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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 201 of 2020

SUO MOTO

Versus

STATE OF GUJARAT, THROUGH THE PRINCIPAL SECRETARY & 1
other(s)

Appearance:

SUO MOTU for the Applicant(s) No. 1

MR. KAMAL B. TRIVEDI, ADVOCATE GENERAL with MS. MANISHA
LAVKUMAR SHAH, GOVERNMENT PLEADER with MR. DHARMESH
DEVNANI, AGP for the STATE.

CORAM: **HONOURABLE THE CHIEF JUSTICE MR. JUSTICE
VIKRAM NATH**

and

HONOURABLE MR. JUSTICE J.B. PARDIWALA

Date : 08/01/2021

ORAL ORDER

(PER : HONOURABLE MR. JUSTICE J.B. PARDIWALA)

1. This Court thought fit to take *suo motu* cognizance of an article dated 18th December 2020 published by the Indian Express News Service. The article referred to above reported as regards a survey conducted by the Indian Institute of Management, Ahmedabad (IIM-A) and the UNICEF, Gujarat, with respect to the various problems and hardships faced by many households during the period of lock-down, more particularly, the hardship that was caused on account of the sudden stoppage of the mid-day-meals in the Government schools. The order passed by this Court dated 18th December 2020 reads thus:

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“The Indian Express News Service, Ahmedabad, in its article dated December 18, 2020, has reported something very serious, which calls for the immediate attention of the State Government.

It has been reported that a survey conducted by the Indian Institute of Management, Ahmedabad (IIM-A) and the UNICEF Gujarat revealed that among the households which had children enrolled in the Government schools, 85 per cent of the parents reported that they were not able to access anything in lieu of the mid-day meals since March, when the schools were closed due to the Covid-19 pandemic.

The survey was conducted among 375 low-income parents residing in the urban Ahmedabad between July to September 2020, of which nearly 31 per cent had children attending the Government schools.

The study conducted by the KMIC-Knowledge Management and Innovations for Change, an IIMA and UNICEF initiative launched in 2015, to understand the accessibility to remote learning and challenges faced by the students and their parents, revealed that about 15 per cent of the parents received rice, wheat and/or pulses in lieu of the mid-day meals.

Further, around 30 per cent of the children had not engaged in any formal learning activities since March 2020. This was highest for those attending the private schools (33 per cent), followed by the Government schools (26 per cent), and those attending the private schools through the RTE mandate (22 per cent). The average income of the sample was around

Rs.1,990=00 per month and more than 95 per cent of the households had monthly income less than Rs.4,400=00.

Despite the State Government's notices on temporary fee relief, around 54 per cent of the parents had been asked to pay the fees during the months of the lockdown. Over 40 per cent of the parents with children in the private schools were unaware of the fee relief. Among those asked to pay the fees, more than 50 per cent admitted that it was difficult for them to arrange the required amount and meet the payment deadline.

Another major concern revealed in the report was pertaining to the drop-outs. The inability to pay the fees has led some parents to consider an alternate option of transfers to other schools or even dropping their children out of the school for the year. This is something very serious.

Only 54 per cent of the families said that they have a functioning television with cable/DTH. Less than 2 per cent had access to a laptop and a Wi-Fi connection and email was used by less than 12 per cent of the families.

This Court is of the view that the attention of the State Government should be immediately drawn to the aforesaid, and in such circumstances, we deem fit to take suo motu cognizance of the above in public interest.

The registry is directed to register a writ petition by giving a 'pucca' number. Once the same is registered, the registry shall issue NOTICE to the following respondents, returnable on 5th January 2021 :

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(1) *State of Gujarat (Notice to be served through the Principal Secretary, Education Department).*

(2) *State of Gujarat (Notice to be served through the Commissioner, Mid-day Meal Schemes)”*

2. In response to the aforesaid, the State Government has filed a detailed report. The report is in the form of an affidavit. We have gone through the entire report. The gist of the report is as under :

Mid-Day Meal Distribution :

2(1) The mid-day meal scheme is presently being implemented in a total of 32,822 Government primary schools in the State of Gujarat. At present a total number of 50,29,339 students of Standards 1 to 8 are registered for the Academic Year 2020-21. As per the provisions of the National Food Security Act, 2013, the Government of India has fixed the quantity of food-grains and cooking cost for Standards 1 to 5 and Standards 6 to 8 as follows :

Standard	Food grains fixed by the Government of India per student	Cooking cost per student as determined by Government of India
<i>Std 1 to 5</i>	<i>100 grams</i>	<i>Rs.4.97</i>
<i>Std 6 to 8</i>	<i>150 grams</i>	<i>Rs.7.45</i>

2(2) In order to ensure that the benefits of the mid-day meal scheme are provided to the entitled beneficiary students, in spite

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of closure of the schools, a decision was taken by the Government to provide the Food Security Allowance in lieu of the mid-day meals to all the entitled beneficiary students of Standards 1 to 8 vide the Government Resolution dated 23.03.2020 passed by the Education Department. Pursuant to such Government Resolution dated 23.03.2020, eight orders have been issued by the Government in a phased manner to provide the Food Security Allowance to all the entitled beneficiary students. These eight orders cover 187 school days from 16.03.2020 to 18.11.2020 (excluding the days of Diwali vacation) for the purpose of the Food Security Allowances in lieu of the mid-day meals. The details of the orders are as under :

Sr. No.	Duration of the Order	Total School Days	Total Grant Allocated (in Lakhs)	Total allocated Food-grains (in Quintals)
1	16.3.2020 to 29.03.2020	11	3241.01	67370.56
2	30.3.2020 to 14.04.2020	10	2946.37	61245.96
3	15.04.2020 to 03.05.2020	15	4419.56	91868.94
4	04.05.2020 to 07.06.2020	34	10346.11	208236.28
5	08.06.2020 to 30.06.2020	20	5941.56	119585.39
6	01.07.2020 to 31.07.2020	27	7865.07	158300.46
7	01.08.2020 to 31.08.2020	21	6189.73	124580.3
8	01.09.2020 to 18.11.2020 (except days of Diwali Vacation)	49	14469.41	291225.08
	TOTAL	187	55,418.82	11,22,412.97

2(3) For the purpose of preparing the food, the amount of cooking cost is being deposited in the bank account of the parents/students as per the number of school days. For

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instance, if we take the period of 01.08.2020 to 31.08.2020, the total number of school days during such period were 21. Therefore, the total amount which would be deposited in the bank accounts of the entitled beneficiaries would be the school days (21) multiplied by the per day requirement of food grains for the beneficiary student (100 grams), further multiplied by the cooking cost per student (Rs.4.97). It is further submitted that the distribution of food-grains is also being done after following all the health-related COVID guidelines, by the School Monitoring Committee/School Teachers and Headmasters/ Cook-cum-Helpers of the Mid-Day Meal Scheme and through Government Fair Price Shops.

2(4) As on 31.12.2020, the distribution of the Food Security Allowance in the State of Gujarat for the children of Standards 1 to 8 is as under :-

Sr. No.	Time period of the order	Total School days	Covered No. of beneficiary children	Total amount allotted (in Lakhs)	Total amount deposited in the bank accounts of the students as on 31.12.2020 in the State	Total Food grains (rice + wheat) allotted (in Quintals)	Distribution of grains (rice + wheat) to the students registered with effect from 31.12.2020 (in Quintals) in the State
1	From 16.03.2020 to 29.03.2020		4992947	3241.01	3120.11	67370.56	64401.9
2	From 30.03.2020 to 14.04.2020	10	4971174	2946.37	2822.63	61245.96	58219.98
3	From 15.04.2020 to 03.05.2020	15	4962385	4419.56	4226.41	91868.94	87153.56
4	From 04.05.2020 to 07.06.2020	34	4956386	10346.11	9876.3	208236.28	196771.4
Total (70 school days of academic year)		70		20953.05	20045.45	428721.74	406546.84

	2019-20)						
5	From 08.06.2020 to 30.06.2020	20	4828121	5941.56	5693.61	119585.39	109245
6	From 01.07.2020 to 31.07.2020	27	4780717	7865.07	7583.21	158300.46	145104.1
7	From 01.08.2020 to 31.08.2020	21	4643225	6189.73	5446.71	124580.3	107826.6
	Total (68 days of academic year 2020-21)	68		19996.36	18723.53	402466.15	362175.70
	Total (138 days)	138		40949.41	38768.98	831187.89	768722.54
8	From 01.09.2020 to 18.11.2020 (except days of Diwali Vacation)	49	2032450	14469.41	1608.04	291225.08	118174.6
	Total (187 days)	187		55418.82	40377.02	1122412.97	886897.14

2(5) As on 31.12.2020, the distribution of the Food Security Allowance in Ahmedabad for the children of Standards 1 to 8 is as hereunder:

Standards 1 to 5							
Sr. No.	Time period of the order	Total School days	Total registered children	Children who have been paid with the cooking cost	Total amount of cooking costs paid (in Lakhs)	Children to whom food grains have been distributed	Total grains distributed (in Quintals)
1	16.03.2020 to 29.03.2020	11	72511	71983	39.27	71910	791.01
2	30.03.2020 to 14.04.2020	10	72511	71983	35.70	71910	719.10
3	15.04.2020 to 03.05.2020	15	72511	71983	53.56	71910	1078.65
4	04.05.2020 to 07.06.2020	34	72511	71983	121.64	71655	2436.27
5	08.06.2020 to 30.06.2020	20	72898	72710	72.27	70911	1418.22
6	01.07.2020 to 31.07.2020	27	75124	74912	100.52	73077	1973.08

7	01.08.2020 to 31.08.2020	21	76160	75858	79.17	75555	1586.66
8	01.09.2020 to 18.11.2020 (except Diwali Vacation)	49	76229	74679	181.86	74177	3634.67

Standards 6 to 8							
Sr. No.	Time period of the order	Total School days	Total registered children	Children who have been paid with the cooking cost	Total amount of cooking costs paid (in Lakhs)	Children to whom food grains have been distributed	Total grains distributed (in Quintals)
1	16.03.2020 to 29.03.2020	11	43153	43112	33.01	43079	710.80
2	30.03.2020 to 14.04.2020	10	43153	43112	30.01	43079	646.19
3	15.04.2020 to 03.05.2020	15	43153	43112	45.01	43075	969.19
4	04.05.2020 to 07.06.2020	34	43153	43111	109.20	43071	2196.62
5	08.06.2020 to 30.06.2020	20	44119	43984	65.54	43559	1306.77
6	01.07.2020 to 31.07.2020	27	44550	44524	89.56	44061	1784.47
7	01.08.2020 to 31.08.2020	21	44883	44811	70.11	44714	1408.49
8	01.09.2020 to 18.11.2020 (except Diwali Vacation)	49	44953	44766	163.41	44628	3280.15

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2(6) It is submitted that a daily reporting digital mechanism is in place by virtue of which, a daily report of the distribution of the food-grains all over the State is electronically submitted to the office of the Commissioner, Mid-Day Meals. In addition to this, a record is also being maintained at every level, i.e., at the Schools, Mamlatdar Office, Deputy Collector Office and Commissionerate.

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2(7) It is submitted that in the Ahmedabad Municipal Corporation, a total number of 1,21,182 students are registered in the Academic Year 2020-21. This number is significant in view of the fact that it offers a correct perspective of the survey conducted by the IIM-A and the UNICEF, Gujarat. It is most humbly submitted that any beneficiary student/parent who has not been able to avail the benefits of the mid-day meal scheme can easily approach the State authorities and the State shall ensure that such beneficiaries are provided with the necessary benefits. This equally applies to the 117 parents out of the 375 parents, whose children attend Government schools. Though the study does not disclose the details of such parents, it is submitted that if such parents are entitled beneficiaries, then they may approach the State authorities and all efforts will be made to ensure that the necessary benefits are granted to them.

Efforts made by the State for the On-line Learning

2(8) For the betterment of the students whose studies may not get affected due to such closure of schools, more particularly, when the new Academic Year commenced from June, 2020, the Education Department, State of Gujarat passed a Government Resolution on 05.06.2020 for the Government, non-Government (grant-in-aid) and self-financed, primary, secondary and higher secondary schools of the entire State enumerating instructions for conducting Home Learning for the students from Standards 1 to 12. Various initiatives that have been evolved by the State Government for the purpose of on-line learning have been a

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result of the situation created by the pandemic. Such initiatives have been the only source of education for many children studying in the Government schools and all efforts are being made to ensure greater reach of such initiatives: *Doordarshan Kendra D.D. Girnar Channel (regularly from June 2020), Gujarat Virtual School, Diksha Portal, You Tube channel, Sarva Shiksha Abhiyan Website, Supplementary Literature (Exemplar), Virtual Classes, Study from Home, On Air Study.*

2(9) A unique method of learning has been implemented by the State, whereby the PDF documents containing the live links of various lectures are circulated amongst the students and parents. This is to ensure that the children can study at any time and also tackles the constraints of the technological limitations for the households who have limited digital devices.

2(10) It is submitted that as on 03.01.2021, the following number of students have respective infrastructural facilities through which they can access home learning:

<i>Sr. No.</i>	<i>Facility</i>	<i>Number of students who have access to the facility</i>	<i>Percentage of the total number of students</i>
1	<i>Television</i>	4635097	48.33%
2	<i>DTH (Direct to Home) free dish and set top box to watch BISAG telecast</i>	1795345	18.72%
3	<i>Radio</i>	168794	1.76%

4	<i>Normal Mobile Phone</i>	2356026	24.56%
5	<i>Smart Mobile Phone/ Tablet</i>	5684062	59.26%
6	<i>Computer/ Laptop</i>	314329	3.28%
7	<i>Unlimited Internet facility</i>	424907	4.43%
8	<i>Limited Internet facility</i>	2804324	29.24%
9.	<i>No access to any facility</i>	583574	6.08%

2(11) The following table is the summary of actions taken for teaching and learning of the students having facility and students having no facility :

<i>Sr. No.</i>	<i>For students with Digital Devices viz. Smartphone, TV, Radio, PC/Laptop, Community PC/Laptop</i>
1	<i>Study from Home for Std.3 to 9 and Exemplar for Std.9 to 12 (March 2020)</i>
2	<i>Parivaar no Maalo – GCERT (April 2020)</i>
3	<i>Energised textbooks (June 2020)</i>
4	<i>Home Learning for Std.3 to 12 through telecast through DD Girnar, Vande Gujarat – BISAG (June 2020)</i>
5	<i>Virtual Classroom through MS teams for Std.3 to 12 (June 2020)</i>
6	<i>Live Virtual Classroom through MS teams, YouTube Live, Facebook Live, Jio TV for Std.9 to 12 (July 2020)</i>
7	<i>IVRS based – Missed Call do Kahani Suni – for Std.1 & 2 (August 2020)</i>

Sr. No.	<i>For students with no digital devices</i>
1	<i>Textbook distribution</i>
2	<i>Ghare Shikhiye Material – GCERT</i>
3	<i>PAT Answer Booklets</i>
4	<i>Teacher – Student Contact</i>

2(12) The following is the statistical data for the learning activities of the RTE students in different districts :

Sr. No.	District	Total Number of Schools granting admission under RTE	Percentage of Students availing the benefit of online learning	Percentage of Students who are not able to avail the benefit of online learning
1	AHMEDABAD RURAL	701	100.00%	0.00%
2	AMRELI	228	94.57%	5.43%
3	ANAND	217	96.45%	3.55%
4	ARAVALLI	111	94.28%	5.73%
5	BANASKANTHA	296	90.70%	9.30%
6	BHARUCH	251	98.01%	1.99%
7	BHAVNAGAR	162	94.96%	5.04%
8	BOTAX	92	82.54%	17.46%
9	CHHOTA UDAIPUR	60	90.29%	9.71%
10	DAHOD	124	97.48%	2.52%
11	DANG	15	100.00%	0.00%
12	DEVBHUMI DWARKA	158	91.38%	8.62%
13	GANDHINAGAR	284	96.44%	3.56%
14	GIR SOMNATH	279	96.67%	3.33%
15	JAMNAGAR	229	84.96%	15.04%
16	JUNAGADH	408	87.99%	12.01%

17	KHEDA	205	97.95%	2.05%
18	KUTCH	370	97.06%	2.94%
19	MAHESANA	224	96.51%	3.49%
20	MAHISAGAR	80	97.57%	2.43%
21	MORBI	189	96.49%	3.51%
22	NARMADA	45	97.44%	2.56%
23	NAVSARI	151	100.00%	0.00%
24	PANCHMAHAL	120	97.96%	2.04%
25	PATAN	107	84.00%	17.00%
26	PORBANDAR	119	91.36%	8.64%
27	RAJKOT	427	94.89%	5.11%
28	SABARKANTHA	197	88.51%	11.49%
29	SURAT	250	83.84%	16.16%
30	SURENDRANAGAR	221	96.52%	3.48%
31	TAPI	49	100.00%	0.00%
32	VADODARA	157	95.31%	4.69%
33	VALSAD	161	99.97%	0.03%
34	AHMEDABAD CORPORATION	854	94.02%	5.98%
35	BHAVNAGAR CORPORATION	124	99.68%	0.32%
36	JAMNAGAR CORPORATION	113	79.00%	21.00%
37	RAJKOT CORPORATION	484	83.25%	16.75%
38	GANDHINAGAR CORPORATION	46	100.00%	0.00%
39	SURAT CORPORATION	726	100.00%	0.00%
40	VADODARA CORPORATION	351	95.21%	4.79%
	OVERALL TOTAL & PERCENTAGE	9385	94.28%	5.72%

Measures taken by the State towards reduction of the school fees

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2(13) It is most humbly submitted that the findings of the report, as published in the newspaper article on 18.12.2020 in respect of the reduction of school fees, need to be viewed from the perspective of the events as they transpired between July 2020 to September 2020.

2(14) In the wake of the COVID-19 pandemic, to lessen the burden of the school fees on the parents, the State Government passed a resolution dated 16.07.2020, granting 100% fee relief for the students studying in all the self-financed schools.

2(15) The Writ Petition (PIL) Nos. 64 of 2020, 89 of 2020, 100 of 2020, 114 of 2020 and the Special Civil Application No. 8819 of 2020 were filed challenging the validity of the GR dated 16.07.2020. This Court, vide order dated 31.07.2020 was pleased to strike down Paragraphs 4.1, 4.3 and 4.4 of the said Government Resolution dated 16.07.2020 regarding fee relief and was further pleased to direct the Government to take a balanced decision keeping in mind the interest of all the stake holders.

2(16) The State Government arranged two meetings with the Self-Financed Schools Management Associations on 17.08.2020 and 20.08.2020 respectively. However, despite all the efforts, no agreement could be arrived at in respect of the reduction in the school fees, between the state authorities and the Self Finance Schools Management Associations.

2(18) Due to the failure to arrive at an understanding, the State Government preferred an application in the Special Civil Application No.8819 of 2020 on 24.08.2020, seeking directions from the court in this regard. This High Court, vide order dated 18.09.2020, was pleased to leave it open for the State to take an appropriate decision as it may deem fit.

2(19) After detailed discussions with the members of the Parents Association and the School Management Associations, the Government, after obtaining their consent, issued the resolution dated 07.10.2020, to provide 25% fee waiver to the students of all the self-financed schools in the State.

2(20) The Government is making all efforts to ensure that wide publicity is given to all the decisions taken by the State in respect of the fee relief. It is submitted that the information regarding the said Government Resolution dated 07.10.2020 has been published on the website of the Education Department. The said Government Resolution dated 07.10.2020 has been reported in the daily newspaper viz. Sandesh Newspaper, Divya Bhaskar, Gujarat Samachar, Times of India and Ahmedabad Mirror.

2(21) A Grievance Redressal Mechanism is already in place. The Parents/Students can lodge their complaints to the respective Zonal Fee Regulation Committees or respective District Education officer/District Primary Education Officer. The details of the complaints which have been lodged before the Zonal Fee Regulation Committee are as under :

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Number of complaints against schools forcing to pay fees		Number of complaints of schools which are demanding exorbitant fees		Number of complaints against schools not complying with the resolution dated 07.10.2020		Total number of complaints	
Total number of complaints	No. of complaints disposed of	Total number of complaints	No. of complaints disposed of	Total number of complaints	No. of complaints disposed of	Total number of complaints	No. of complaints disposed of
88	78	108	67	11	6	207	151

3. Considering the aforementioned facts and circumstances, it is most humbly submitted that the State is committed in its fight against the COVID-19 pandemic and is making all efforts to ensure that the persons belonging to weaker sections of the society are not marginalized and all efforts are being made to alleviate their sufferings.

ANALYSIS :

4. Having duly considered the aforesaid report, we propose to close this litigation initiated by this High Court *suo motu* in public interest. However, we would like to observe that by accepting the report of the State Government and closing this litigation, we do not want to convey that the survey carried out by the IIM-A and the UNICEF, Gujarat, was not correct. On the contrary, we appreciate the joint efforts put in by the IIM-A and UNICEF, Gujarat, in this regard and it is only on account of their survey and the article published in the Indian Express newspaper that this Court came to know about the hardships and the problems that few families had to face during the period of lock-down. However, at the same time, the State Government also seems to have put in strenuous efforts to ease the hardships of various families during the period of lock-down. In one of the

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orders passed by this Bench in the Writ Petition (PIL) No.42 of 2020 (PIL relating to the COVID-19 pandemic) we have observed that, 'crisis does not build character, it reveals it'.

5. Before closing this litigation, we may remind the State Government to ensure of one thing that the inability to pay the fees should not compel the parents to stop providing education to their children. This is the worst that can happen to any family. It is possible that the help rendered by the Government might not have reached to few families. This is what the survey talks about. The Government should pay due attention to such genuine cases and try to render assistance in all possible manner. Education is something which should never be compromised.

6. With the above, we close this litigation.

सत्यमेव जयते (VIKRAM NATH, CJ.)

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THE HIGH COURT OF GUJARAT (J. B. PARDIWALA, J.)

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