

Karnataka Lokayukta
(Under Section 7 of the Karnataka Lokayukta Act, 1984)

CASE
NUMBER **COMPT/LOK/BCD/613/2021**
:
District : **Bengaluru (U)**

BY :

1. SUO MOTO

As per the Order of Honble Lokayukta, Date:
26/02/2021.

COMPLAINANT/S

AGAINST :

**1. PRINCIPAL SECRETARY TO
GOVERNMENT**

Education Department, (Primary and Secondary
Education), M.S. Building, Bengaluru.

**2. COMMISSIONER OF PUBLIC
INSTRUCTIONS**

Nrupathunga Road, K.R. Circle, Bengaluru.

3. DEPUTY COMMISSIONER

Bengaluru Urban District, Bengaluru.

4. CHIEF EXECUTIVE OFFICER

Zilla Panchayath, Bengaluru.

5. TAHASILDAR

Bengaluru East Taluk, Bengaluru.

6. DEPUTY DIRECTOR

Public Instructions, Bengaluru North Taluk,
Bengaluru.

7. BLOCK EDUCATION OFFICER

K.R. Puram, Bengaluru.

RESPONDENT/S

**Allegation/Grievance
Brief :** Dereliction of duty

Received From : Suo-Moto

Received On : 26-02-2021

**Complaint stands
allotted to :** ARE-1

S. S. S. 26/02/21
Seal and Signature
Filing Counter
Karnataka Lokayukta
Bengaluru

SCRUTINY AND OPINION

KARNATAKA LOKAYUKTA, BENGALURU

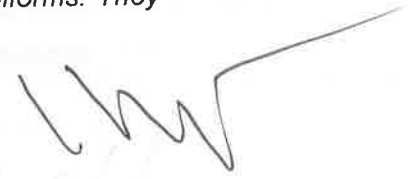
No:

26-02-2021

ORDER

In 'The New Indian Express' daily dated 24.02.2021, a news item with the heading "**Hop, skip and jump takes a new meaning at this school**" has been published highlighting the difficulty being faced by the students to reach the school, as there is no proper access road to reach the Government Primary School at Vignana Nagara, K.R. Puram, Bengaluru. Instead of repeating the same, it is useful to extract the said news item, which reads as here under:

BENGALURU: For children studying in the Government Primary School at Vignana Nagar in KR Puram, reaching the school has almost become a steeple chase. With no proper access road, they are forced to scale a four-foot-high compound wall, erected recently by the owner of an adjacent piece of land. Though regular classes have not yet commenced for students up to Class 5, teachers come to the school every day. Some students, however, do come to meet teachers and clarify doubts, collect books and uniforms. They



also visit the school once a month to collect grains and groceries which are given instead of midday meals.

Once the school reopens, it will be difficult for children as they will have to jump the compound wall every day. Not just this, since there is no access road, the midday meal van cannot reach the school premises. Anu, an anxious parent, said, "The wall is quite high. I am scared that my son may fall and get hurt."

The school was allotted 0.75 acres of land in 2005-06 and got its own building in 2011. Presently, there are 48 students studying from Classes 1 to 5, including 20 girls. All these years, the school was accessible from the main road through the adjacent private land.

Minister promises access road to school

But, early in February this year, the owner of the private land constructed a wall, blocking access to students and teachers. Interestingly, when the land was sanctioned for the school in 2011, land sharks were eying the piece of land and had in fact, erected stones to develop it as a layout, locals said. By blocking access to the school from sides, it is an attempt to force its closure, they alleged. On one of the school, there is a storm water drain which is covered using slabs and is used as a connecting road to apartments nearby.



Kids play outside the government school in KR

Puram, Bengaluru | Nagaraja Gadikal

However, a private builder has constructed a huge wall between the school and the drain. Recently, the school authorities had approached the police regarding this, but they were directed to approach the tahsildhar. After a survey was conducted, it was revealed that the private builder has

encroached upon six metres of land. Locals and parents of the schoolchildren are demanding removal of the encroachment to create access for the school.

Yele Srinivas, a localite and an activist, said that it is unfortunate that children and teachers have to face such a situation. "It may be for such reasons that girl children quit schools. There are no government schools nearby. This place is spacious. It may be for such reasons that girl children quit schools. There are no government schools nearby. This place is spacious," he said.

When contacted, KR Puram MLA and Urban Development Minister Byrathi Basavaraj said he will ensure that the school gets proper access. "We will make sure the children and teachers get an access road without any hurdle," he said. He also promised that the school will be provided with power connection. Primary and Secondary Education Minister Suresh Kumar is likely to visit the school on Wednesday.

2. The news item extracted above indicates that since there is no proper access road to the Government Primary School at Vignana Nagar in K.R. Puram, Bengaluru, the students are forced to jump a four foot high compound wall which was recently erected by the owner of an adjacent piece of land. Further, the news item indicates that since there is no access road to the school in question, the mid-day meal van cannot reach the school

premises and the parents are scared to send their children to the school in question with an apprehension that their children may fall and get hurt. It is also reported in the news item that during the survey conducted by the Tahasildar, it was revealed that a private builder has encroached upon 6 meters of land and the parents of the school children and localites have demanded for removal of the encroachment to create access road for the school.

3. It is relevant to point out that on account of the compound wall erected by the encroacher, the students of the said school are put to irreparable injury and hardship. What is highlighted in the news item is true, it is a matter of serious concern which calls for immediate action on the part of the concerned authorities of the State. If the children are allowed to jump the compound wall to reach



the said school, it may cause injury to their life and limb, who are studying in the said school.

4. It is needless to point out that the Right to Education is the fundamental right guaranteed under Article 21-A of the Constitution of India and Right to free and compulsory education guaranteed under the Right of Children to Free and Compulsory /Education Act, 2009. Therefore, it is the duty of the authorities of the State to provide all the facilities required to make the Right to Education Guaranteed under Article 21-A of the Constitution of India the Right of Children to Free and Compulsory /Education Act, 2009, meaningful and purposeful without making it as only a dead letter in the statute.

5. In this connection it is useful to refer to the observations made by the Hon'ble Supreme Court of India, in the case of **Avinash Mehrotra Vs.**



Union of India and others reported in (2009) 6

SCC 398 which reads as hereunder :

“24. Education occupies an important place in our Constitution and culture. There has been emphasis on free and compulsory education for children in this country for a long time. There is a very strong historical perspective. The Hunter Commission in 1882-1883, almost 125 years ago, recommended universal education in India. It proposed to make education compulsory for the children.

25. The Government of India Act, 1935 provided that “education should be made free and compulsory for both boys and girls”. While debating on a Bill in the Imperial Legislation Council in 1911, Shri Gopal Krishna Gokhale strongly advocated that elementary education should be both compulsory and free.

26. Our original Framers of the Constitution placed free and compulsory education in the directive principles. The unamended Article 45 provided that:

“45. *Provision for free and compulsory education for children.*—The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.”

27. The Kothari Commission on Education set up by the Government of India in 1966 strongly recommended free and compulsory education for children up to 14 years. The Commission observed that there is no other way for the poor to climb their way out of this predicament.

28. Education occupies a sacred place within our Constitution and culture. Article 21-A of the Constitution, adopted in 2002, codified this Court's



holding in *Unni Krishnan, J.P. v. State of A.P.* [(1993) 1 SCC 645] in which we established a right to education. Parliament did not merely affirm that right; the amending Act placed the right to education within the Constitution's set of fundamental rights, the most cherished principles of our society. As the Court observed in *Unni Krishnan*¹: (SCC p. 664, para 8)

“8. The immortal poet Valluvar whose *Tirukkural* will surpass all ages and transcend all religions said of education:


‘Learning is excellence of wealth that none destroy; To man nought else affords reality of joy.’”

29. Education today remains liberation—a tool for the betterment of our civil institutions, the protection of our civil liberties, and the path to an informed and questioning citizenry. Then as now, we recognise education's “transcendental importance” in the lives of individuals and in the very survival of our Constitution and Republic.

30. In the years since the inclusion of Article 21-A, we have clarified that the right to education attaches to the individual as an inalienable human right. We have traced the broad scope of this right in *R.D. Upadhyay v. State of A.P.* [(2007) 15 SCC 337 : AIR 2006 SC 1946] holding that the **State must provide education to all children in all places, even in prisons, to the children of prisoners. We have also affirmed the inviolability of the right to education.**

35. The Constitution likewise provides meaning to the word “education” beyond its dictionary meaning. **Parents should not be compelled to send their children to dangerous schools, nor should children suffer compulsory education in unsound buildings.**

36. Likewise, the State's reciprocal duty to parents begins with the provision of a free education, and it extends to the State's regulatory power. **No**




matter where a family seeks to educate its children, the State must ensure that children suffer no harm in exercising their fundamental right and civic duty. States thus bear the additional burden of regulation, ensuring that schools provide safe facilities as part of a compulsory education.

37. In the instant case, we have no need to sketch all the contours of the Constitution's guarantees, so we do not. **We merely hold that the right to education incorporates the provision of safe schools.**

39. **In view of the importance of Article 21-A, it is imperative that the education which is provided to children in the primary schools should be in the environment of safety.**

45. In the end, we should need to do little but enforce existing laws and encourage States in their own well-intentioned safety programmes. However, in the years since the fire at Lord Krishna Middle School, some States have moved slowly and safety standards have varied in quality across the States. These delays and variations have subjected millions more school children to danger from fire, earthquakes and other causes, when simple enhancements could offer much greater protection. **Articles 21 and 21-A of the Constitution require that India's school children receive education in safe schools. In order to give effect to the provisions of the Constitution, we must ensure that India's schools adhere to basic safety standards without further delay.**

46. **It is the fundamental right of each and every child to receive education free from fear of security and safety. The children cannot be compelled to receive education from an unsound and unsafe building.**



47. In view of what happened in Lord Krishna Middle School in District Kumbakonam where 93 children were burnt alive and several similar incidences had happened in the past, therefore, it has become imperative to direct that safety measures as prescribed by the National Building Code of India, 2005 be implemented by all government and private schools functioning in our country. We direct that:

(i) Before granting recognition or affiliation, the State Governments and Union Territories concerned are directed to ensure that the buildings are safe and secure from every angle and they are constructed according to the safety norms incorporated in the National Building Code of India.

(ii) All existing government and private schools shall install fire extinguishing equipments within a period of six months.

(iii) The school buildings be kept free from inflammable and toxic material. If storage is inevitable, they should be stored safely.

(iv) Evaluation of structural aspect of the school may be carried out periodically. We direct that the engineers and officials concerned must strictly follow the National Building Code. The safety certificate be issued only after proper inspection. Dereliction in duty must attract immediate disciplinary action against the officials concerned.

(v) Necessary training be imparted to the staff and other officials of the school to use the fire extinguishing equipments.”

6. The news item extracted above indicates that a survey has also been conducted by the concerned Tahasildar and it was revealed that there was an encroachment by the private builder. When such

being the position, the Tahasildar should have immediately take proper steps for removal of encroachment to provide access road to the school in question. However, the Tahasildar, who is entrusted with the responsibility of protecting the Government land and also to remove the encroachments over the Government lands by following the procedures laid down under Sec. 104 of the Karnataka Land Revenue Act, he appears to have failed to discharge his statutory duties.

7. Further, Sec. 103 of the Karnataka Land Revenue Act, 1964 empowers the Deputy Commissioner to remove any obstructions or interference made with regard to the Right of Way to a land used for purposes of agriculture etc., and duly entered in a map or land record maintained under the said Act. Therefore, the Deputy Commissioner is required to take steps as provided under Sec. 103 of the said Act to remove the



encroachment made by a private builder on the Government land and provide access road to the said school.

8. It is needless to mention that it is the duty of the State and the authorities who are entrusted with the responsibility of monitoring the school in question to protect the interest of the children who are studying in the said school. The failure on the part of the concerned authorities who are required to provide facilities to the Government School and to protect the property of the Government may have to be treated as mal-administration within the meaning of Sec. 2(10) of the Karnataka Lokayukta Act, 1984.

9. The object of the Karnataka Lokayukta Act 1984 (hereinafter referred to as 'K.L. Act') is also to redress the grievance of the public as a consequence of mal-administration and also to prevent mal-administration in the State



Administration. Sec. 2(8) of the K.L. Act defines 'grievance' and Sec. 2(10) of the K.L. Act defines 'mal-administration'. The failure on the part of the concerned authorities to provide proper access road to the school in question, in my considered view falls within the meaning of 'mal-administration' under Sec. 2(10) of the K.L. Act and as such the hardship or injustice caused to the students is required to be redressed.

10. Therefore, I am of the view that it is desirable for me to consider the news item published in 'The New Indian Express' as source material to exercise the power conferred on me under Sec. 7(1)(b) and 9(3)(a) of the K.L. Act. Accordingly, I exercise my suo-moto power and the office is directed to register this proceeding as suo-moto proceeding.

11. With a view to examine the issues raised in the news item referred to above, I am of the view, that it is necessary to implead the officers



mentioned herein below as parties/respondents to this proceeding and issue notice to them and call for comments from them.

1.	The Principal Secretary to Government, Education Department, (Primary and Secondary Education), M.S. Building, Bengaluru;
2.	The Commissioner of Public Instructions, Nrupathunga Road, K.R. Circle, Bengaluru;
3.	The Deputy Commissioner, Bengaluru Urban District, Bengaluru.
4.	The Chief Executive Officer, Zilla Panchayath, Bengaluru.
5.	The Tahasildar, Bengaluru East Tauk, Bengaluru.
6.	The Deputy Director, Public Instructions, Bengaluru North Taluk, Bengaluru.



7.	The Block Education Officer, K.R. Puram, Bengaluru.
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The Officers referred to above are directed to examine the issues raised in the news item extracted above and redress the grievance of the students who are studying in the said school without further loss of time by removing any obstructions placed for access to the school. **They are given three weeks time to submit their report/comments.**

12. After dictating the order and before the order could be signed, the New Indian Express has published a news item dated 26.02.2021 with a heading that "Students happy, school to get a road soon". The said news item indicates that the Hon'ble Minister for Primary and Secondary Education had visited the school in question and assured the teacher and students that the road

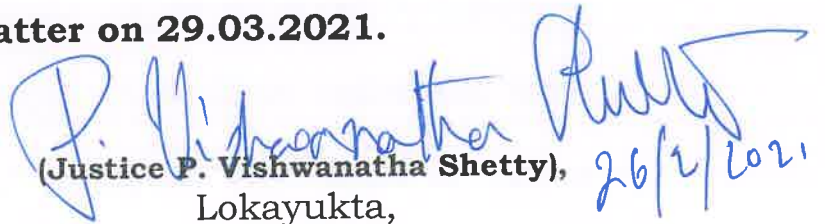


would come up within one month. Further, the news item indicates that the jurisdictional MLA had directed the Tahasildar to create a temporary path by breaking a portion of the compound wall. While appreciating the steps taken by the concerned authorities of the State for providing the temporary access path to the school in question, I am of the view it is the responsibility and constitutional obligation of the concerned public servants of the State to provide a permanent access road and other facilities to the school in question, so as to relieve the hardship being faced by the students and teachers. Therefore, in my considered view, as observed earlier notice is required to be issued to the officers referred to above to redress the grievances of the students and teachers of the said school by taking steps for removal of the obstructions placed for access to the school.



13. Communicate the copy of this order to the authorities/officers referred to above along with the copy of news item published in the 'The New Indian Express'. They are required to submit the status report on the issues referred to above within three weeks from the date of communication of this order. Further, communicate the copy of this order to the concerned news reporter of the New Indian Express.

List this matter on 29.03.2021.


(Justice P. Vishwanatha Shetty),
Lokayukta,
Karnataka State. 26/2/2021

14) ARLO-4 (Complaints Section)}