

1578

R-2780 X  
25/7/17

R-221 X  
03/8/17

मा० सर्वोच्च न्यायालय के आदेश/अतिमहत्वपूर्ण/समयबद्ध  
संख्या-रिट-46/सत्तर-2-2017-18(30)/2017

प्रेषक,

मधु जोशी  
विशेष सचिव,  
उत्तर प्रदेश शासन।

470  
29/7/17

498/RW  
3.8.17

सेवा में,

1. निदेशक,  
उच्च शिक्षा, उ०प्र०,  
इलाहाबाद।

2. कुलसचिव,  
समस्त राज्य विश्वविद्यालय,  
उ०प्र०।

उच्च शिक्षा अनुभाग-2

लखनऊ: दिनांक: 18 जुलाई, 2017

विषय:- एच०आई०वी० ग्रस्त/एड्स पीड़ित बच्चों के संबंध में मा० सर्वोच्च न्यायालय द्वारा रिट याचिका (सिविल) संख्या-147/2014 नाज फाउन्डेशन (इण्डिया) ट्रस्ट बनाम यूनियन ऑफ इण्डिया व अन्य में पारित आदेश दिनांक 05-05-2017 का अनुपालन किये जाने के संबंध में।

महोदय,

उपर्युक्त विषयक असिस्टेंट रजिस्ट्रार, पीआईएल (रिट) सर्वोच्च न्यायालय, नई दिल्ली के पत्र संख्या-डी०नं०-919/2014 एससी/पीआईएल (डब्ल्यू) दिनांक 12-05-2017 व रिट याचिका (सिविल) संख्या-147/2014 नाज फाउन्डेशन (इण्डिया) ट्रस्ट बनाम यूनियन ऑफ इण्डिया व अन्य में पारित आदेश दिनांक 05-05-2017 की छायाप्रति संलग्नकर प्रेषित करते हुए अवगत कराना है कि उक्त रिट याचिका मा० सर्वोच्च न्यायालय में इस अनुतोष के साथ योजित की गयी थी कि एच०आई०वी० ग्रस्त/एड्स पीड़ित बच्चों को सरकारी अथवा गैर सरकारी शिक्षण संस्थाओं में प्रवेश से रोका न जाय, ऐसी शिक्षण संस्थाओं में प्रवेशित बच्चों को एच०आई०वी० ग्रस्त होने के आधार पर निकाला न जाय, ऐसे एच०आई०वी० ग्रस्त बच्चों के लिये अलग से स्कूल न खोला जाय तथा आर०टी०आई० अधिनियम, 2009 की धारा-2(डी) के अन्तर्गत एच०आई०वी० ग्रस्त बच्चों को 'सुविधाहीन बच्चों' की श्रेणी में रखे जाने के निर्देश जारी किये जाये।

3- रिट याचिका (सिविल) संख्या-147/2014 नाज फाउन्डेशन (इण्डिया) ट्रस्ट बनाम यूनियन ऑफ इण्डिया व अन्य में मा० सर्वोच्च न्यायालय द्वारा दिनांक 05-05-2017 को पारित आदेश का क्रियात्मक अंश निम्नवत् है:-

We are therefore satisfied, that all the state Governments are agreeable to issue a notification, declaring children living with or affected by HIV, fall in the category of disadvantaged children, under Section 2(d) of the Right of Children to Free and Compulsory Education (RTE) Act, 2009 We are of the view, that some of the State Governments, other than 11 States and one Union Territory, which had not issued such notification (in furtherance of the motion Bench order dated 31.03.2017) may have issued the same in the interregnum. In the absence of any objection, we direct all other State Governments and Union Territories to issue the necessary notification, within eight weeks from today.

DR. RW/AF  
-Vef  
Kapurthor

~~Sent~~  
Agency 20/5/17  
Please upload  
in the college login  
of all colleges  
Vef  
3/8/17

57  
9/08/17

With the aforesaid direction, we are satisfied, that all the prayers raised in the instant writ petition, are taken care of.

The instant writ petition is disposed of in the above terms.

4- अतः इस संबंध में मुझे यह कहने का निदेश हुआ है कि राजकीय महाविद्यालयों, अशासकीय सहायता प्राप्त महाविद्यालयों एवं स्ववित्तपोषित योजना के अन्तर्गत संचालित महाविद्यालयों में तथा सभी विश्वविद्यालयों में एच0आई0वी0 ग्रस्त/एड्स पीड़ित बच्चों के प्रवेश आदि के संबंध में मा0 सर्वोच्च न्यायालय द्वारा रिट याचिका (सिविल) संख्या-147/2014 नाज फाउन्डेशन (इण्डिया) ट्रस्ट बनाम यूनियन ऑफ इण्डिया व अन्य में पारित आदेश दिनांक 05-05-2017 का अनुपालन कराये जाने हेतु आवश्यक कार्यवाही कराने का कष्ट करें।

संलग्नक-यथोक्त।

भवदीय,  
मधु जोशी  
( मधु जोशी )  
विशेष सचिव।

संख्या-रिट-46(1)/सत्तर-2-2017-तददिनांक

प्रतिलिपि उच्च शिक्षा अनुभाग-1 एवं 5 को मा0 सर्वोच्च न्यायालय द्वारा पारित आदेश दिनांक 05-05-2017 के अनुपालन में आवश्यक कार्यवाही किये जाने हेतु।

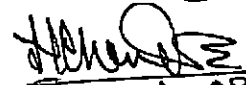
आज्ञा से,  
( डा0 ध्रुव पाल )  
अनु सचिव।

पृष्ठांकन संख्या - RW/2181 / 2017, दिनांक: 01.08.2017

प्रतिलिपि निम्नांकित को सूचना एवं आसन लेखन निदेशों का अनुपालन सुनिश्चित करने के अनुरोध के साथ अप्रसारित:-

1. कुलपति कार्यालय के अधीक्षक को कुलपति महालय के संज्ञानार्थ।
2. प्राचार्य/प्राचार्या, समस्त राजकीय एवं अनुदानित महाविद्यालय, डॉ. भीम राव अम्बेडकर विश्वविद्यालय, आगरा।
3. समन्वयक, प्रवेश परीक्षा (Entrance Test), डॉ. भीम राव अम्बेडकर विश्वविद्यालय, आगरा ( डॉ. संजीव कुमार-गार्जित )
4. कुलसचिव

Draft-2017

  
01 08 17  
उपकुलसचिव

SPEED POST

संख्या-रिट..... 146/सत्तर-2-2017

संख्या-रिट-52/सत्तर-2-2017

D.NO. 919/2014/SC/PIL (W)

SUPREME COURT OF INDIA  
NEW DELHI

No. 1073/MS/WRIT/2017

Dated : 12<sup>th</sup> May, 2017

From : Assistant Registrar, PIL (Writ)

FR. 10(30)2017  
51

To :

1. The Union of India  
through the Secretary  
Department of School Education and Literacy, and  
Department of Higher Education  
Ministry of Human Resource Development  
Shastri Bhawan  
New Delhi-110001
2. The Union of India  
through the Secretary  
Department of AIDS Control  
Ministry of Health and Family Welfare  
Niramn Bhawan, C-Wing  
New Delhi-110001
3. National Commission for Protection of Child Rights  
through the Member Secretary,  
5<sup>th</sup> Floor, Chanderlok Building,  
36, Janpath  
New Delhi-110001
4. State of Andhra Pradesh  
Through Chief Secretary  
Secretariat Building  
Hyderabad 500 001.
5. State of Arunachal Pradesh  
Through Chief Secretary  
Secretariat  
Itanagar - 791 111
6. State of Assam  
Through Chief Secretary  
Block - C 3<sup>rd</sup> Floor  
Secretariat  
Dispur, Guwahati - 781 006
7. State of Bihar  
Through Chief Secretary  
Old Secretariat  
Patna - 800 015

अपर मुख्य सचिव, खासिक/मां / अवर डिप्टी

MS  
(सुबुल भटनागर)  
अवर मुख्य सचिव  
उत्तर प्रदेश शासन।

70/ASE/HE/17

कोर्ट के ह/तकिक

विश्व (6)

अवर मुख्य सचिव  
सं. सं. सं.  
पत्रिका

श्री वि. म. म. / नरसिंहा  
29.5.2017

उच्च न्यायालय भवन-2  
अवर मुख्य सचिव / अवर डिप्टी - 1 खं 5

25-05-2017  
(संजय अग्रवाल)  
अपर मुख्य सचिव,  
माध्यमिक एवं उच्च शिक्षा विभाग  
उत्तर प्रदेश शासन  
लखनऊ

29/05/17  
27.5.17

27. State of Tamil Nadu  
Through Chief Secretary  
Secretariat  
Chennai - 600009

28. State of Tripura  
Through Chief Secretary  
Civil Secretariat  
Agartala - 799001

29. State of Uttarakhand  
Through Chief Secretary  
Uttarakhand Secretariat  
4B Subhash Road,  
Dehradun-248001

30. State of Uttar Pradesh  
Through Chief Secretary  
UP Secretariat  
Lucknow - 226001

31. State of West Bengal  
Through Chief Secretary  
Writer's Building  
Kolkata - 700001

32. Government of the National Capital Territory of Delhi  
Through Chief Secretary  
New Secretariat Building  
I.P. Estate  
New Delhi-110002

33. Union Territory of Andaman and Nicobar Islands  
Through Chief Secretary  
Secretariat Port Blair  
Andaman - 744101

34. Union Territory of Chandigarh  
Through Chief Secretary  
Secretariat Sector - 9  
Chandigarh 160001

35. Union Territory of Dadar and Nagar Haveli  
Through Chief Secretary  
Secretariat,  
Silvasa - 396220

36. Union Territory of Daman and Diu  
Through Chief Secretary  
Fort Area, Secretariat  
Moti Daman 396220

37. Union Territory of Lakshadweep  
Through Chief Secretary  
Secretariat  
Kavaratti-682555

38. Union Territory of Pondicherry  
Through Chief Secretary  
No. 1 Beach Road  
Pondicherry-605001

WRIT PETITION (CIVIL) NO. 147 OF 2014  
(Under Article 32 of the Constitution of India)

Naz Foundation (India) Trust

... Petitioner

Versus

Union of India & Ors.  
Sir,

... Respondents

I am directed to forward herewith for your information, compliance and necessary action a certified copy of the Signed Order of the Supreme Court dated 05.05.2017, passed in the Writ Petition above-mentioned.

Please acknowledge receipt.

Yours faithfully,

  
Assistant Registrar 12/5/17

Encl. As above



IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO.147 OF 2014

NAZ FOUNDATION (INDIA) TRUST

... PETITIONER (S)

VS.

481324

UNION OF INDIA & ORS.

... RESPONDENT (S)

ORDER

Certified to be true copy

*[Signature]*  
Assistant Registrar (Judicial)  
Supreme Court of India

1. The petitioner approached this Court with the following prayers :

"(a) For an appropriate writ, order or direction, declaring that no child living with or affected by HIV/AIDS shall be denied admission in any educational institution, whether public or private, solely on the ground of her/his HIV-positive status (actual or perceived) or HIV-positive status (actual or perceived) of her/his parents, guardians or any other family member.

(b) For an appropriate writ, order or direction, declaring that no child living with or affected by HIV/AIDS shall be suspended or expelled from any educational institution, whether public or private, solely on the ground of her/his HIV-positive status (actual or perceived) or HIV-positive status (actual or perceived) of her/his parents, guardians or any other or any other family member.

(c) For an appropriate writ, order or direction, declaring that there shall not be segregation of children living with or affected by HIV/AIDS in schools and that there shall be no separate schools for children living with or affected by HIV/AIDS and that children living

with or affected by HIV/AIDS shall be supported and enabled to attend regular schools with other children.

(d) For an appropriate writ, order or direction directing the Union of India to frame and notify comprehensive guidelines under Section 35(1) of the RTE Act 2009, pertaining to children living with and affected by HIV/AIDS in schools, covering issues of right to education without any discrimination and confidentiality of their HIV-positive status to be implemented by the appropriate governments, local authorities and School Management Committees respectively.

(e) For an appropriate writ, order or direction directing the State Governments and Union Territories to issue notification under Section 2(d) of the RTE Act, declaring that children living with and affected by HIV/AIDS fall in the category of 'disadvantaged children' for the purposes of the RTE Act, like the State Governments of Andhra Pradesh, Karnataka, Uttarakhand and Manipur."

2. This Court passed the following order on 31.3.2017 :

"Certain Rights accrue to all children under the Right of Children to Free and Compulsory Education Act, 2009. Certain additional rights also accrue to children under the above Act, if they are declared as belonging to a disadvantaged group, by a notification issued by any individual State Government, under Section 2(d) of the above Act.

We are informed that 11 States and 1 Union Territory have issued such notifications, declaring children living with or affected by HIV, as belonging to a disadvantages group.

We are of the prima facie view, the State Governments need to consider the issuance, so as to include children living with or affected by HIV, to be notified as belonging to a disadvantaged group under Section 2(d), within four weeks from today. Ordered accordingly.



Such of the State Governments as are unwilling to voluntarily issue a notification as aforementioned, may file an affidavit before this Court, within four weeks, indicating the reasons why they consider it unnecessary to issue such a notification.

Respondent No.1 shall communicate the instant order to all Secretaries in States of the Department of School Education within a week from today."

3. In continuation of the directions issued by this Court, we are informed, that the Union of India addressed a communication to the Education Secretaries of all States (except the State of Jammu and Kashmir) and Union Territories (having legislatures), a letter dated 6.4.2017. The subject and text of the above letter, is reproduced below :

"Subject : Inclusion of HIV affected children within definition of "child belonging to Disadvantaged Group" as defined under Section 2(d) of the Right of Children to Free and Compulsory Education (RTE) Act, 2009.

Sir/Madam,

I am directed to refer to the order dated 31.03.2017 of the Hon'ble Supreme Court of India in Writ Petition (Civil) No.147/2014 on the issue of HIV affected children (copy enclosed).

2. The Hon'ble Supreme Court has ordered that all children living with or affected by HIV, need to be notified as belonging to a disadvantaged group under Section 2(d) of the RTE Act, 2009 within four weeks of the order.

3. In this regard, you are requested to take appropriate action as per the directions of Hon'ble Supreme Court and issue suitable notification under intimation to this Department.

Encl: as above."

4. None of the State Governments or the Union Territories has approached this Court, in furtherance of the liberty granted to them under the penultimate paragraph of the motion Bench order dated 31.3.2017.

5. We are therefore satisfied, that all the State Governments are agreeable to issue a notification, declaring children living with or affected by HIV, fall in the category of disadvantaged children, under Section 2(d) of the Right of Children to Free and Compulsory Education (RTE) Act, 2009. We are of the view, that some of the State Governments, other than 11 States and one Union Territory, which had not issued such notification (in furtherance of the motion Bench order dated 31.3.2017) may have issued the same in the interregnum. In the absence of any objection, we direct all other State Governments and Union Territories to issue the necessary notification, within eight weeks from today.

6. With the aforesaid directions, we are satisfied, that all the prayers raised in the instant writ petition, are taken care of.

7. The instant writ petition is disposed of in the above terms.

*sd/-*

.....  
[JAGDISH SINGH KHEHAR]

*sd/-*

.....J.  
[Dr. D.Y. CHANDRACHUD]

*sd/-*

.....J.  
[SANJAY KISHAN KAUL]

New Delhi;  
5<sup>th</sup> May, 2017.