

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(SPECIAL ORIGINAL JURISDICTION)

W.P. NO OF 2020

Saranya.S
W/o Patrick Lawrence.G,
No.31, 5th street santhosh nagar,
Puthagaram,
Chennai – 600 099.

.....Petitioner

-VS-

1. The Union of India,
rep. by the Secretary,
Ministry of Information & Broadcasting,
Sastri Bhavan,
New Delhi-110 001.
2. The Secretary to Government of India,
Ministry of Information & Technology,
Electronic Niketan, C.G.O. Complex,
New Delhi-110 003.
3. The Official In-charge ,
Computer Emergency Response Team,
Ministry of Communications,
Government of India,
New Delhi.
4. The Principal Secretary to Government,
Home Department,
Government of Tamil Nadu,
Fort St. George,
Chennai.
5. The Director of Social Welfare,
Government of Tamil Nadu,
Chennai.
6. The Commissioner of Police,
Cyber Crime (CBCID),
Police Department,
Chennai.

7. The Director of School Education,
DPI Campus College Road,
Chennai.

8. The Chairman,
Central Board of Secondary Education,
"Siksha Sadan", No.17, Institutional Area,
Rouse Avenue, Delhi 110 002.

9. The Chairperson
Central Board of Secondary Education,
Shiksha Kendra, 2, Community Centre,
Preet Vihar,
Delhi - 110092.

10. The Regional Officer
Central Board of Secondary Education,
New No-3, Old No. 1630 A,
"J" Block, 16th Main Road,
Anna Nagar West,
Chennai - 600 040.

11. Padmashree CBSE School
Rep by its correspondent
Nehru St, Raghavendra Nagar,
Korattur, Chennai, -600099

...Respondents

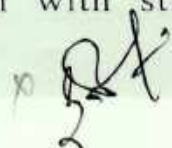
AFFIDAVIT OF THE PETITIONER

I, Saranya S. W/O Patrick Lawrence.G, aged about 34 years residing at No.31, 5th street santhosh nagar, Puthagaram, Chennai - 600 099 do solemnly affirm and sincerely states as follows:-

1. I am the petitioner herein and as such I am well acquainted with the facts and circumstances of the present case and as such I am competent to swear this present affidavit and I am filing this writ petition as Public Interest Litigation.



2. I most humbly submit that I am blessed with two children namely Abhishek studying 9th standard and Kannushka studying 6th standard both studying at the 11th Respondent's School who now have undertaken to commence classes through online medium for the next academic year 2020-2021 without adhering and abiding by any rules and framing any regulations for conducting online classes whereby several pop-up ads with several explicit content appear during online sessions and disturbing young student's minds and lives.
3. I state that I am filing this writ petition and I undertake to pay costs if any ordered by this Hon'ble Court and if this Hon'ble Court finds that the above writ petition is intended for personal gain or oblique motive. I state that to my knowledge, no Public Interest Litigation (PIL) arising on the same issue has been filed anywhere. I state that I am an Income tax Assessee and that my Pan No. CPEPS7474D and my annual income is Rs.5,00,000/-
4. The present writ petition is filed seeking for a relief of Mandamus forbearing the Respondents from conducting Online classes without framing proper schemes and guidelines for such online portals from accessing illegal, immoral adult websites thereby preventing students from accessing any such websites through any and every pop-up re-directs.
5. I most humbly submit that Indian digital Education have several fundamental flaws and serious lapses whereby several users are unable to go online as only 8% of homes with young members have computer with net link. The Covid-19 pandemic has exposed how rooted several structural imbalances are between rural and urban, male and female, rich and poor, even in the digital world creating discrimination in the online world.
6. I most humbly submit that Teachers and school administrators have been advised to continue communication with students



through virtual lectures or portals like Massive Open Online Courses. However, in the absence of physical classrooms and proper digital infrastructure, both teachers and students are facing unprecedented challenges. Only privileged students who are privileged to pay additional fees for course material can avail study materials and additional preferences as per the payment made. Online classes advertising advanced courses for better prospects with hiked fees have irked several people who are unable to pay the cost incurred in such expensive online study materials along with preferential access to selected materials where subscription models are adopted. On the contrary if basic fees are paid, student's access to courses are severely limited and crippled by various actions in limiting exposure to students.

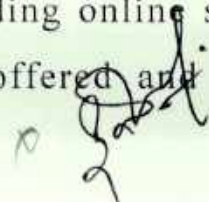
7. I most humbly submit that amid the lockdown, many schools in India have started online classes. But only those who have the privilege of owning a smartphone or in some cases more than one smartphone due to 2 or more children present in the same family or computers with a strong Internet connection can access these classes. Technology has improved life in some aspects but has caused several hindrances in other aspects. When there is a tussle between technologies and its boon and bane, the former shall have more weightage than the later so as to enable it for a fair consideration. When the later outweighs the former, the technology will cause more harm and good. Schools equipped with smart classrooms are on a different footing than accessing classes online for the scope of supervision is alarmingly limited.
8. I most humbly submit that students claiming that they going online for advanced courses for better prospects are targets to many online exploiters who are in a convenient position to derail the students lives towards a darker path with no proper guidance or supervision. Furthermore, several pop up advertisements and adult website redirects exploit online mongers especially students due to uncontrolled pop ups during live sessions have



caused several students exit the class and watch unwarranted explicit content on the internet. Several parents have complained against this regard and the same is a systematic exploit of student's minds. Several hackers also systematically exploit vulnerabilities in websites and spoil the young learning minds. But the situation is not equal for all. While some genuinely use it to advance their knowledge most of them get distracted due to the vast exploration options of the internet. The internet today as we see and use can be compared to space. It has far more dangerous situations and its consequences than the limited good of exploration. Hence, absolute precautions have to be taken for safe operation. When classes are limited to a small number of privileged students, the discipline to adhere to the curriculum is left unmonitored and that has far reaching consequences of exploitation given that a large number of students in the country have access to a smartphone or the Internet.

9. I most humbly submit that today every student is able to access the internet. However, the system adopted now is only temporary in nature riddled with several fundamental flaws that have not been addressed. They have been simply adopted without adhering to any rules or regulations. It is the school that teaches students that they have the right to be treated equally without discrimination and today the same school is constrained to run discriminatory classes without any active participation from students. Students who know the knack of handling the systems are able to log into classes and remain absent conveniently and the teacher in charge on the other side has no idea whether there is active participation from every student in the class. Moreover, such lapses are ignored for the sake of convenience and just to ensure that the tutoring hours are covered.

10. I further submit that no real measures are scrumptiously adopted to ensure that all students attending online sessions are attentive, and intuitive to the classes offered and are simply



whiling away time with the mimic of attending the class. Moreover, teachers who shoulder the responsibility of ensuring the attentiveness of all students in the class are handicapped in their own way and are unable to ascertain actual active attendees of the class.

11. I most humbly submit that Online classes have spoiled the dignity and decorum of a classroom environment but have far reaching consequences in the learning habits and discipline required for the students while attending the classes. Some of the prominent **Drawbacks of Online Education** includes:

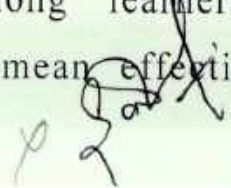
- Students may not get questions answered by professors as promptly as they would in a classroom.
- Students must have plenty of self-discipline to keep up with assignments without a weekly schedule.
- Online education limits the amount of interaction students get with peers and faculty.
- Students may not have as many audio and visual resources to draw from when learning new material.
- Students must be very comfortable with technology to ensure the online system works properly for them.

These drawbacks, like the advantages should be carefully weighed when determining whether an online education is the best fit for you.

12. I further submit that according to views of Several Educational Doctorates, online learning works best for students who are self-motivated, learn best through reading and writing, and have special interests they want to expand upon. Distance learning may not be the best choice for students who want ample peer and faculty interaction, who learn better through audio and visual aids, or who tend to procrastinate on assignments. Distance learning doesn't work for all students.



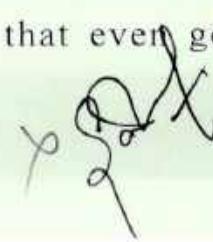
13. There are several schools running online classes that have dedicated teachers. They may also want to provide an uninterrupted learning experience to the students. But the objective here is defeated as it fails to include all students' attendance and involvement because distractions are plenty with unmonitored environment. Furthermore financially disadvantaged families would be helpless to provide some poor students online access knowing that they are missing out on classes. If it is a government's directive, every student should have an equal opportunity to attend classes with no distractions offered by one means or the other. I fear that it will hurt the student's quality of life and their discipline.
14. I most humbly submit that the value of a year in a student's life is immense. Several academicians state that the current model suffers from serious lapses and have to come up with an extensive "feasible" plan to resume classes as soon as possible but not in the way we do it now. If the system adopted is not proper, this extraordinary method now adopted due to unavoidable circumstances, though temporary, will dismantle harmony among students and discourage the poor students. The digital divide shows that the major challenge of remote learning is disparity in access – from electricity and internet connections to devices like computer or smartphones. Access to electricity is crucial for digital education, both for powering devices as well as for connecting to the internet. While the Government's Scheme to provide electricity to households shows that almost 99.9% of homes India have a power connection, the picture is less luminous if we look at the quality of electricity and the number of hours for which it is available every day.
15. I most humbly submit that if the governments continue online education without necessary supportive measures, the prevailing disparity in the virtual world could translate into widening educational inequalities among learners. Merely moving classrooms online would not mean effective remote



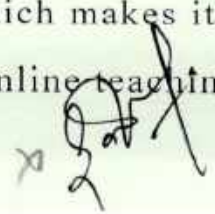
learning. One-to-one interactions among peers and teachers are very important for learning. On a digital platform, how students learn and communicate with others is largely dependent on the readiness of both teachers and students to accept digital learning. In the case of distance education, the onus of learning is more on students, which requires discipline. Online interactive chat boxes are only increasing distractions and unwanted chatting habits and does not aid in facilitating a conducive environment.

16. I further submit that there are challenges for teachers too. Not only are many of them digitally inept, a large number of teachers have never used an online environment to teach. Teaching a course online course ideally requires preparation, such as designing a lesson plan and preparing teaching materials such as audio and video contents. This has posed new challenges for many teachers. Learning demands a conducive environment for study. However, not all students have a quiet space for learning at home. Households in India have one dwelling room; it would be a luxury for many to attend lectures in an undisturbed environment.

17. I further submit that having online classes on a regular basis has a cost implication too, as students have to bear the cost of internet services. There is no communication yet from governments on whether it is going to reimburse students or will provide free or subsidized data packs. In the current situation, many students, especially those whose families have lost income as a result of a lockdown-related job loss, will not be able to afford this. Digital infrastructure suffers from several basic amenities. Despite initiatives from the Central and state governments, there has not been enough expenditure on improving the digital infrastructure for remote learning. In fact, in 2020-'21, the Ministry of Human Resource Development budget for digital e-learning was reduced to Rs 469 crore from Rs 604 crore in 2019-'20 going to show that even government lacks faith on e-learning.



18. I further submit that the Covid-19 pandemic has exposed how rooted structural imbalances are between rural and urban, male and female, rich and poor, even in the digital world. With the existing digital divide, expanding online education will push the digital have-nots to the periphery of the education system, thereby increasing inequity in educational outcomes. Technological, social, pedagogical issues must be resolved for online teaching. In these unusual times, when nouns like “Zoom” have morphed into verbs and “online teaching and assessment” seems to be the flavor with education bureaucrats, it is important to realize the implications of this radical shift. Teachers had been instructed to take online classes during the lockdown. Since some were stuck in places which has no broadband connection. There are significant issues — technological, social and pedagogical — which need to be thought through before we jump onto this bandwagon.
19. I further submit that the technological issues are, of course, interrelated with social issues. In the last two decades, there has been a conscious effort on the part of the state to improve access to education at all levels. From the Right to Education Act to OBC reservation to the more recent EWS reservation, we have seen a concerted effort to bring marginalized sections of our society into the ambit of state-funded education. And this is reflected in the student demographics. Given the socio-economic milieu from which students are coming into higher education, these challenges are important to factor into policies. And they segue into pedagogical issues — a large number of students are not comfortable with spoken or written English. This makes online pedagogical material that much inaccessible. In face-to-face teaching, these factors are mitigated to an extent by the use of the bilingual communication which, incidentally, we have been using for several years now. Further, the students come with different levels of prior training, which makes it difficult to have a one-size-fits-all approach which online teaching assumes.



20. I most humbly submit that the current situation is, of course, an unprecedented one. However, we should be careful of advocating inappropriate, in-egalitarian, and discriminatory strategies to deal with it. The issue is not of a few weeks of online teaching and online exams. The real question is whether we are letting in the proverbial nose of the camel into the tent. Once it is there, there is no stopping the beast from taking over. Reduced commitment of the state to invest in public education and promotion of the online model instead might just be the logical result. Or maybe, that is what our education planners really want.

21. I most humbly submit that as schools switch to online classes, students from weaker sections get cut off from learning. As more and more stories of migrants struggling to fend for themselves emerge, education has taken a backseat for children who are a part of these groups. Here, the struggle for survival has overtaken other aspects of growth, with education coming to be considered a privilege. The digital divide has grown wider, with many private schools, switching to online classes as well as exams. While it is yet to be announced, education experts and officials from the department have said they believe that the lockdown on schools will continue till May end. May month usually is a holiday for students and there is no necessity to commence online classes in such a hurried unregulated manner at such Breakneck speed. Experience of working in rural areas has shown that only one person in most houses owns a smart phone, usually it being the male member. The digital divide is a hard reality among the poor, who are most hit. After every such disaster, there is a problem of school dropouts and huge learning loss among them.

22. It is most humbly submitted that there are overall lack of Internet safety of several websites and apps, and that the application or the website used does lacks end-to-end encryption

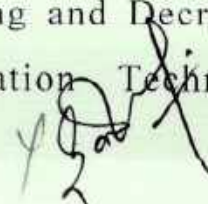
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and is violative of the Information technology Act 2000 alongwith the Information Technology (Procedure and Safeguards for Interception, Monitoring and Decryption of Information) Rules 2009, The Information Technology (Procedure and Safeguard for Monitoring and Collecting Traffic Data or Information) Rules 2009, and The Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data of Information) Rules 2011. As there is a serious looming threat of breaches of cyber security.

23. I submit that if the guidelines are framed protecting the Interest of the students overall and forbearing the Respondents from conducting Online classes without framing proper schemes and guidelines for such online portals from accessing illegal, immoral adult websites thereby preventing students from accessing any such websites through any and every pop-up re-directs.
24. Prima facie case and balance of conveyance lies in favor of the petitioner for grant of orders, with no other alternative efficacious remedy available to this petitioner except by filing this present writ petition under constitution of 226 of constitution of India, the petitioner has no other alternative legal remedy but to file this present writ petition in the interest of justice and thus render justice.

For the reasons stated above, it is therefore most humbly and respectfully prayed that this Hon'ble court may pleased to:

- i) Grant an order of interim injunction restraining the respondents from conducting Online classes without framing proper schemes and guidelines as prescribed under the Information technology Act 2000 read alongwith the Information Technology (Procedure and Safeguards for Interception, Monitoring and Decryption of Information) Rules 2009, The Information Technology (



Procedure and Safeguard for Monitoring and Collecting Traffic Data or Information) Rules 2009, and The Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data of Information) Rules 2011 pending disposal of this writ petition.

ii) Issue a writ or direction morefully in the nature of WRIT OF MANDAMUS forbearing the Respondents from conducting Online classes without framing proper schemes and guidelines as prescribed under the Information technology Act 2000 read alongwith the Information Technology (Procedure and Safeguards for Interception, Monitoring and Decryption of Information) Rules 2009, The Information Technology (Procedure and Safeguard for Monitoring and Collecting Traffic Data or Information) Rules 2009, and The Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data of Information) Rules 2011 for such online portals and classes from accessing illegal, immoral adult websites thereby preventing students from accessing any such websites through any and every pop-up re-directs and for further reliefs and pass such or other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice and thus render justice.

Solemnly affirmed at Chennai
on this the 21st day of May
2020 and signed his name in
my presence.

Before Me

B.A. →

ENO. 3007/18
No 196. L.C. Highcourt Campus
CA - 104
Advocate, Chennai

IN THE HIGH COURT OF JUDICATURE
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W.P. NO OF 2020

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The Union of India and 10 Others

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AFFIDAVIT

R.Krishna Kumar(Ms.209/2015)

Counsel for petitioner

9940411671