

Summary of the Delhi High Court case on Regulation of Unrecognised Schools

WP(C) 43/2006, CMs 1819/2007 and 16275/2007

Date of Decision: 8th February 2008

THE PUBLIC INTEREST LITIGATION

The petitioner, **Social Jurist**, a civil rights group, filed a Public Interest Litigation highlighting the condition of private unrecognised schools in Delhi.

- There are nearly 10,000 schools in different parts of Delhi which are unregistered and unrecognized, run by private individuals, institutions and NGOs in which about 6,00,000 children between the age group of 2 to 18 years are studying in different classes between LKG to 12th standard.
- All these schools have been established and are being run without the permission of the Government and without the recognition of appropriate authority under the Delhi School Education Act, 1973.
- Most of the schools are ill-equipped and are established in unsafe buildings. They do not have adequate accommodation for running the institution nor are the teachers employed for imparting instructions qualified. They are usually underpaid.
- The absence of playgrounds, libraries and laboratories in the Schools makes the position quite dismal for the children who are, for various reasons including poverty and absence of proper schools in the neighbourhood, forced to join these institutions.
- Most of the schools do not observe normal working days and are in the nature of 'Sub-standard Teaching Shops.'
- Fees and other demands made by the schools are said to be exorbitant and unjustified having regard to the poor facilities that are provided.

The petitioner made the following prayer to the Court:

- ☞ The High Court should direct the Delhi government to take immediate action including action by way of **closure of all such unauthorized and unrecognized schools** being run from unsafe school buildings as do not conform to the minimum requirement stipulated for establishing schools under the provisions of the Delhi School Education Act, 1973 and their recognition.

- ☞ The High Court should direct the Delhi government to frame rules in terms of Section 28 of the Delhi School Education Act, 1973 and issue instructions under Rule 43 of the Delhi School Education Rules, 1973 for regulating the opening and functioning of all the schools in Delhi.

THE RESPONDENTS

The respondents in this case were:

1. Directorate of Education (Delhi government)
2. Delhi Development Authority
3. Municipal Corporation of Delhi
4. Association of Unrecognised Institutions
5. Adarsh Public School

The **Directorate of Education (Delhi government)** stated that:

1. There are no norms available in the Delhi School Education Act or the Rules for schools which are not recognised. (Para. 6)
2. The Delhi School Education Act does not authorise the officers of the Education Department to either inspect or even enter unrecognised institutions for the purposes of verifying the infrastructural and other facilities made available to the students. (Para. 13)
3. The Directorate of Education it is not regulating the establishment of unrecognised schools by reference to Rule 44 of the Rules. (Para. 5)

The **Municipal Corporation of Delhi** stated that it cannot force institutions to seek recognition. (Para. 16)

The **Association of Unrecognised Institutions** stated that

1. Unrecognised schools are out of the purview of the Delhi School Education Act. (Para. 17)
2. Unrecognised Institutions could not comply with the standards prescribed for recognition and would have to close down. This would violate the fundamental right guaranteed under Article 19(1)(g) of the Constitution. (Para. 33)

THE JUDGEMENT

The Court held that:

1. Under the Delhi School Education Act, the administrator has the power to regulate not only recognised but all schools whether the same are recognised or not. (Para. 25)
2. Establishment of a new school is a matter that is regulated under the Act and such a school could be established only with the permission of the administrator and subject to the fulfilment of the requirements stipulated in the Rules.
3. The right to practice any profession or to carry on any occupation, trade or business guaranteed in the Constitution under Art. 19(1)(g) is not absolute and is subject to reasonable restrictions under Art. 19(6). Standards for recognition provided under the Delhi School Education Act are for the purpose of laying reasonable restrictions. There is no challenge to the provisions of the Delhi School Education Act prescribing the standards. (Para. 33)
4. The Delhi government should:
 - a. Survey and identify the unauthorised and unrecognised educational institutions running in Delhi.
 - b. Call upon them to apply for post facto permission of the administrator under the Delhi School Education Act.
 - c. Evaluate the schools to check if they are meeting the criteria for recognition.
 - d. Give recognition to those who are eligible for it.
 - e. Provisionally exempt a school if it can fulfil the requirements in the near future.
5. Those schools that do not apply for the recognition or cannot get it should close down. If they don't the Municipal Corporation of Delhi, New Delhi Municipal Council and the Delhi Development Authority should close them down for misuse of the premises in the light of the Master Plan.

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