

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 6771/2008

SOCIAL JURIST, A CIVIL
RIGHTS GROUP

Through

..... Petitioner

Mr. Ashok Aggarwal, Ms. Kusum
Sharma, Mr. Mannu Mohan, Advs.

versus

GOVT. OF N.C.T. OF DELHI
& ANR.

Through:

..... Respondents

Mr. N. Waziri, Adv. for GNCTD
Mr. Sanjay Katyal, Adv. for UOI
Ms. Maninder Acharya, Adv. for MCD
Ms. Madhu Tewatia with Ms. Siddhi
Arora, Advs. for NDMC
Mr. Amitesh Kumar, Adv. for NCTE
Mr. Umang Shankar, Adv. for DCPCR
Mr. R.K. Singh, Ms. Deepa Rai, Advs.
for NCERT
Ms. Anuja Saxena, Adv. for RCI

CORAM:

**HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANMOHAN**

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ORDER
16.09.2009

1. On 19th February, 2009, this Court had directed respondents to file an Action Taken Report with regard to mapping, improvement of Infrastructure and upgradation of Human Resources and Management so as to facilitate good quality education to disabled children.

2. The Department of Education, Government of NCT of Delhi has filed an action taken report outlining the measures that it has undertaken and that it proposes to take in the future.

3. The Delhi Commission for Protection of Child Rights has filed its response to the aforesaid action taken report. In the said response, it has been stated that the training provided to teachers during the SCERT orientation is not adequate and further that there is non-cooperation between PWD and DSIIIDC in consideration of infrastructure facilities. In the said response, it has been highlighted that neither the number of special educators and teachers to teach the disabled are adequate nor good quality of teachers are available. The Commission has emphasized that there must be detailed planning so as to ensure integration of disabled children in regular school and for this purpose, there must be a policy to admit disabled children at an early age and all teachers in regular school should be sensitized to the different types of disabilities and handling of the said disabilities. The said affidavit suggests that in the B.Ed. course for teachers training, special education to deal with disabled children should be incorporated.

4. The Member Secretary, Rehabilitation Council of India (hereinafter referred to as 'RCI') has filed an affidavit with regard to

the special educators to be appointed. The relevant portion of the said affidavit reads as under:-

"9. I say and submit that the centrally sponsored scheme of IEDC is to be implemented through the State Government/UT Administration/ Autonomous Organizations of stature having experience in the field of education and/or rehabilitation of the disabled. Because the scheme is to be implemented in schools, the Education Department is the implementing agency. The State Government may take the assistance of voluntary organization also for this purpose as may be feasible.

10. I say and submit that a bare perusal of the aforesaid scheme would reveal that at serial No. 11 and 12 provisions for appointment of special teacher have been made and for the sake of convenience of this Hon'ble Court they are being reproduced below:-

Except for the children with locomotor disabilities, special education teachers may be appointed in schools where the scheme is in operation to provide specific attention to the disabled children.

Sec.12 Appointment of Special Teachers

The teacher – pupil ratio for special education teachers envisaged under the scheme is 1 : 8. This ratio will be the same for normal classes as well as for preparatory pre-school classes. The same teachers will provide counseling to the parents. In accordance with the ratio, the requisite number of special teachers may be appointed in schools (or for cluster of schools) for children requiring special teacher support.

11. I say and submit that under Centrally Sponsored Scheme (CSS) of Inclusive Education of Disabled at Secondary Stage (IEDSS) Government of India under clause vi of 5.2 II the Special Educator will be appointed in the ratio 1 : 5. Ideally every school where disabled children are enrolled should have the services of at least one special teacher. Without prejudice, I would like to submit that once

we are considering the ratio between special children and special teacher at secondary level should be 1 : 5 then at primary level it should be not more than 1 : 2 (copy of the scheme is enclosed herewith as Annexure - A2).

12. *It is submitted that B.Ed. Special Education is a degree programme for one year and minimum qualification for entrance is graduation and the successful candidates are eligible to impart education to the secondary level of students. Hence it is equivalent to B.Ed. (General). Diploma in Special Education (DSE) course is a 2 year regular course of the Council and the successful candidate will be eligible to teach the pre-primary level of education and hence this course is equivalent to the D.Ed./TTC(General). Without prejudice, I further say and submit that the successful candidates of B.Ed. Special Education in broader aspects are much more trained in comparison to the B.Ed. (General) and D.Ed./TTC (General) because apart of training of teaching, under this course they are getting the training to how to teach physically challenged children. Therefore, these candidates should get priority to be appointed as teachers in schools as they can teach general as well as children with special needs. At present the Council has already been registered 23,191 Special Educators.*

13. *I say and submit that DSE programme of the Council is a Diploma level programme of 2 years duration. The entry qualification to this course is 10+2 pass. It can be conducted by any institution fulfilling the RCI's prescribed norms. The course curriculum has been upgraded to suit all kinds of educational setting for disabled children i.e. exclusive integrated or inclusive special schools regular schools. The DSE qualified candidates are at par with D.Ed./TTC course and should be considered eligible for recruitment for primary teachers etc. as is admissible/permissible to D.Ed./TTC candidates.*

14. *I further say and submit that Council is a statutory body to regulate the training programme in the field of disability. Section 13 sub clauses 2(b) of Act provides that no person other than qualified and registered with the Council can teach children with disability. In some of the state govt. has already considered the equivalence B.Ed. (SE) with B.Ed(General) and D.Ed.(SE) with D.Ed./TTC for the purpose of appointment of the Special teachers in all the special schools as well as integrated school in the state.*

15. It is pertinent to mention here that under Sarva Shikshan Abhiyan policy of Government of India, all children with disability to seek education in the nearby school and envisages that an all inclusive barrier free environment be created for providing education and training of children with disability. To make Sarva Shikshan Abhiyan a success and education of children with disability a reality, it is necessary that a qualified trained special teacher is also employed in the general school as resource teacher. The D.Ed./B.Ed. special education degree is not only at par in duration and content but in fact as far greater inputs for a teacher than are incorporated in the general teachers training programme. I say and submit that RCI through its letter dated 31.10.2005 Ref. No. 8-351/2005-RCI/2210-43 sent to the all States Education Secretaries to declare B.Ed. Special Education at par with the B.Ed. (General) Education.

16. It is worthwhile to mention here that in B.Ed.(SE) the successful candidates are trained in teachers training as well as special education for disabled children. In a welfare state, it is necessary that in general school the special teachers must be appointed to the physically challenged children so that they could feel themselves at par with the children of general category."

5. National Council for Educational Research & Training (hereinafter referred to as 'NCERT') has also filed a brief note with regard to employment of special educators/counselors in school. The relevant portion of the said note reads as under:-

"The Central Sponsored Scheme (CSS) of Inclusive Education of the Disabled at Secondary Stage Children is being implemented by the Delhi Govt. through the **CSS IEDC Cell** in the Department of Education (DOE) of Govt. of NCTD in all Govt. Schools. In-service training programmes are also conducted by the IEDC Cell of DOE for Heads of Schools, EVG counselors and teachers in order to sensitize them. The SCERT has added a component about IEDC in all its training programmes for teachers of NCT of Delhi. The staff and officers of IEDC Cell and the District Coordinators have also

set up a mechanism for looking into the grievances of children/parents of children with disabilities.

The IEDC Cell DOE has identified about 10,065 CWSN, out of which 7,694 have been assessed on the basis of check-list provided by the SCERT and about 2,824 CWSN have been recommended for aids/appliances.

As the Teacher : Pupil ratio prescribed is in the ratio 1:5, the Delhi Govt. would require about 2000 trained Special Educators. At present, the RCI has about 45021 (13263 Professionals plus 31758 trained Personnel) registered with it as per its all India Central Rehabilitation Register. Its Delhi Chapter has about 701 registered trained Professionals and Personnel. There are about 19 recognized Institutions in Delhi, which run various Special Educators training programmes/courses.

Although, ideally every school where disabled children are enrolled should have the services of at least one Special Teacher, but to start with, two or three schools in a 'cluster' can avail the services of the 'itinerant' Teacher (the same teacher would go around teaching in these schools located in the same vicinity). To achieve this, mapping of both the children with special needs as well as the Schools where they are enrolled is imperative.

While Special Teachers are to be trained through regular programmes run by the National Institutes/Apex Institutes of RCI, in-service teachers can also be inducted/roped in for training as resource teachers (incentives must be offered to them) so as to equip them with handling of specific disability area, depending upon the kind of disability of children enrolled in any particular school on short term basis (during vacations and long holidays) to fill in the gap. Short term Orientation programmes for Principals and Educational Administrators is a must to sensitize them towards needs of the children with disability.

Special Educators/Rehabilitation Professionals registered with nearby states such as Haryana, Punjab, Rajasthan and UP should also be sourced by Delhi Govt. through adequate public advertisements to meet the shortfall of trained Special Teachers.

There should be provision of resource rooms and equipment for the resource rooms at least in one school per block/urban cluster.

Multidisciplinary Resource Teams (MRT) to be established in all districts, which would include Para-medical Professionals, Psychologists & Counselors, School Administrators, General & Spl. Teachers, Spl. Education & Rehab. Experts, Parents & Care Givers."

6. Keeping in view the aforesaid affidavits, we are of the opinion that respondent nos. 1, 2, 5 and 6 should try to achieve teacher pupil ratio of 1:5 at the secondary level and 1:2 at the primary level. We further direct respondent nos. 1, 2, 5 and 6 to grant equivalence to B.Ed. (SE) with B.Ed.(General) and to D.Ed. (SE) with D.Ed./TTC for the purpose of appointment of special teachers in all the schools in the State as well as schools run by local bodies namely NDMC, MCD and Cantonment Board. Needless to say that the service conditions of the special teachers shall be same as that of the regular teachers holding the qualification of general teachers. We also request the respondent nos. 1, 2, 5 and 6 to consider granting preference and priority to candidates holding B.Ed.(SE) and D.Ed.(SE) degrees in appointment of teachers in all their schools. The school authorities shall ensure that each school shall have at least two special teachers and further that necessary teaching aids and reading materials are provided. This shall be done within six months.

7. In our opinion, till adequate number of special educators are

available, two or three schools in a cluster should avail the services of *itinerant teacher* as mentioned by NCERT in its affidavit. We also direct RCI as well as respondent nos. 1, 2, 5 and 6 to start programmes to train in-service teachers as resource teachers so that they are equipped to take care of disabled children. Respondent nos. 1, 2, 5 and 6 are also directed to start short term orientation programme for principals and educational administrators so as to sensitise them towards the needs of a disabled children.

8. It is brought to our notice that in some cases the disabled children are being denied admission on the ground that the school do not have the necessary facility. This is clearly contrary to our order dated 19.2.2009. It is made clear that no disabled child shall be refused admission in any of the schools either run by the State Government or the local bodies.

In regard to issue of mapping, we are informed that no steps have been taken by the State Officials so far. The concerned Secretary Mr. Rakesh Mohan is directed to remain personally present in the court on 23rd September, 2009.

CHIEF JUSTICE

MANMOHAN, J

SEPTEMBER 16, 2009
rn/ dk