

HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD

TUESDAY, THE THIRTY FIRST DAY OF AUGUST  
TWO THOUSAND AND TWENTY ONE

**:PRESENT:**  
**THE HON'BLE THE ACTING CHIEF JUSTICE M.S.RAMACHANDRA RAO**  
**AND**  
**THE HON'BLE SRI JUSTICE T.VINOD KUMAR**

**IA No. 1 OF 2021**  
**IN**  
**WP(PIL) NO: 98 OF 2021**

**Between:**

Bala Krishna Mandapati, S/o. M. Sambaiah, Aged about 36 years, R/o Flat No. 502, Ashok Residency, Street Number 6, East Maredpally, Nehru Nagar, Hyderabad-500026.

...Petitioner  
(Petitioner in WP(PIL).No.98 OF 2021  
on the file of High Court)

**AND**

1. State of Telangana, Rep. by its Secretary, Education Department, Secretariat, Hyderabad.
2. The Director of School Education, Government of Telangana, Hyderabad.
3. The Director of Public Health, Government of Telangana, Hyderabad.
4. The Experts Advisory Committee, (Constituted by the Government of Telangana for Covid-19) Rep., by its Members - Pediatricians, Nilofer Hospital, Hyderabad

...Respondents  
(Respondents in-do-)

**Counsel for the Petitioner : SRL.L.RAVICHANDER learned Senior Counsel appearing**  
**M/S.KRUTHI KALAGA**  
**Counsel for the Respondents : ADVOCATE GENERAL (TG)**

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the writ petition, the High Court may be pleased to stay the operation of Memo No.3724/SE.Prog.II/A1/2021 dt. 24.08.2021 issued by the Respondent No.1 in so far as it concerns the Pre- Primary and Primary Schools in the State of Telangana, pending disposal of the WP(PIL) No.98 of 2021, on the file of the High Court.

The court while directing issue of notice to the Respondents herein to show cause as to why this application should not be complied with, made the following order.(The receipt of this order will be deemed to be the receipt of notice in the case).

**ORDER**

The petitioner has filed this Public Interest Litigation (PIL) challenging Memo No.3724/SC.PROG.II/A1/2021 dt.24.08.2021 issued by 1<sup>st</sup> respondent herein directing all Public and Private Educational Institutions to re-open schools from 01.09.2021 in *physical mode* duly following COVID norms.

2. The Petitioner in this PIL, no doubt, has confined his prayer to pre-primary and primary school children, but having regard to the issues raised in the Writ

Petition, we propose to extend the scope of the case to cover all school-going children of all Private and Government Schools in the State.

3. Heard Sri L. Ravichander, learned Senior Counsel appearing on behalf of Ms.Kruthi Kalaga, counsel for the petitioner, and the learned Advocate-General for respondents.

4. We take judicial notice of the following undisputed-admitted facts:

- a) COVID 19 virus is still prevalent in the country and has mutated into several variants;
- b) two waves of infections have happened in the country resulting in several deaths and hospitalizations; and a third wave is also predicted in September/October 2021;
- c) though vaccinations are available for 18+ adults, even vaccines do not give complete immunity;
- d) there is no vaccine invented as yet for use on children below 18 years;
- e) there are studies which show that though infections in children are less, they are asymptomatic carriers of the virus;
- f) complete vaccination of all adults above 18 years has not happened as yet in the country;
- g) school children closely interact with teaching and non-teaching staff in schools; and it is not the case of the State that all teaching and non-teaching staff have been vaccinated in all private and Govt. schools;
- h) there is a possibility of such adults passing on the virus to an asymptomatic child student who, when he/she reaches home, might infect family members/ senior citizens / persons with co-morbidities;
- i) there is also risk to children who suffer from co-morbidities from virus; and

j) it is difficult to ensure social distancing and wearing of masks by young children.

5. Whether all the correct parameters have been kept in mind while issuing the impugned Memo by respondents requires examination in this case.

6. Whether any Expert Body's advice such as that of 4<sup>th</sup> respondent was taken before taking this decision by the 1<sup>st</sup> respondent also needs to be examined.

7. But certain sections of parents and school managements - for equally different good reasons - for psychological well being of children, lack of facilities for on-line classes such as smart phones and high speed Internet connectivity, children missing mid-day meals in schools, financial reasons, etc., may wish to have off-line classes.

8. In view of these facts and circumstances, and with a view to balance the rights/ interests/ concerns of all stakeholders, pending further orders, we direct as under:

(a) No child studying in any class in any school (other than Govt. Residential schools, Social Welfare and Tribal Welfare schools with hostel facility) in this State shall be compelled by any School Management to physically attend offline classes if his/ her parent is not inclined to send the child to school.

(b) No private School Management shall be subjected to any penal consequences of any nature if they do not comply with the impugned Memo from 1.9.2021.

(c) No school-going child admitted in any private or Govt. school or his/ her parent shall be subjected to any penalty of any nature by the school to

which he/ she is admitted if the child does not attend school for off-line classes.

(d) Any undertakings obtained from parents by any School Management absolving the school of any liability if the child gets infected with virus while in school, shall not have any legal effect, and shall be construed as having been given under duress and as contrary to public policy.

(e) It shall be open to the School Managements to have either only off-line or only on-line or both off-line and on-line classes.

(f) This order shall apply not only to pre-primary or primary school-going children but to all students in any school - Govt. or Private - of any class and to all the School Managements where the children are admitted in this State (other than Govt. Residential schools, Social Welfare and Tribal Welfare schools with hostel facility).

(g) The State Govt. authorities / respondents shall lay down SOPs to be followed by all School Managements who wish to conduct classes off-line within one (01) week and give them wide publicity in print and electronic media.

(h) The School Managements who wish to have off-line classes shall follow the SOPs scrupulously.

(i) But the starting of off-line classes in Govt. and Social Welfare Schools and Govt. Residential schools pursuant to the impugned Memo is *stayed* until further orders.

9. The respondents shall file a counter affidavit in four (04) weeks stating:

(i) What is the number of Govt. and Social Welfare Schools in the State and how many of them are with hostels?

- (ii) In Govt. Residential schools, Social Welfare dept. Schools with hostels, what measures are to be taken is not mentioned to ensure safety?
- (iii) Whether reports from the concerned DEOs received as to readiness from all Schools private and Government by 31.08.2021?
- (iv) Whether Text Books are published and issued before 30.08.2021 as specified to all students of all Schools by 31.08.2021?
- (v) Has the Commissioner & Director of School Education received report from all such schools?
- (vi) What is the number of beds available to treat children in each District in the Govt. / Private Hospitals as on 31.8.2021 to treat infections for children if they occur? and;
- (vii) Any other details which are relevant for consideration by the Court.
10. The 4<sup>th</sup> respondent shall also file any Advisory Report given by it to the 4<sup>th</sup> respondent along with its counter-affidavit.
11. Post the matter on 04.10.2021.

//TRUE COPY//

SD/- K. SHYLESI  
Assistant Registrar

  
SECTION OFFICER

To

1. The Secretary, Education Department, State of Telangana, Secretariat, Hyderabad.
2. The Director of School Education, Government of Telangana, Hyderabad.
3. The Director of Public Health, Government of Telangana, Hyderabad.
4. The Members-Pediatricians, The Experts Advisory Committee, (Constituted by the Government of Telangana for Covid-19), Nilofer Hospital, Hyderabad. (RR-1 to 4 by Special Messenger)
5. One CC to MS.KRUTHI KALAGA Advocate [OPUC]
6. Two CCs to the Advocate General, High Court for the State of Telangana, at Hyderabad.(OUT) (By Special Messenger)
7. Two CCs to GP FOR EDUCATION (TG), High Court at Hyderabad. [OUT]
8. One spare copy

HIGH COURT

HACJ. & TVK.J

DATED; 31.08.2021

I.A.NO.1 OF 2021  
IN  
WP(PIL).NO.98 OF 2021

INTERIM STAY

