

Karnataka Lokayukta

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

CASE
NUMBER COMPT/UPLOK/BD/3074/2022District : **Tumakuru****BY :****1. Suo Moto**As per the Order of Honble Upalokayukta, Date:
19/08/2022.**COMPLAINANT/S****AGAINST :****1. Principal**

Government First Grade Women College, Tumkur.

RESPONDENT/S**Allegation/Grievance
Brief :** Dereliction of duty.Received From : Suo Moto
Received On : 19-08-2022**Complaint stands
allotted to :** **DRE-2****Seal and Signature**

ಜಿಹಾಕಾಯಕ ನಿಬಂಧಕರರಿಗೆ

ಕಾನೂನು ಅಭಿಪ್ರಾಯ

ಸೂಚನೆ ವಿಭಾಗ

SCRUTINY AND OPINION

ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ, ಕಛೇರಿ

ಬೆಂಗಳೂರು-೦೧

KARNATAKA LOKAYUKTA

No:

Date:18-08-2022

O R D E R (SUO-MOTU)

On 17.08.2022, in TV-5 Kannada, Electronic Media, a news item was telecasted stating that no basic infrastructure such as toilet, drinking water, required number of class rooms etc., are being provided to the Government First Grade Women College, Tumkur. On account of lack of basic infrastructure, the students are facing hardship.

2. It is relevant to point out that it is an obligation, duty and responsibility of the authorities who are entrusted with the responsibility of providing basic infrastructure to the Government College. However, there has been negligence on the part of concerned authorities in taking steps for providing basic infrastructure to the said college.

3. It is well known that, only the students of poorer and weaker section of the society are going to the Government Institutions. Therefore, the concerned

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authorities are required to provide adequate infrastructure to the Government colleges and it should be maintained properly. If there is no basic infrastructure available in the Government College, it affects the quality education that would be imparted in such kind of Colleges.

4. 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**

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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."

5. Based on the news item telecasted in TV-5 Kannada, I am satisfied that the students who are studying in the said College are facing injustice and

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undue hardship on account of the failure on the part of the concerned authorities in providing basic infrastructure to the College. Thereby, there is violation of fundamental right to education and also seriously affects the right to life and liberty guaranteed to the students under Article 21 of the Constitution of India. Apart from that Article 41 of the Constitution of India imposes an obligation on the State to make effective provisions for securing Right to Education. Therefore, the authorities who are entrusted with the responsibility of providing basic infrastructure to the Government Colleges are required to take immediate steps for providing basic infrastructure for enabling the students of the said College to study without any fear to their life and limb.

6. It is needless to point out that the object of the Karnataka Lokayukta Act 1984 (hereinafter referred to as 'K.L. Act') is to redress the grievance of the public as a consequence of mal-administration and also to prevent mal-administration in the State



Administration. The negligence on the part of the concerned authorities who are entrusted with the responsibility of providing basic infrastructure to the school, in my considered view falls within the meaning of 'mal-administration' under Sec. 2(10) of the K.L. Act.

7. Therefore, I am of the view that it is desirable to consider the news item telecasted in TV-5 Kannada as source material to exercise the power conferred on me under Sec. 7(2) and 9(3)(a) of the K.L. Act. Accordingly, I exercise my suo-motu power and the office is directed to register this proceedings as suo-motu proceeding.

8. 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 officer mentioned herein below as party/respondent to this proceeding and issue notice to him and call for comments from him.

1.	The Principal, Government First Grade Women College, Tumkur.
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9. The Officer referred to above is directed to examine the issues referred to above and take steps for providing basic infrastructure to the said College. He is given four weeks time to submit his comments with regard to the steps taken in that regard.

10. Communicate copy of this order to the respondent referred to above and also to the Deputy Commissioner, Tumkur District, Tumkur to hold an enquiry regarding lack of basic infrastructure in the said college and the officers/officials responsible for the delay in not providing basic infrastructure to the said college/immediately take appropriate action to provide basic infrastructure to the College as required for the benefit of the students who are in need and submit a report/compliance report to this authority.

List this matter on 20.09.2022.

K.N. Phaneendra
 19/9/22
 (Justice K.N. Phaneendra),
 Upalokayukta-2,
 Karnataka State.

11) ARLO-4 (Complaints Section)}

ನಿರ್ದೇಶಿಸಿ ಕೊಡಲಾಗಿದೆ

19/9/2022