forty-five teaching including preparation hours.
5. Teaching learning equipment	shall be provided to each class as required.
6. Library	There shall be a library in each school providing newspaper, magazines and books on all subjects, including story-books.
7. Play material, games and sports equipment	Shall be provided to each class as required.



11. Still further, the Hon'ble Supreme Court has held in the matter of **State of Tamil Nadu and Ors. Vs. K. Shyam Sunder and Ors.** 2011 AIR Supreme Court 3470 as follows:-

6. In post-Constitutional era, an attempt has been made to create an egalitarian society removing disparity amongst individuals, and in order to achieve that purpose, education is one of the most important and effective means. After independence, there has been an earnest effort to bring education out of commercialism/mercantilism. In the year 1951, the Secondary School Commission was constituted as per the recommendation of Central Advisory Board of Education and an idea was mooted by the Government to prepare textbooks and a common syllabus in education for all students. In 1964-1966, the report on National Education Policy was submitted by the Kothari Commission providing for common schools suggesting that public funded schools be opened for all children irrespective of caste, creed, community, religion, economic conditions or social status. Quality of education imparted to a child should not depend on wealth or class. Tuition fee should not be charged from any child, as it would meet the expectations of parents with average income and they would be able to send their children to such schools. The recommendations by the Kothari Commission were accepted and reiterated by the Yashpal Committee in the year 1991. It was in this backdrop that in Tamil Nadu, there has been a demand from the public at large to bring about a common education system for all children.

In the year 2006, in view of the struggle and campaign and constant public pressure, the Committee under the Chairmanship of Dr. S. Muthukumaran, former Vice-Chancellor of Bharathidasan University was appointed which recommended to introduce a common education system after abolishing the four different Boards then in existence in the State. Subsequent thereto, the

Committee constituted of Shri M.P. Vijayakumar, IAS was appointed to look into the recommendations of Dr. S. Muthukumaran Committee which also submitted its recommendations to the Government to implement a common education system upto Xth standard.

7.The right to education is a Fundamental Right under Article 21 A inserted by the 86th amendment of the Constitution. Even before the said amendment, this Court has treated the right to education as a fundamental right. (**Vide: Miss Mohini Jain v. State of Karnataka & Ors., AIR 1992 Supreme Court 1858, Unni Krishnan, J.P. & Ors. etc. etc. v. State of A.P & Ors. etc. etc., AIR 1993 Supreme Court 2178, and T.M.A. Pai Foundation & Ors. v. State of Karnataka & Ors., (2002) 8 SCC 481**)

7.There has been a campaign that right to education under Article 21A of our Constitution be read in conformity with Articles 14 and 15 of the Constitution and there must be no discrimination in quality of education. Thus, a common syllabus and a common curriculum is required. The right of a child should not be restricted only to free and compulsory education, but should be extended to have quality education without any discrimination on the ground of their economic, social and cultural background.

Arguments of the propagators of this movement draw support from the judgment of U.S. Supreme Court in the case of **Brown v. Board of Education, 347 U.S. 483 (1954)** over-ruling its earlier judgment in **Plessy v. Ferguson, 163 U.S. 537 (1896)**, where it has been held that "separate education facilities are inherently unequal" and thus, violate the doctrine of equality.

The propagators of this campaign canvassed that uniform education system would achieve the code of common culture, removal of disparity, depletion of discriminatory values in human relations. It would enhance the virtues and improve the quality of human life, elevate the thoughts which advance our constitutional

philosophy of equal society. In future, it may prove to be a basic preparation for uniform civil code as it may help in diminishing opportunities to those who foment fanatic and fissiparous tendencies.

*In **Rohit Singhal & Ors. v. Principal, Jawahar N. Tidyalya & Ors.**, AIR 2003 Supreme Court 2088. this Court expressed its great concern regarding education for children observing as under:*

"Children are not only the future citizens but also the future of the earth. Elders in general, and parents and teachers in particular, owe a responsibility for taking care of the well-being and welfare of the children. The world shall be a better or worse place to live according to how we treat the children today. Education is an investment made by the nation in its children for harvesting a future crop of responsible adults productive of a well functioning Society. However, children are vulnerable. They need to be valued, nurtured, caressed and protected."

(Emphasis added)

8. In **State of Orissa v. Mamta Mohanty**, (2011) 3 SCC 436, this Court emphasised on the importance of education observing that education connotes the whole course of scholastic instruction which a person has received. Education connotes the process of training and developing the knowledge, skill, mind and character of students by formal schooling. The Court further relied upon the earlier judgment in **Osmania University Teachers' Assn. v. State of A.P. & Anr.**, AIR 1987 Supreme Court 2034, wherein It has been held as under:

.....Democracy depends for its very life on a high standard of general, vocational and professional education. Dissemination of

learning with search for new knowledge with discipline all round must be maintained at all costs."

12. Still further, while discussing the rights of school children and right to basic necessities/facilities, the Hon'ble Supreme Court in Writ Petition (C) No.631 of 2004, titled as **"Environmental & Consumer Protection Foundation Vs. Delhi Administration"** directed the State Governments to provide the basic infrastructural facilities in all the Government Primary Schools as early as possible, in any event within six months from 29.04.2011. The Hon'ble Supreme Court further held that this was imperative, otherwise, Article 21-A of the Constitution of India i.e. right to free and compulsory education of children would become meaningless.

13. In view of the above discussion, this Court has no hesitation to hold that the State Government should have acted bearing in mind that "destiny of a nation rests with its youths". Even the personality of a child is developed at the time of basic education during his formative years of life. Their career should not be left in dolorific conditions with this kind of poor infrastructure. Even in a welfare State, the State Government must bear in mind that the younger generation of State of Punjab has to compete in global market in future and the education is not a consumer service. Rather, the State Government should make all out efforts to improve the conditions of the educational institutions in the State of Punjab. Apart from that, in order to ensure the compliance of Article 21-A of the Constitution of India in true letter and spirit, it is imperative that all the schools in the State must have adequate number of well qualified teachers and must ensure the availability of the basic infrastructure at the same time. Apart from that, this right should not be

restricted to provide free and compulsory education, but State must strive hard to ensure that the quality education is available to all the young children in the State, without any discrimination on the ground of their economic, social and cultural background.

14. The Secretary, Department of Education, Government of Punjab is directed to file his personal affidavit, mentioning the following details:-

- (i) the complete details of all the Government Middle Schools in the State of Punjab, where less than five rooms are there (three rooms are required as classrooms, one for Head Teacher/staff members and one room for office as well as store room.*
- (ii) the details of the Government Middle Schools, where no regular Head Master has been posted.*
- (iii) the number and details of schools, where less than five teachers are posted in Government Middle Schools.*
- (iv) the details of the Government Middle Schools, where there are no separate toilets for boys, girls and staff.*
- (v) list of the Government Middle Schools, where less than 50 students have been enrolled in the present academic session and whether any steps have been taken to get more students enrolled in such schools.*
- (vi) the details of the Government Middle Schools, where there is no provision for clean drinking water for the children.*
- (vii) the number and details of the schools, where no sweeper has been provided for cleaning the toilets.*
- (viii) whether separate funds have been provided by the State for purchasing toilet cleaning material in the schools.*
- (ix) the details of the middle schools where no play ground is available for the students.*
- (x) whether any provisions have been made by the State to set up napkin vending machines in the Government Middle Schools for girls students only.*

15. A copy of this order may be placed before the Hon'ble Chief Justice with a humble request to treat the present order as a Public Interest Litigation.

16. The main case may be ordered to be listed before the appropriate Bench for further consideration on **14.10.2025**.

17. To be shown in urgent list.

22.09.2025

hitesh

(N.S.SHEKHAWAT)
JUDGE