**IN THE HIGH COURT OF ORISSA**

W.P. (C) No. 12328 of 2012

Decided On: 20.11.2012

Appellants: **Prabir Kumar Das**
**Vs.**
Respondent: **State of Odisha and Others**
[Alongwith W.P. (C) No. 12553 of 2012]

**Hon'ble Judges/Coram:**V. Gopala Gowda, C.J. and B.N. Mahapatra, J.

**JUDGMENT**

**B.N. Mahapatra, J.**

1. The above two writ petitions have been filed in the nature of Public Interest Litigation with following prayers.

W.P. (C). No. 12328 of 2012

The Hon'ble Court may kindly direct the State to (i) conduct a high level enquiry for fixing responsibility for the negligence which led to the death of children due to the collapse of the wall on 09.07.2012; (ii) constitute a task force to look into the safety standards/norms/conditions of Anganwadi Centres and Schools with a view to ensuring the safety of children; (iii) take necessary steps to repair/restructure dilapidated/damaged buildings in which Anganwadi Centres operate and to make alternative arrangements; (iv) take steps for construction of new buildings for Anganwadi Centres that lack own buildings; The Hon'ble Court may kindly monitor the implementation of these directions through appropriate mechanisms/procedures. The Hon'ble Court may kindly direct the State to initiate criminal proceedings against the guilty persons/ officials. The Hon'ble Court may further direct the State to adequately compensate the bereaved parents by paying Rs. Ten Lakh for each deceased child. The Hon'ble Court may kindly issue further directions/guidelines for periodic visits by the members of the State Commission for Protection of Child Rights and District Child Welfare Committees for ensuring the welfare and safety of children in the Anganwadi Centres. It is therefore, prayed that this Hon'ble Court may graciously be pleased to admit this PIL writ petition, issue RULE NISI calling upon the opposite parties to show cause or show insufficient cause the said rule be made absolute in granting the reliefs prayed for; And may further be pleased to pass any other order (S) as deemed fit and proper; And for this act of kindness the petitioner shall as in duty bound ever pray.

W.P. (C) 12553 of 2012

It is therefore, prayed that this Hon'ble Court may graciously be pleased to admit this Writ Petition, issue notice to Opp. Parties and after hearing from the counsel of both the parties issue the following directions to the Opp. Parties:

1. To have a quick, review of condition of buildings and shelters under which anganwadi centres are functioning now, all across the State, within a stipulated time frame, at the level of the project in rural and urban areas, and where the buildings are found to be unsafe, alternative arrangement be made to prevent any future occurrence of similar kind of disaster. And to bring out the white paper of the review to the public domain.

2. To devise a proper Accountability Mechanism for ICDS Management. Officers placed under various ladders of decision making be made accountable for any kind of commission and omission to their level.

3. To constitute a Taskforce with Government and Civil Society Representatives to review the situation and to devise a plan for infrastructure development.

4. To codify proper building standard/norms and that is to be followed strictly.

5. To make and strengthen adequate infrastructure and physical environment in anganwadi centres.

6. To bear all the medical expenses of the injured children till they are out of the hospital, after fully recovered.

7. To give Compensation amount of Rs. 10,00000/- (Ten lakh) to each of the deceased children's family.

8. To initiate Criminal proceeding against those found guilty.

Any other relief/relieves, order/orders, direction/directions as this Hon'ble Court deems fit and proper.

And for this act of kindness, the petitioner as in duty bound ever pray.

Bereft of unnecessary details, the facts leading to filing of the above two writ petitions are as follows.

On 9th July 2012, at about 11 A.M., a wall of the Anganwadi Centre operating at Nelia Upper Primary Centre at Suansia under Ranpur Block in the district of Nayagarh collapsed causing death of seven children, who were below 5 years. Hence, the present writ petition.

2. Mr. J. Katikia appearing for the petitioner in W.P. (C) No. 12553 of 2012 submitted that the Anganwadi Centre was running in a very old and dilapidated house separately attached to the Primary School of Suansia village. Though the Primary School building was constructed under Sarva Sikshya Abhiyan, the Anganwadi Centre was a house having mud and brick wall with tin roof running in a very dilapidated condition. The condition of wall of the house was precarious. On the very day, the children of the Anganwadi Centre were sitting and waiting for their meal. When the Anganwadi Worker had gone to bring food for them wall of the said house collapsed. After this incident, the Sub-Collector reached the spot and suspended the Anganwadi Worker and Helper along with the Headmistress of the Primary School.

3. Mr. J. Katikia submitted that Government of India implements Integrated Child Development Scheme, which is the oldest programme for the children below six years. The said Scheme is implemented without any accountability at any level. There is a clear governance deficit in respect of regulation of Early Childhood Care and Education even though it is a part of the Directive Principles of State Policy under Article 45 of the Constitution read with Section 11 of Right to Education Act, 2009.

4. It is further submitted that on 7th September, 2011, a four year old pre-school going girl child lost her life after falling into the main water channel in Sutahat area of Cuttack city when she was in the local pre-School centre. As the Centre had no boundary wall she was believed to have slipped into the large open water channel while she had gone to relieve herself in the open air. The petitioner had also brought the issue to the attention of the Chairperson, National Commission for Protection of Child Rights, stating that protection of children in School environment which is one of the fundamental obligation of the State as per Article 6 of United Nations Convention on rights of the Child (UNCRC) read with Article 19 must be taken care of. ICDS is the oldest flaxy programme which caters the early development of children. Even though it was launched in the year 1975, till date the Government has not given attention for the infrastructure development of Anganwadi Centres. ICDS Caters six types of services to the children and women. Supplementary Nutrition Programme (SNP), Health Immunization, Nutrition & Health Education, Pre-School Education and referral Services are the services given through the Network of Anganwadi Centres. Despite the same, the Government has closed its eyes for the infrastructure development of the Anganwadi Centres which is a matter of great concern. The Government of India is a signatory to the State "Education for all Declaration 2000" and it is committed for expansion and improvement of Early. Childhood Care and Education Service. But the mishap of this kind certainly dissuades the parents from sending their children to Anganwadi Centres which is in contravention to the declaration for Education to all. Section 11 of the Rights of Children to Free and Compulsory Education Act, 2009 (for short, "Education Act, 2009") provides for contemplation of policy on Early Childhood Care and Education by the appropriate Government. However, due to inaction by the State with regard to formulation of the above mentioned policy, there has always been a deficit in governance so far as the best interest of young children below the age of 6 years is concerned. Therefore, relief in the form of a direction to the State Government is required to be made for immediate action under Section 11 of the Right to Education Act.

5. Petitioner's Organization, on behalf of National Campaign for early Childhood Care and Education Right, has approached several times through representation raising the issue of poor infrastructure in the Anganwadi Centres, but the Government did not take the issue seriously and has responded to the petitioner's Organization in a lackadaisical way. As per the Government record, 71,000 Anganwadi Centres are functioning in the State out of which only 30,000 Anganwadi Centres have their own buildings. 20,000 Anganwadi Centres are functioning in Primary Schools and others are in rented houses. As per the provisions and norms of the Education Act, 2009, the State Government is mandated to improve the quality of infrastructure of Primary Schools.

6. It was further submitted that had the Government been serious for proper implementation of the Education Act, 2009, such type of incidents would have been avoided. There is no inter-departmental coordination between the Department of Women and Child Welfare Development (WCWD) and School and Mass Education as a result there is no fixed regulated mechanism to monitor the ICDS.

7. Mr. Prabir Kumar Das, the petitioner in the W.P. (C) No. 12328 of 2012, submitted that School building in question was constructed in 1939 and declared unsafe. In spite of the same, the said building was allowed to be used as Anganwadi Centre. It was submitted that though incessant rain was cited as a reason for collapse of the wall it is stated that the dilapidated building should not have been allowed for running of the Anganwadi Centre ignoring the safety aspect of the children. The authorities concerned did not take any action in this regard. A high level enquiry has become imperative to fix responsibility and take stringent action against the guilty persons/officials. Though adequate funds are sanctioned by the Central Government for construction of buildings of Anganwadi Centres, about 80% of 71,000 Anganwadi Centres do not have their own buildings. Out of total 71,134 Anganwadi Centres functioning in the State only 17,554 Centres have their own buildings whereas 16,974 Centres operate in the nearby Schools. In Nayagarh district, 1544 Centres are operating. Out of 240 Anganwadi Centres operating in Ranpur block only two such Centres have their own buildings. A high level taskforce must be constituted to study the safety of such buildings located all over the State. Necessary correctional measures are required to be taken for preventing/averting such tragic incidents in future. The State Government has declared Rs. 1.00 lakh as ex gratia to be paid to the parents of the deceased children but the loss of precious life of a child is irreparable. The State being liable for ensuring safety of the children when they were at Anganwadi Centres, suitable compensation should be paid to the bereaved parents for its failure and negligence in this regard. Petitioner has sent fetters to the Chief Secretary, Commissioner-cum-Secretary, Women and Child Welfare Development Department and Commissioner-cum-Secretary, School and Mass Education Department of the State Government with regard to the said sad incident. Paramount concern of the petitioner is the safety of the Anganwadi Centres.

8. Learned Advocate General, Mr. Ashok Mohanty, submitted that the Government always takes various steps for development of the children and for implementation of beneficial statutes in their proper perspective. After the incident, concerned Anganwadi Worker, Helper and the Headmistress were placed under suspension. Collector/B.D.O. concerned were directed to conduct enquiry into the incident and find out as to who are responsible for this tragic incident and action will be taken-after receiving such report. Immediately Rs. 10,000/- ex gratia has been given by the District Red Cross Society and Rs. 1.00 lakh by the State Government to each of the victims. Learned Advocate General was fair enough to submit that the Government is willing to pay any reasonable compensation that may be awarded by this Court.

Referring to counter affidavit dated 31.07.2012 filed by the Collector, Nayagarh, it is further submitted that though it is a fact that the accidental death of seven children is an unfortunate incident, Government of Odisha in Women and Child Development Department communicated instructions to operationalise all Anganwadi Centres in the School building/community buildings which are earmarked as store rooms vide fetter No. 15227/ WCD dated 02.09.2009. Keeping in view such letter, instruction was given to all the Headmasters/Headmistresses by Collector & Chairman, Sarva Sikshya Abhiyan, Nayagarh vide office letter No. 1758 dated 25.06.2010 to run all the Anganwadi Centres in the School building. All the Headmasters/ Headmistresses were specially instructed to hand over the key of one class room to the Anganwadi Worker to facilitate running of the centre from 7 A.M. to 10 A.M. Besides that, instruction was also given to provide facilities like toilet, drinking water, dining space and kitchen room to be used by Anganwadi Worker for the benefits of small children who attend such Centres. Copies of such letter/instructions were forwarded to all Block Development Officers, all Child Development Project Officers, School Inspectors, BRCCs and all Anganwadi Workers. In the instant case, it is reported by the Anganwadi Worker that the Headmistress of Suansiasahi Primary School did not allow the AWC to function in the school building nor allowed to spate the verandah for functioning of the AWC. So, under the duress, the AWWs of Suansiasahi and Kadambasahi were functioning in the corridor of the old dilapidated GI sheet room and the cooking of food was organized in the room the wall of which has collapsed. All the supervising Officers like BRCC, CRCC, S.I. of Schools, CDPO, Supervisor of ICDS Project used to visit the school and were aware of the dilapidated condition of the school building.

To prevent any future occurrence of such events, various instructions have been issued to the District Administration.

9. On the rival contentions, following questions fall fop consideration by this Court.

(i) Whether the death of seven children on 09.07.2012 was caused due to negligence and lack of care by the State authorities while implementing the ICDS Project ?

(ii) Who is responsible to pay compensation to the parents of the deceased children and what should be the just compensation ?

(iii) What order ?

10. Undisputed fact is that on 09.07.2012, while the children below the age of six years were waiting for their food, the wall of the Anganwadi Centre in question collapsed on them and in such incident seven children died and some children were injured.

11. Article 45 of the Constitution speaks as follows:

45. Provision for early childhood-care and education to children below the age of six years - The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

Section 11 of the Education Act, 2009 reads as follows:

With a view to prepare children above the age of 3 years for elementary education and to provide early childhood care and education for all children until they complete the age of 6 years, the appropriate government may make necessary arrangements for providing free Pre-School education for such children.

12. A conjoint reading of Article 21, Article 39(f) and Article 45 of the Constitution read with Section 11 of the Education Act, 2009 makes it clear that it is the duty and responsibility of the Government to make necessary arrangement for providing early childhood care and education for all children until they complete the age of 6 years and to prepare the children above three years for elementary education. While doing so, State shall take all appropriate steps for safety of the children.

13. Government of India implements ICDS programme for children below the age of 6 years. Where such welfare Scheme is implemented, care must be taken for safety of the children. Unless adequate safety measures are taken in the Anganwadi Centres, parents would not sent their children to Pre-School under Anganwadi Centres which will result in failure of ICDS programme that caters early development of children. Needless to say that it is the primary solemn duty of the State to protect the life of the children studying in the schools and ensure their education with dignity.

14. In the instant case, there is no doubt that due to negligence of the State authorities who are in charge of running and maintaining Anganwadi Centres 7 children died on 09.07.2012. Therefore, the State immediately placed the Anganwadi Helper, Worker and the Primary School Headmistress under suspension.

15. In view of the above, this Court is of the opinion that due to negligence and lack of care on the part of the State functionaries seven children lost their life on 09.07.2012.

16. Question No. (ii) is as to who is responsible to pay compensation to the parents of the deceased children; and what should be the just compensation ?

17. The present case is governed by the legal maxim respondent superior and thus, the State is liable for the wrong done by its employees.

18. Negligence as a tort is defined by Winfield as "the breach of a legal duty to take care which results in damage, undesired by the defendant to the plaintiff". The existence of a duty-situation or a duty to take care is, therefore, essential before a person can be held liable in negligence. In the classical words of Lord Atkin:

At present I content myself with pointing out that in English law there must be, and is, some general conception of relations giving rise to a duty of care, of which the particular cases found in the books are but instances. The liability for negligence, whether you style it such or treat it as in other systems as a species of "culpa", is no doubt based upon a general public sentiment of moral wrong doing for which the offender must pay. But acts or omissions which any moral code would censure cannot in a practical world be treated so as to give a right to every person injured by them to demand relief. In this way rules of law arise which limit the range of complainants and the extent of their remedy. The rule that you are to love your neighbour becomes in law, you must not injure your neighbour, and the lawyer's question, who is my neighbour, receives a restricted reply. You must take reasonable care to avoid acts or omissions which you can reasonably foresee would be likely to injure your neighbour. Who, then, in law is my neighbour ? The answer seems to be - persons who are so closely and directly affected by my act that I ought reasonably to have them in contemplation as being so affected when I am directing my mind to the acts or omissions which are called in question.

It is now an obsolete view that "the duty to be careful only exists where the wisdom of our ancestors has decreed that it shall exist". In Donoghue v. Stevenson itself the House of Lords recognised a new duty situation and a manufacturer was held to owe a duty of care not only to the wholesale dealer, but also to the ultimate consumer of his product. As stated by Lord Macmillan in that case:

The conception of legal responsibility may develop in adaptation to altering social conditions and standards. The criterion of judgment must adjust and adapt itself to the changing circumstances of life. The categories of negligence are never closed. [p. 619]

Then in Hedley Bryne and Co. Ltd. v. Heller and Partners Ltd., (1964) AC 465 (HL), again a new duty-situation was recognised. It was held that the law will imply a duty of care when a party seeking information from a party possessed of a special skill trusts him to exercise due care and that a negligent, though honest, misrepresentation in breach of this duty may give rise to an action for damages apart from contract or any fiduciary relationship. Lord Pearce in that case said:

How wide the sphere of the duty of care in negligence is to be laid depends ultimately upon the Courts' assessment of the demands of society for protection from the carelessness of others. [p. 536]

The principles governing the recognition of new duty-situations were more recently considered in the case of Home Office v. Dorset Yacht Co. Ltd.,   : (1970) All ER 294 (HL). In that case, some Borstal trainees escaped due to the negligence of Borstal Officers and caused damages to a yacht. The owner of the yacht sued the Home Office for damages and a preliminary issue was raised whether on the facts pleaded, the Home Office or its servants owed any duty of care to the owner of the yacht. It was held that the causing of damage to the yacht by the Borstal trainees ought to have been foreseen by the Borstal Officers as likely to occur if they failed to exercise proper control or supervision and, therefore, the officers prima facie owed a duty of care to the owner of the yacht. It was argued in that case that there was virtually no authority for imposing a duty. This argument was rejected and in that connection, Lord Reid made the following pertinent observations:

About the beginning of this century most eminent lawyers thought that there were a number of separate torts involving negligence each with its own rules, and they were most unwilling to add more. They were of course aware from a number of leading cases that in the past the Courts had from time to time recognized new duties and new grounds of action. But the heroic age was over, it was time to cultivate certainty and security in the law; the categories of negligence were virtually closed. The learned Attorney-General invited us to return to those halcyon days, but, attractive though it may be, I cannot accede to his invitation. In later years there has been a steady trend towards regarding the law of negligence as depending on principle so that, when a new point emerges, one should ask not whether it is covered by authority but whether recognised principles apply to it. Donoghue v. Stevenson may be regarded as a statement of principle. It is not be treated as if it were a statutory definition. It will require qualification in new circumstances. But I think that the time has come when we can and should say that it ought to apply unless thee is some justification or valid explanation for its exclusion.

[See Madhya Pradesh State Road Transport Corporation and another v. Mst. Basantibai and others,  : 1971 MP LJ 706].

19. The Hon'ble Supreme Court in the case of Paschim Banga Khet Mazdoor Samity and others v. State of West Bengal and another,   : AIR 1996 SC 2426, held as under:

9. The Constitution envisages the establishment of a welfare State at the federal level as well as at the State level. In a welfare State the primary duty of the Government is to secure the welfare of the people. Providing adequate medical facilities for the people is an essential part of the obligations undertaken by the Government in a welfare State. The Government discharges this obligation by running hospitals and health centres which provide medical care to the person seeking to avail of those facilities. Articles 21 imposes an obligation on the State to safeguard the right to life of every person. Preservation of human life is thus of paramount importance. The government hospitals run by the State and the medical officers employed therein are duty-bound to extend medical assistance for preserving human life. Failure on the part of a government hospital to provide timely medical treatment to a person in need of such treatment results in violation of his right to life guaranteed under Article 21. In the present case there was breach of the said right of Hakim Seikh guaranteed under Article 21 when he was denied treatment at the various government hospitals which were approached even though his condition was very serious at that time and he was in need of immediate medical attention. Since the said denial of the right of Hakim Seikh guaranteed under Article 21 was by officers of the State, in hospitals run by the State, the State cannot avoid its responsibility for such denial of the constitutional right of Hakim Seikh. In respect of deprivation of the constitutional rights guaranteed under Part III of the Constitution the position is well settled that adequate compensation can be awarded by the Court for such violation by way of redress in proceedings under Articles 32 and 226 of the Constitution. (See: Ruddul Sah v. State of Bihar, (  : (1983) 3 SCR 508 : AIR 1983 SC 1086); Nilabati Behera v. State of Orissa,   : (1993) 2 SCC 746 : (1993) AIR SCW 2366); Consumer Education and Research Centre v. Union of India,   : (1995) 3 SCC 42 : (1995) AIR SCW 759).

  : 1993 (II) OLR (SC) 50:

20. At this juncture, it is profitable to refer to the decision of the Hon'ble Supreme Court with regard to the award of compensation for contravention of human rights. The Hon'ble Supreme Court in Smt. Nilabati Behera @ Lalita Behera v. State of Orissa and others,   : AIR 1993 SC 1960, held:

A claim in public law for compensation for contravention of human rights and fundamental freedoms, the protection of which is guaranteed in the Constitution is an acknowledged remedy for enforcement and protection of such rights, and such a claim based on strict liability made by resorting to a constitutional remedy provided for the enforcement of a fundamental right is distinct from, and in addition to, the remedy in private law for damages for the tort resulting from the contravention of the fundamental right. The defence of sovereign immunity being inapplicable, and alien to the concept of guarantee of fundamental rights, there can be no question of such a defence being available in the constitutional remedy. It is this principle which justifies award of monetary compensation for contravention of fundamental rights guaranteed by the Constitution, when that is the only practicable mode of redress available for the contravention made by the State or its servants in the purported exercise of their powers, and enforcement of the fundamental right is claimed by resort to the remedy in public law under the Constitution by recourse to Arts. 32 and 226 of the Constitution.

21. In Consumer Education and Research Centre & Ors. v. Union of India & Ors,   : AIR 1995 SC 922, the Hon'ble Supreme Court held:

In public law claim for compensation is a remedy available under Article 32 or 226 for the enforcement and protection of fundamental and human rights. The defence of sovereign immunity is inapplicable and alien to the concept of guarantee of fundamental rights. There is no question of defence being available for constitutional remedy. It is a practical and inexpensive mode of redress available for the contravention made by the State, its servants, its instrumentalities, a company or a person in the purported exercise of their powers and enforcement of the rights claimed either under the statutes or licence issued under the statute or for the enforcement of any right or duty under the constitution or the law.

22. The Hon'ble Supreme Court in the case of Rudul Sah v. State of Bihar and another,   : AIR 1983 SC 1086, observed that in appropriate cases, the Court discharging constitutional duties can pass orders for payment of money in the nature of compensation consequent upon deprivation of a fundamental right to life and liberty of a person as State must repair the damage done by its officers to such person's right.

23. In Kumari Smt. v. State of Tamil Nadu and others,   : AIR 1992 SC 2069, the Hon'ble Supreme Court overruling the decision of the High Court of Tamil Nadu observed that the writ jurisdiction under Article 226 of the Constitution of India can be invoked by the Writ Court for awarding compensation to a victim, who suffered due to negligence of the State or its functionaries. In that case six years' old child had fallen down in the uncovered sewerage tank. The High Court refused to entertain the claim of compensation in a writ petition under Article 226 of the Constitution, but the Hon'ble Supreme Court directed the State to pay compensation.

24. The Hon'ble Supreme Court in the case of State of Rajasthan v. Mst. Vidhyawati,   : AIR 1962 SC 933, held as under:

Viewing the case from the point of view of first principles, there should be no difficulty in holding that the State should be as much liable for tort in respect of a tortuous act committed by its servant within the scope of his employment and functioning as such, as any other employer. The immunity of the Crown in the United Kingdom was based on the old feudalistic notions of justice, namely, that the King was incapable of doing a wrong, and, therefore, of authorizing or instigating one, and that he could not be sued in his own courts. In India, ever since the time of East India Company, the sovereign has been held liable to be sued in tort or in contract, and the common law immunity never operated in India.....

25. In view of the above, the parents of the deceased children are entitled to compensation for the death caused due to negligence on the part of the State functionaries and the opposite party State is liable to pay compensation to them.

26. Keeping in view the peculiar facts and circumstances of the case, we direct the opposite party-State to pay Rs. 5.00 lakh (rupees five lakh) to the parents of each of the deceased children on proper identification within a period of four weeks from the date of receipt of a copy of this judgment; otherwise they shall be entitled to interest @ 6% per annum on the amount of compensation awarded above till the date of payment. The amount which has been paid as compensation voluntarily and by way of interim direction by opposite party-State shall be deducted from the aforesaid awarded compensation of Rs. 5.00 lakh (Rupees Five lakh) awarded in favour of each of the parents of the school children died due to collapse of the wall of the dilapidated building.

27. Since steps have already been taken by the State to investigate into the matter and take appropriate action against the persons responsible for death of seven children there is no need to give any further direction in this regard.

28. In their affidavit dated 21.08.2012, Commissioner-cum-Secretary to Government of Odisha, Women and Child Development Department stated that following the Nayagarh incident, instructions were issued to all the districts to carry out an immediate survey of all buildings housing Anganwadi Centres, whether running in own building or housed in School buildings, community buildings or rented buildings, etc. and wherever there was slightest doubt that the building may be unsafe, alternative arrangements should be made immediately for shifting the Anganwadi Centres to safe building. Further, Hon'ble Chief Minister of the State also issued instructions to the districts to (i) form teams to check building conditions and safety of all the Anganwadi Centres, School buildings and Hospital buildings, (ii) complete the whole exercise within next seven days and wherever required, repairs or other alternative arrangements must be made, (iii) take block-wise reviews of this and report to Government by 25th July, 2012, (iv) do the exercise every year before onset of monsoon and (v) to view this as an important responsibility of the Revenue Divisional Commissioners and Collectors every year. This was followed with a Video Conference taken up by the Chief Secretary where the District Collectors were asked to submit and forward a certificate along with the signature of the concerned Executive Engineer and District Social Welfare Officer towards shifting of Anganwadi Centres to safer buildings with provision of safe clean drinking water to the shifted Anganwadi Centres.

The CDPOs have been instructed to hold pre-school classes in their own building wherever available from 9 A.M. to 2 P.M. and where own buildings are not available in other buildings, i.e., School building, Community buildings, rented house and Kotha ghar from 7 A.M. to 12 noon.

The District Project Coordinator and B.D.Os have been instructed to asses the dilapidated buildings existing in the school campus keeping in view the durability of the buildings through their technical consultants and engineering personnel and suggest for repair, restoration and demolition of the buildings. They have been instructed to direct the BRCCs, CRCCs and S.I. of Schools to impress upon all the Headmasters/Headmistresses not to use any dilapidated/unsafe building existing in their campus for class room transaction for pre-school and formal school children and providing Mid-Day-Meal and SNP in those buildings.

The kitchen of the school should be provided for preparation of SNP for the children of AWCs functioning in the school. The BRCCs, CRCCs and Inspector of Schools have been directed to visit the AWCs in course of their supervision to schools and ascertain the difficulties from the Anganwadi Worker in functioning of AWC and implementation of ICDs package services.

29. In view of the above, this Court directs the State to ensure that instructions as stated above issued by it should be implemented in letter and spirit and to take adequate safety measures so that no child dies/suffers injuries in any incident like the present one. The State is directed to take proper action against its functionaries, who are responsible for the said shocking incident in accordance with law. The State is further directed to bear all the medical expenses of the injured children.

30. With the above observations and directions, the writ petitions are allowed to the extent indicated above.

**V. Gopala Gowda, C.J.**

I agree.