

ITEM NO.15

COURT NO.3

SECTION X

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Writ Petition(s) (Civil) No(s). 132/2016

RAJNEESH KUMAR PANDEY & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(Mr. Rishi Malhotra [Amicus Curie])

IA No. 123252/2020 - APPLICATION FOR PERMISSION
 IA No. 74824/2021 - APPLICATION FOR PERMISSION
 IA No. 50471/2021 - APPLICATION FOR PERMISSION
 IA No. 37238/2021 - APPLICATION FOR PERMISSION
 IA No. 97659/2018 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 174218/2018 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 146547/2019 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 146274/2019 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 16355/2020 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 190123/2019 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 23736/2019 - APPROPRIATE ORDERS/DIRECTIONS
 IA No. 97663/2018 - CLARIFICATION/DIRECTION
 IA No. 115912/2018 - CLARIFICATION/DIRECTION
 IA No. 21055/2018 - CLARIFICATION/DIRECTION
 IA No. 128163/2017 - EXEMPTION FROM FILING O.T.
 IA No. 2/2016 - EXEMPTION FROM FILING O.T.
 IA No. 16358/2020 - EXEMPTION FROM FILING O.T.
 IA No. 9/2017 - EXEMPTION FROM FILING O.T.
 IA No. 173591/2019 - EXEMPTION FROM FILING O.T.
 IA No. 74820/2021 - GRANT OF INTERIM RELIEF
 IA No. 30082/2018 - GRANT OF INTERIM RELIEF
 IA No. 86670/2016 - IA FOR IMPLEADMENT
 IA No. 27854/2017 - IMPLEADMENT, DIRECTION, OT
 IA No. 126356/2017 - INTERVENTION APPLICATION
 IA No. 97652/2018 - INTERVENTION APPLICATION
 IA No. 98109/2018 - INTERVENTION APPLICATION
 IA No. 12758/2019 - INTERVENTION/IMPLEADMENT
 IA No. 173590/2019 - INTERVENTION/IMPLEADMENT
 IA No. 174217/2018 - INTERVENTION/IMPLEADMENT
 IA No. 146544/2019 - INTERVENTION/IMPLEADMENT
 IA No. 97651/2018 - INTERVENTION/IMPLEADMENT
 IA No. 30187/2018 - INTERVENTION/IMPLEADMENT
 IA No. 129598/2018 - INTERVENTION/IMPLEADMENT
 IA No. 146273/2019 - INTERVENTION/IMPLEADMENT
 IA No. 16351/2020 - INTERVENTION/IMPLEADMENT
 IA No. 74815/2021 - INTERVENTION/IMPLEADMENT
 IA No. 146263/2019 - INTERVENTION/IMPLEADMENT
 IA No. 74381/2021 - INTERVENTION/IMPLEADMENT

IA No. 107257/2018 - INTERVENTION/IMPLEADMENT
 IA No. 98708/2019 - INTERVENTION/IMPLEADMENT
 IA No. 190121/2019 - INTERVENTION/IMPLEADMENT
 IA No. 21051/2018 - INTERVENTION/IMPLEADMENT
 IA No. 6824/2021 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES
 IA No. 131315/2018 - PERMISSION TO FILE ADDITIONAL
 DOCUMENTS/FACTS/ANNEXURES
 IA No. 3/2017 - PERMISSION TO FILE ANNEXURES
 IA No. 6/2017 - PERMISSION TO FILE ANNEXURES
 IA No. 1/2016 - PERMISSION TO FILE LENGTHY LIST OF DATES)

WITH

W.P. (C) No. 876/2017 (X)

(FOR

FOR EXEMPTION FROM FILING O.T. ON IA 29329/2018

FOR impleading party ON IA 29969/2018

FOR INTERVENTION/IMPLEADMENT ON IA 29969/2018

FOR impleading party ON IA 7557/2019

FOR INTERVENTION/IMPLEADMENT ON IA 7557/2019

IA No. 29329/2018 - EXEMPTION FROM FILING O.T.

IA No. 7557/2019 - INTERVENTION/IMPLEADMENT

IA No. 29969/2018 - INTERVENTION/IMPLEADMENT)

Date : 21-07-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE MR. JUSTICE ABHAY S. OKA

HON'BLE MR. JUSTICE J.B. PARDIWALA

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Ms. Taruna Singh Gohil, AOR
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Mr. R. Vishnu Kumar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

We are informed that Mr. Rishi Malhotra, learned
Amicus Curiae is in personal difficulty today.

Accordingly, hearing of these matters is deferred till 17.08.2022.

Our attention has been invited to the communication issued by the Under Secretary to the Government of India, Ministry of Education, Department of School Education and Literacy dated 10.06.2022 informing all the State Governments and Union Territories about the acceptance of the recommendation made by the Rehabilitation Council of India by the department and urging the concerned States/Union Territories to give effect to the said decision in right earnest and adhere to the direction given by this Court in judgment dated 28.10.2021. The communication reads thus:

"F.No.3-5/2021-IS.18
Government of India
Ministry of Education
Department of School Education & Literacy

Shastri Bhawan, New Delhi
Dated: 10th June, 2022

To,

1. Education Secretaries of all States and UTs
2. The Commissioner,
Kendriya Vidyalaya Sangathan
18, Institutional Area,
Shaheed Jeet Singh Marg, New Delhi- 110016
3. The Commissioner.
Navodaya Vidyalaya Samiti,
B-15, Institutional Area,
Sector 62, Noida, Uttar Pradesh 201 307

Subject: Compliance of judgment dated 28.10.2021 in the matter of W.P(C) 132 of 2016 titled as Rajneesh Kumar Pandey & Ors. vs. Union of India & Ors., before the Hon'ble Supreme Court of India—reg.

Sir/ Madam,

I am directed to refer to the judgment dated 28.10.2021 of W.P(C) 132 of 2016 titled as Rajneesh Kumar Pandey & Ors. vs. Union of India & Ors., before the Hon 'ble Supreme Court of India wherein it directed Central Government to forthwith notify the norms and standards of pupil teacher ratio for special schools and also separate norms for special teachers who alone can impart education and training to Children with Special Needs (CWSN) in the general schools.

2. The Norms and Standards of Pupil Teacher Ratio (PTR) for special schools and also separate norms for special teachers who alone can impart education and training to CWSN in the general schools, as recommended by Rehabilitation Council of India (RCI). Department of Empowerment of Persons with Disabilities (DEPID). Government of India. have been accepted by this Department, and are detailed as under-

Pupil Teacher (Special Education Teacher) Ratio for Regular (Inclusive) School

Levels		Qualifications	Recruitment Process	Minimum No. of Spl. Ed. Teacher (s)	Recommended PTR	Remark
Foundational Stage (Pre-school Class 1 & 2)	Primary Level	1. D.Ed. in Special Education from a RCI Approved Institute and possess a valid RCI CRR number or	Through CTET/TET/NTA Score+ Demonstration of Classroom teaching + Interview or as per the recruitment process and apted from time to time		10:1 (Pupils with disabilities enrolled and special teacher)	Availability of service of special education teacher should be mandatory even if the school has one student with disability
Preparatory Stage (Class 3 10 5)		D.El.Ed. with a recognized qualification (Certificate/Diploma*) from a RCI approved institution equivalent to D.Ed. in Special Education and possess a valid CRR number 2. Six-month training of		One (***)		

		teaching in cross disability area in inclusive education (**)			
Middle Stage (Class 6 to 8)	Upper Primary + Secondary	1. B.Ed. in Special Education from a RCI Approved Institute and possess a valid RCI and CRR number or B.Ed. With a recognized qualification (Certificate/Diploma*) from a RCI approved institution equivalent to B.Ed. in Special Education and possess a valid RCI CRR number 2. Six-month training of teaching in cross disability area in inclusive education (**)	One (***)	15:1 (Pupils with disabilities enrolled and special education teacher)	
Secondary Stage (Class 9 to 12)	Higher Secondary				

(*) RCI makes effort to design and conduct such training programme through its approved institution for in-service/pre-service general teachers.

(**) If the proposed programme (cross disability/top up courses being developed by RCI as on in service training is not available, the same may be dropped from the qualifications with a condition that those recruited with D.Ed./B.Ed. Special Education or equivalent qualifications have to compulsorily undergo aforesaid training as soon as the same is conducted.

(***) Note 1: One school and one (minimum) special education teacher norms remains intact, however, ahoc/special provision of Itinerant Special Education Teacher under special circumstances as per the PTR specified above may be done in cluster of schools in case of (i) adequate number of special education teachers are not available. (ii) school is a single teacher school having only one general education teacher. This may be done with the conditions that the allotment of (1) not more than 4 schools; (2) and distance between any 2 allotted schools should not to be more than 5 kilometers so that special education teacher gets the required time to provide necessary interventions at each school level. The aforesaid condition of number of schools and distance covered shall remain intact till minimum of 50% of the PTR is maintained and, the special education teacher and schools make effort to bring more students with disabilities to classrooms to maintain required PTR. In case the minimum 50% of PR is not achieved, one by one nearby schools shall be added on till minimum

of 50% of PTR is achieved.

Note 2- In case of multi-level school (foundation to secondary stage) ad-hoc provision of one Special Education Teacher may be considered if the whole school has 10 or less than 10 students with disabilities.

(#) The parity of pay and service conditions should be adhered to for special education teachers as done for general education teachers at national and state levels.

3. Further RCI has given a Clarification regarding the types of disabilities as per RPwD Act, 2016 for which Special Educator is not required or can be addressed by trained General Teachers by specifying the names of disabilities. Out of 21 disabilities, currently Rehabilitation Council of India has standard training programmes in the following disabilities: Blindness, Low-vision, Hearing Impairment (deaf and hard of hearing), Intellectual Disability, Autism Spectrum Disorder, Cerebral Palsy, Specific Learning Disabilities, Speech and Language disability, Multiple Disabilities including deaf-blindness. Only sensitization and orientations are given in other areas of disabilities. As special educator can support other disabilities with sensitization and orientation training such as: Leprosy Cured persons, Locomotor Disability, Dwarfism, Mental Illness, Muscular Dystrophy, Chronic Neurological condition, Multiple Sclerosis, Thalassaemia, Haemophilia, Sickle Cell disease, Acid Attack victim and Parkinson's disease; hence trained general education teachers can be sensitized and oriented in the aforesaid disability areas besides other disabilities. RPwD Act (2016). Chapter 3.16. (iv) P. 11 demands that "provide necessary support individualized or otherwise in environments that maximise academic and social development consistent with the goal of full inclusion", hence the groups having other disabilities as mentioned may any time demand the services of special education teachers apart from the services of general education teachers in inclusive schools.

4. Regarding RCI recommendation contained in Note 2 (#) of para 2 above, i.e. "the parity of pay and service conditions should be adhered to for special education teachers as done for general education teachers at national and state levels", it is related to respective State Governments/ UT Administrations as Education being in the concurrent list of subjects. Therefore, State Governments/ UT Administrations may ensure.

5. RCI has also recommended and redefined the role of special teachers, while being a catalyst to empower children with disabilities special teachers will undertake the following role responsibilities for facilitating inclusive education:

- i. Providing tips for making an inclusive school climate; culture and ethos where all systems from admission to assessments, teaching and evaluation are disability friendly.
- ii. Planning curriculum with reasonable accommodations, including adaptations and modifications as per individual and specific disability needs.
- iii. Collaborate with general teachers for certain skill based subjects or for activities which have small group instructions like cooperative learning, flipped classrooms and peer tutoring.
- iv. Develop and create supplemental learning materials for specific students, including visual, manipulative, text, and technology resources.
- v. Undertake need assessment and examine student's special educational needs and progress

in classrooms and beyond within school hours.

- vi. Collaborate with school counselor for monitoring and addressing grievances and prevent bullying of children with disabilities.
 - vii. Routinely check the functioning and maintenance of aids, appliances devices and assistive devices.
 - viii. Undertake parent support programs: connect parents to schools and vice versa.
 - ix. Develop a buddy system/Divyangamitra by creating sensitization programs for peers.
 - x. Identify talents, abilities and twice exceptionality in children with disabilities.
6. The outreach activities for special teachers are as under:
- i. Undertake home visits and support home training programs.
 - ii. Collaborate and liasoning with boards for assessments, certifications and UDID cards.
 - iii. Conduct community sensitization programs and conduct surveys.
 - iv. Undertake resource mobilization; for example arranging for device support, Braille books, interpreters services, arranging readers and scribe for children with disabilities.
 - v. Communicating and advocating for the right students with disabilities.
7. The suggested activities for special teachers are as under:
- i. Developing annual/monthly calendar of activities for inclusion.
 - ii. Co-planning of lessons and providing tips for teaching children with disabilities
Implementation of IEPs.
 - iii. Arranging for celebrations and workshops such as poster competitions, showcasing success stories and films glorifying abilities of children with disabilities for awareness and empowerment.
 - iv. Working with school council/School Development Management Committee (SDMC) School Management Committee (SMC) for inclusive education, community and parent volunteering activities.
 - v. Ascertaining felt needs of teachers, develop checklists or inclusive, experiential workshops, disability sensitizations etiquettes, family fair and 'Inclusion Mela'.

8. States Governments and UT Administrations may take further necessary action in the light of judgment dated 28.10.2021 of Hon 'ble Supreme Court and furnish the action taken

report to this Department by 25th June, 2022 to enable this department to submit compliance affidavit before Hon'ble Supreme Court of India.

Yours faithfully

Sd/-

(Anil Gairola)

Under Secretary to the Government of India

Email: iedeis18@gmail.com"

[emphasis supplied]

The highlighted portion of this communication be treated as directions given by this Court to the States/Union Territories in terms of this order.

The concerned States/Union Territories shall submit compliance report through Secretary, Government of India, Ministry of Education, Department of School Education and Literacy before the next date.

List on 17.08.2022.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
ASSISTANT REGISTRAR