

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

CASE
NUMBER COMPT/UPLOK/MYS/2646/2022

: District : Chikkamagaluru

BY :

1. SUO MOTO

As per the Order of Honble Upalokayukta, Dated:
18/07/2022.

COMPLAINANT/S

AGAINST :

**1. DEPUTY DIRECTOR OF PUBLIC
INSTRUCTIONS**

Chikkamagalur District, Chikkamagalur.

2. BLOCK EDUCATION OFFICER

Moodigere, Chikkamagalur District.

RESPONDENT/S

Allegation/Grievance
Brief : Dereliction of duty

Received From : Suo Moto

Received On : 19-07-2022

Complaint stands
allotted to : DRE-1

Seal and Signature

ಸಹಾಯಕ ನಿರೀಕ್ಷಕರು

ಕಾನೂನು ಅಭಿವೃದ್ಧಿ

SCRUTINY AND OPINION

ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಛೇರಿ

ಬೆಂಗಳೂರು-೧೩

KARNATAKA LOKAYUKTA

No:

Date:18-07-2022

ORDER

In 'Samyuktha Karnataka daily' dated 15.07.2022, a news item with the heading "ಶಾಲಾ ಕಟ್ಟಡ ಕುಸಿತ ತಪ್ಪಿದ ಅನಾಹುತ" has been published. Instead of repeating the news item, it is useful to extract the same, which reads as hereunder:

"ಮಲೆನಾಡು ಭಾಗದ ಅ ಗುರುವಾರ ಬೆಳಗ್ಗಿನಿಂದ ಒಂದಿಷ್ಟು ಮಳೆಯ ಅಬ್ಬರ ಕಡಿಮೆಯಾಗಿದ್ದರೂ, ಮಳೆ ಮತ್ತು ನೆರೆಯಿಂದ ಅನಾಹುತಗಳು ಮುಂದುವರಿದಿವೆ. ಮೂಡಿಗೆರೆ ತಾಲ್ಲೂಕು ಬಣಕಲ್ ಸಮೀಪ ಸಣ್ಣ ಎಂಬಲ್ಲಿ ಸರ್ಕಾರಿ ಶಾಲೆಯ ಕೊಠಡಿಯೊಂದು ಕುಸಿದು ಬಿದ್ದಿದ್ದು, ಶಾಲೆಗೆ ರಜೆ ಘೋಷಿಸಿದ್ದ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಭಾರಿ ಜೀವನಾಯ ತಪ್ಪಿದೆ.

ಈ ಸರ್ಕಾರಿ ಶಾಲೆಯ ಪ್ರಾಥಮಿಕ ಶಾಲೆಯಲ್ಲಿ 60 ಮಕ್ಕಳು ವ್ಯಾಸಂಗ ಮಾಡುತ್ತಿದ್ದು, ನಾಲ್ಕು ಕೊಠಡಿಗಳಿವೆ. ಈ ಪೈಕಿ ಒಂದು ಕೊಠಡಿ ಸಂಪೂರ್ಣ ಕುಸಿದಿದೆ. ಇದರ ಪರಿಣಾಮ ಶಾಲೆಯ ಮೇಲ್ಭವಣಿ ಹಾಗೂ ಕಟ್ಟಡಕ್ಕೆ ಹಾನಿ ಉಂಟಾಗಿದೆ.

ಕಳೆದ ಮಂಗಳವಾರದವರೆಗೆ ಹಾನಿಗೀಡಾದ ಮನೆಗಳ ಸಂಖ್ಯೆ 163 ಇದ್ದು, ಎರಡೇ ದಿನಗಳಲ್ಲಿ 199ಕ್ಕೆ ಏರಿಕೆಯಾಗಿದೆ. ಇದರ ಜೊತೆಯಲ್ಲೇ ರಸ್ತೆ, ಸೇತುವೆ, ವಿದ್ಯುತ್ ಕಂಬಗಳು ಇನ್ನಿತರೆ ಸರ್ಕಾರಿ ಕಟ್ಟಡಗಳ ಹಾನಿ ಪ್ರಮಾಣವೂ ಹೆಚ್ಚಾಗಿದೆ. ಕಾಫಿ ತೋಟಗಳ ಕುಸಿತ ಕೂಡ ಮುಂದುವರಿದಿದೆ"

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2. The news item extracted above indicates that due to continuous heavy rain in Chikkamagalur district, a Government School building situated at Sabli, Near Banakal, Moodigere taluk, Chikkamagalur district had been collapsed. The news item further indicates that the school building consists of four class rooms, out of which one class room is completely collapsed and the other class rooms are in dilapidated condition and unfit for running classes.

3. 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 School. The news item extracted above indicates that the said school building is in dilapidated condition and due to lack of proper maintenance, building was collapsed.

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



authorities are required to provide adequate infrastructure to the Government School and it should be maintained properly, so as to prevent any unforeseen incidents. If the children who are the future of this country are allowed to attend the classes in such a dilapidated building, it not only affects the quality education that would be imparted in such kind of schools, but also pose threat to the life and limb of the students.

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

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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**

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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.

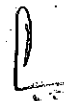
(ii) All existing government and private schools shall install fire extinguishing equipments within a period of six months.

(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. Based on the news item published in 'Samyuktha Karnataka Kannada daily news paper, I am satisfied that the children who are studying in the said school are facing injustice and undue hardship on account of the failure on the part of the concerned authorities in providing safe building to the school. Thereby, there is violation of fundamental right to education guaranteed under Article 21A of the Constitution of India 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 School are required to take immediate steps for providing safe building for enabling the students of the said school to study without any fear to their life and limb.



7. 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 safe building to the school, in my considered view falls within the meaning of 'mal-administration' under Sec. 2(10) of the K.L. Act.

8. Therefore, I am of the view that it is desirable to consider the news item published in 'Samyuktha Karnataka' 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.

9. 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.

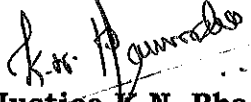
1.	The Deputy Director of Public Instructions, Chikkamagalur District, Chikkamagalur.
2.	The Block Education Officer, Moodigere, Chikkamagalur District.

10. The Officers/Officials referred to above are directed to examine the issues raised in the news item extracted above and take steps to get the new school building constructed. They are given four weeks time to submit their report/comments with regard to the steps taken to construct the school building at Sabli, Near Banakal, Moodigere Taluk, Chikkamagalur Taluk. The respondent no.1 shall conduct a survey of the present condition of the school buildings in Chikkamagalur district and submit ^{action taken by} report to this authority.

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11. Communicate copy of this order to the respondents referred to above along with the copy of news item published in 'Samyuktha Karnataka Kannada Daily' and also to the Commissioner of Public Instructions, Nrupathunga Road, Bengaluru to hold an enquiry into the issues published in the news item and submit ^{action taken by} a report to this authority.

List this matter on 24.08.2022.


(Justice K.N. Phaneendra),
Upalokayukta-2,
Karnataka State.

12) ARLO-4 (Complaints Section)}

ಶಾಲಾ ಕೊಠಡಿ ಕುಸಿತ ತಪ್ಪಿದ ಅನಾಹುತ

ಚಿಕ್ಕಮಗಳೂರು: ಮಲೆನಾಡು ಭಾಗ ದಲ್ಲಿ ಗುರುಪಾರ ಭೇಳಿಗಿನಿಂದ ಒಂದಿಷ್ಟು ಮಳೆಯ ಅಬ್ಬರ ಕಡಿಮೆಯಾಗಿದ್ದರೂ, ಮಳೆ ಮತ್ತು ನೆರೆಯಿಂದ ಅನಾಹುತಗಳು ಮುಂದುವರಿದಿವೆ. ಮೂಡಿಗೆರೆ ತಾಲೂಕು ಬಣಕಲ್ ಸಮೀಪ ಸಬ್ ಎಂಬಲ್ಲಿ ಸರ್ಕಾರಿ ಶಾಲೆಯ ಕೊಠಡಿಯೊಂದು ಕುಸಿದು ಬಿದ್ದಿದ್ದು, ಶಾಲೆಗೆ ರಚೆ ಘೋಷಿಸಿದ್ದ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಭಾರೀ ಜೀವಾಪಾಯ ತಪ್ಪಿದೆ.

ಈ ಸರ್ಕಾರಿ ಕಿರಿಯ ಪ್ರಾಥಮಿಕ ಶಾಲೆಯಲ್ಲಿ 60 ಮಕ್ಕಳು ವ್ಯಾಸಂಗ ಮಾಡುತ್ತಿದ್ದು, ನಾಲ್ಕು ಕೊಠಡಿಗಳಿವೆ. ಈ ಪೈಕಿ ಒಂದು ಕೊಠಡಿ ಸಂಪೂರ್ಣ ಕುಸಿದಿದೆ. ಇದರ ಪರಿಣಾಮ ಶಾಲೆಯ ಮೇಲ್ವಿಚಾರಣೆ ಹಾಗೂ ಕಟ್ಟಡಕ್ಕೆ ಹಾನಿ ಉಂಟಾಗಿದೆ.

ಕಳೆದ ಮಂಗಳವಾರದವರೆಗೆ ಹಾನಿಗೀಡಾದ ಮನೆಗಳ ಸಂಖ್ಯೆ 163 ಇದ್ದದ್ದು ಎರಡೇ ದಿನಗಳಲ್ಲಿ 199ಕ್ಕೆ ಏರಿಕೆಯಾಗಿದೆ. ಇದರ ಜೊತೆಯಲ್ಲೇ ರಸ್ತೆ, ಸೇತುವೆ,



ಮೂಡಿಗೆರೆ ತಾಲೂಕು ಬಣಕಲ್ ಸಮೀಪ ಸಬ್ ಎಂಬಲ್ಲಿ ಸರ್ಕಾರಿ ಶಾಲೆಯ ಕೊಠಡಿಯೊಂದು ಕುಸಿದುಬಿದ್ದಿದೆ.

ವಿದ್ಯುತ್ ಕಂಬಗಳು ಇನ್ನಿತರೆ ಸರ್ಕಾರಿ ಕಾಫಿ ತೋಟಗಳ ಕುಸಿತ ಕೂಡ ಕಟ್ಟಡಗಳ ಹಾನಿ ಪ್ರಮಾಣವೂ ಹೆಚ್ಚಾಗಿದೆ. ಮುಂದುವರಿದಿದೆ.

ಕುಸಿತ ತಪ್ಪಿದ ಅನಾಹುತ