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**(1989) 09 CAL CK 0002**

**Calcutta High Court**

**Case No:** C.O. No. 3685 (W) of 1988

Sudhansu Sekhar Manna

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

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**Date of Decision:** Sept. 22, 1989

**Hon'ble Judges:** Dilip Kumar Basu, J

**Bench:** Single Bench

**Advocate:** Tobarak Ali and Mr. A. Rahaman, for the Appellant; Aruna Mukherjee for Respondent Nos. 2, 3 and 4, Mr. Himangsu Sekhar Basu for Respondent No. 6 and Mr. S.B. Bhunia for the Respondent Nos. 1 and 5, for the Respondent

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### **Judgement**

D.K. Basu, J.

In this writ application, petitioner being Headmaster Neelkantha Prathamik Vidyalaya, in the district of Midnapore has come before this writ court for a direction upon the respondents, particularly respondent President, Ad hoc Committee District School Board, Midnapore, for compliance of the direction dated 18th December, made in memo No. 4762/1 (3)SC/p by the Director of School Education, which is annexure "D" to the writ petition.

2. Annexure "D" to the writ petition dated 25th December, 1987, is a prayer for repair/reconstruction of school building damaged by flood. The Director of School Education requested President, District S. Board, Midnapore to consider the case.

3. The extract of the letter is given herein below:

Sub: Prayer for reconstruction of School Building damaged by flood.

In forwarding herewith the original representation of Head-Teacher of Nil Kantha Prathamick Vidyalaya, Midnapore praying for repair/re-construction of school building damaged by flood, the undersigned has to request him to consider the case and action taken may please be intimated to this Directorate.

This is in reference to the Chief Minister Secretariat's No. N/915/4281 cms.

4. In the writ petition, petitioner has also prayed for a writ, in the nature of mandamus directing the respondents to release adequate grant-in-aid for the purpose of reconstruction of the said primary school before starting of rainy season after considering representation as referred to in letter dated 6th July, 1986, addressed to President, Ad hoc Committee, Midnapore, District School Board and memorandum dated 24.4.87 addressed to Chief Minister of West Bengal which are annexure A & B respectively to the writ petition.

5. On 11th April, 1988, this writ petition was moved but unfortunately District School Board, Midnapore as such and Zilla Parishad, Midnapore, were not impeded and by court's order dated 10th August 1988, District School Board, Midnapore, Zilla Parishad, Midnapore, were impleaded as respondent Nos. 5 & 6 respectively.

6. Petitioner has also filed a supplementary affidavit affirmed on 6th September, 1988, claiming and contending that a huge fund, amounting to Rs. 31 crores was allotted by the Central Government to the State Government on a scheme of "Upgradation of Standard of Administration" in the country for the construction of primary schools during the period April 1985 to March 1989. Petitioner has also contended by annexing a newspaper clipping of a Bengali Daily "Ananda Bazar Patrika" dated 20th August, 1989, that State of West Bengal could not utilise the said amount granted by the Central Government under the aforesaid scheme and about 13 1/2 crores has been refunded to the Central Government as the State Government could not utilise the amount for effective implementation of the scheme.

7. On 29th November, 1988, this Court directed the State respondents through the Registry of the Court and also through Miss Mukherjee learned Advocate, to supply and to submit a report showing the total amount received from the Central Government towards repair and construction of schools in West Bengal, quantum sanction for the Midnapore District with particular reference to allocation or work and budgetary provision for the District School Board and Zilla Parishad, Midnapore.

8. Petitioner with his zeal and tenacity has been trying to ventilate his grievances in order to effect immediate repair and renovation of the primary school but petitioner did receive no effective response from any concern. He has challenged primarily a letter of the Director of School Education requesting President, Ad hoc Committee, District School Board, Midnapore, to consider the prayer of the petitioner for repair and reconstruction of the school building damaged by flood. Petitioner, with his undaunted spirit, addressed a letter to the Chief Minister of West Bengal, drawing his attention. Instantly, he received a letter from the Assistant Secretary to the Chief Minister under memo No. M/915/42182 dated 24th September, 1987, acknowledging receipt of the letter of the petitioner dated 7.9.1987. By the letter of the Assistant Secretary to the Chief Minister petitioner was informed that Department of Director of Education (Primary) New Secretariat Building was requested to the matter and to take such action as was possible. Unfortunately such

request from the Secretary of the Chief Minister, processed through the Director of School Education did receive no attention from the President, Ad hoc Committee, District School Board, Midnapore.

9. From the impugned memo dated 24th September, 1987, if the Director of School Education, West Bengal to the President, Ad hoc Committee, District School Board, Midnapore, a copy of which memo No. 4762/1(3)SC/P dated 18th December, 1987, was sent to the petitioner, District Inspector of School (Primary Education) and Assistant Secretary to the Chief Minister, West Bengal, for information. The Director of School Education requested the President, Ad hoc Committee, District School Board, to consider the case and was further requested to intimate action taken on the subject. Director of School Education presumably has discharged his responsibility by sending a request and thus possibly, disposed of the order of Chief Minister through his Assistant Secretary. Role of District Inspector of School (PE) who was informed the factum of the state of affairs of the school by the aforesaid 4762/1(3)SC/P dated 18th December, 1987. District Inspector Schools (PE) possibly, noted the information and this is now he charged his accountability to primary school concerned, though admittedly he is the Chief Officer of the district concerned to look after and monitor the affairs of the primary education of the District.

10. Director of School Education (Primary), West Bengal, addressing a letter on 24th September, 1987, had disposed of prayer of Headmaster/petitioner, discharged his accountability to the whole education system in the State and requirement of the community was attended to by the Director of School Education just by requesting President, Ad hoc Committee, School Board to consider the case and thereby he has also disposed of a request or order, as the case maybe received from Chief Minister's Secretariat.

11. The outcome of such exercise by the Director of School Education is required to be examined on the statements and modalities by District School Board and Zilla Parishad in the district of the State, which I propose to examine hereinafter with particular reference to the stand taken by the learned advocates appearing for District School Board and Zilla Parishad, Midnapore District.

12. Before I deal with the respective contention of the learned advocates appearing for the District School Board and Zilla Parishad I propose to consider a report dated 19th December, 1988, submitted by Mr. H.P. Mukhopadhyay, Joint Secretary (School Education) which was submitted through Miss. Mukherjee, learned advocate appearing for the State respondents on 3rd March, 1989. In the report dated 19th December, 1988, the Officer concerned has given some dates during 1986-87, 1987-88 and 1988-89, in respect of fund received by the State of West Bengal from the Central Government possibly on account of flood. The report disclosed some facts, inter alia, under four serials:

1. Total amount received from the Central Government towards repairs and construction of schools in West Bengal.
2. Quantum sanction for Midnapore District.
3. Allocation for work of District School Board and Zilla Parishad.
4. Budgetary provision (for maintenance and repair of primary, secondary school building).

13. From serial No. 2 of the report i.e. quantum sanction for Midnapore District, it appears that Rs. 9,02,500 was allotted for repair of 95 primary schools and Rs. 47,500 for furniture and equipment @ Rs. 500 per school (Primary school) and Rs. 100 lakhs (one hundred lakh rupees) for secondary school. This arrangement was made for Midnapore District for the year 1986-87. In the year 1987-88 Midnapore was not declared flood affected district. No figure/detail was available for the year 1988-89 so far Midnapore District is concerned.

14. In serial No.4 under heading-Budgetary provision (for maintenance and repair of primary and secondary school buildings) details has been given for 1986-87, 1987-88, 1988-89. It is necessary to examine the claim of the petitioner with particular reference to the figures given for three years 1986-87, 1987-88 and 1988-89, inasmuch as, the claim of the petitioner, being the headmaster, by a letter was addressed to the President, Ad hoc Committee, Midnapore District School Board on 6th July, 1986, i.e. within 1986-87, (annexure A to the writ petition), another letter addressed to the Chief Minister, West Bengal on 7th September, 1987, i.e. within 1987-88 (annexure C to the writ petition), and also subsequent letter by the Director of School Education dated 18th December, 1987.

15. In the year 1986-87, in the report, it has been stated that there was budgetary provision of Rs. 100 lakhs for the primary schools (it is not necessary to consider other aspects of secondary schools, as primary schools is the subject matter in this writ petition). The aforesaid Rs. 100 lakhs for primary (school) education was meant for normal maintenance and repair of school building and not for flood affected schools. Out of the budgetary provision Rs. 40 lakhs a sum of Rs. 4 lakhs sanctioned to Midnapore District for repair of primary schools. In the same year Rs. 70 lakhs was received for primary schools from the Central Government towards repair and construction of schools. Out of Rs. 70 lakhs Rs. 9 lakh 2 thousand 5 hundred was sanctioned for repair of 95 primary schools and Rs. 47 thousand 5 hundred was sanctioned for furniture and equipment @ Rs. 500 per primary school. Therefore, from the calculation sheet/data supplied by the Joint Secretary, Mr. Mukhopadhyay dated December, 1988, (report dated 19.12.1988) it transpires that for Midnapore District Rs. Nine lakhs two thousand five hundred plus Rs. 4 lakhs i.e. Rs. 13 lakhs 2 thousand 5 hundred was sanctioned to Midnapore District only for repair of primary schools, possibly only for flood affected schools.

16. For the year 1987-88 though Rs. 100 lakhs for primary schools was sanctioned by the Central Government for the entire State, no amount was allotted to Midnapore District, as Midnapore was not declared affected district. But from the budgetary provision of Rs. 100 lakhs for primary schools, entire amount i.e. Rs. 100 lakhs allotted for primary schools was reappropriated for other "emergent expenditure". Unfortunately such "emergent expenditure" for which Rs. 100 lakhs were spent by depriving urgent immediate claim for repair and renovation of primary schools in the rural area of the State, was not explained by the Officer concerned. I place it on record also that the State respondents were called upon to file return against the writ petition but unfortunately no return has been filed and by a slip shod manner State Government has come forward to explain their accountability to the citizens with particular reference to the budgetary provision on a particular head of accounts namely education account. Therefore, so far 1987-88 is concerned the entire amount provided in the budget for primary schools was reappropriated for unexplained emergent expenditure instead of catering the needs of the primary schools.

17. In the year 1988-89 no amount was received from the Government for the flood affected schools and therefore no amount sanctioned for Midnapore District in particular. But, the entire amount of Rs. 100 lakhs, as allotted by the budgetary provision for primary schools was diverted for implementation of the scheme under "Operation Black Board" in such areas where such scheme was implemented.

18. Now the grants, allotted in the year 1986-87, 1987-88 and 1988-89, are required to be examined in the light of the facts and statement available from the affidavits filed by District School Board and Zilla Parishad, Midnapore, which I propose to examine hereinafter.

19. On behalf of the District School Board, Midnapore, an affidavit affirmed on 22nd June, 1988, by one Sri Nabin Chandra Khan, Law Assistant of the District School Board, Midnapore, has been filed. Mr. Swadesh Ranjan Bhunia, on behalf of the District School Board, has contended that after Panchayat Act came into force, the Zilla Parishad is the only authority to release grant for repairing a primary school on recommendation by the District School Board. It has been contended by Mr. Bhunia that the District School Board sent a list of schools numbering 710 for repair of buildings and in the said list, the school in question, in which petitioner is the Headmaster, is placed in the first category place and since the District School Board had no fund for such grant, no relief was available against the respondent No. 1 i.e. President, Ad hoc Committee, District School Board, Midnapore. Before receiving the representation through Director of Schools Education on 18th December, 1987, the School Board by its memo No.5259 dated 28.9.87 sent to the Zilla Parishad Midnapore a list of 710 Primary Schools in rural area for construction of primary school buildings, under the programme of upgradation of the standard of administration in West Bengal under third phase as recommended by the Eight

Finance Commission, for approval and necessary action. Mr. Bhunia has further contended that the School Board do not get any independent fund for construction of school building in the district and even for petty and urgent repair. Only Zilla Parishad gets fund for repair, renovation, construction of the school in the rural areas through State Government and it is only Zilla Parishad who is supposed to cater the needs of the school in the district so far construction and repair of primary schools are concerned.

20. On behalf of the Zilla Parishad, Midnapore, Sri Shankar Prasad Adhya, attached to the office of the Midnapore Zilla Parishad, has affirmed an affidavit on 14th March, 1989, which was filed on 21st March, 1989 through Mr. Himangshu Kr. Basu.

21. From the affidavit filed by Zilla Parishad, it transpires that no fund was received from Education Department, Government of West Bengal for construction or repairing of Nilkantha Prathamik Vidyalaya in the financial year 1987-88 and 1988-89. From the chart enclosed with the said affidavit it transpires that some datas, as regards (i) financial year, (ii) number of school sanctioned by the Government as forwarded by the School Board for repairing and reconstruction of the primary schools in the district Midnapore, (iii) amount received for the said financial years and (iv) the amount disbursed through Panchyat Samity for such repair and construction against the school part by part for repair and construction were disclosed and as such Zilla Parishad had no responsibility for this affair. It has been contended in the said affidavit that no amount was received for Nilkantha Primary Vidyalaya i.e. the school concerned. Mr. Basu, on behalf of the Zilla Parishad, has contended that Zilla Parishad's function is equivalent to a post office and Zilla Parishad only is supposed to disburse the money, as sanctioned, through Panchayat Samity or through beneficiary committee for repair and construction of the educational institution. Mr. Basu has suggested that neither Sabhadhipati nor the Secretary of the Zilla Parishad has any hand in the matter of disbursement of fund for repair or construction of any school. Zilla Parishad is simply an agency of disbursement of Government fund for repair and construction of schools and that too, on the basis of the number of schools sanctioned by the Government, pursuant to the recommendation of the District School Board. Mr. Basu, on instruction from Zilla Parishad, has submitted the District School Board, Midnapore or the Government of West Bengal, the sanctioning authority through its educational department are the authority to discharge their respective obligation to the schools of the district and particularly, the school concerned in the writ petition. Precisely Zilla Parishad has no independent volition in the matter of distribution of grant or subsidy for repairing or construction of any school and Zilla Parishad is required to distribute fund received from State Government from time to time and to look after and to monitor the affairs of the schools in the matter of repairing and construction and also for effective utilisation of the fund released by Zilla Parishad.

22. A chart, annexed with the affidavit filed by the Zilla Parishad, Midnapore, will speak about other mode of disbursement which was not available in the reports submitted on behalf of the State of West Bengal. From the datas annexed with the affidavit, which is annexure "Z" aforesaid affidavit, affirmed on 14th March, 1989, it appears that in the year 1986-87, 300 primary schools were selected by the State Government as forwarded by the School Board, for repair and reconstruction of primary school in the district Midnapore. For 300 schools, 120 lakhs was allotted which is precisely @ Rs. 50,000 for each school. Of course the position was otherwise in the year 1985-86, 125 primary schools were selected, as forwarded by the School Board and about Rs. 50 lakhs were sanctioned, precisely @ Rs. 40,000 per school. From the chart it appears that no amount was sanctioned in the year 1987-88. In the year 1988-85, Zilla Parishad, Midnapore, received 79 lakhs of rupees for 158 primary schools as forwarded by District School Board.

23. In the affidavit or data filed by Zilla Parishad, Midnapore is no indication whether in the year 1986-87 Zilla Parishad received 9 lakh 2 thousand 5 hundred from the State of West Bengal for account and whether 95 schools, as stated by Joint Secretary, Education Department, is covered within 300 schools, as referred to by Zilla Parishad Midnapore. Similarly the report submitted by Mr. H. P. Mukhopadhyay, Joint Secretary, Education Department, admittedly, looking in particulars and correct state of affairs inasmuch as no report has been submitted by the State Government as regards fund allotted to Midnapore Zilla Parishad for construction of primary schools. It appears from the report Joint Secretary, dated 19.12.88 that in the year 1986-87, the aforesaid Rs. 9,02,500 was allotted to repair of 95 primary schools which precisely comes to Rs. 9,500 per school. Therefore, I have reason to believe that this amount under "Repair Head" for the flood affected schools was granted to Midnapore District which has not been mentioned by Zilla Parishad in his report. If I am to consider both the reports together then for the year 1986-87, Midnapore Zilla Parishad received 120 lakhs rupees for repair and reconstruction of 300 primary schools and also Rs. 9 lakhs 2 thousand 5 hundred for repair of 95 primary schools only and also Rs. 47,500 towards cost for furniture and equipment at the rate of Rs. 500 presumably for 95 primary schools. Unfortunately some particulars have been suppressed by Zilla Parishad, Midnapore and some particulars have suppressed by Joint Secretary, Education Department.

24. There is no discrepancy in the year 1987-88 inasmuch as though Rs. 100 lakhs was granted for primary schools of the State, presumably the flood affected schools in terms of report of the Joint Secretary dated 19th December, 1988, no fund was allotted to Midnapore District as Midnapore was not declared as flood affected district. That is why the chart of the Zilla Parishad, it appears that in the year 1987-88 amount was received by Zilla Parishad for primary school. Obviously in the year 1987-88, there was budgetary provisions of Rs. 100 lakhs primary schools but unfortunately that amount was reappropriated other "Emergent expenditure" though the state and nature of the emergency was not explained in the report of

the Joint Secretary of Education Department.

25. In the year 1988-89, according to the statement filed by Zilla Parishad, Midnapore, Rupees 79 lakhs was sanctioned for 158 schools Government order No. 2018SC/P dated 7.7.88, for Rs. 20 lakhs and order No. 3478SC/P dated 3.12.88 for Rs. 59 lakhs. From the statement filed by the Joint Secretary, Education Department, it appears that Rs. 100 lakhs for primary school was the budgetary provision for maintenance and repair of primary school building but from the report it is clear whether out of the budgetary provision for the said amount Rs. 100 lakhs for primary schools, the amount of Rs. 79 lakhs, as shown by the Zilla Parishad, Midnapore, was sanctioned for Midnapore District. It is evident from the report of the Joint Secretary dated 19.12.1988 that in the year 1988-89, no amount was received from the Central Government towards repairs and constructions of flood affected schools in West Bengal and therefore no amount was sanctioned for Midnapore District out of the fund received from the Central Government. But from the report it is evident that the entire budgetary provision i.e. Rs. 100 lakhs for primary schools was diverted for implementation of the scheme under "Operation Black Board."

26. By a subsequent development, a document was available to the court which was not filed in course of hearing. Petitioner due to anxiety and zeal for the administration of justice and welfare of the school, addressed a letter on 1st September, 1989 to the learned Chief Justice, Calcutta High Court, enclosing a memo bearing No. 200 dated 28.8.89 issued by Byabattar Hat, Paschim Gram Panchyat Office and requested the learned Chief Justice to request the concerned Judge to deliver judgement expeditiously in respect of the instant writ petition, hearing of which, according to the petitioner, was concluded five months before. The learned Chief Justice sent the letter dated 1st September, 1989, written by the petitioner, enclosing aforesaid letter dated 28th August, 1989, issued by the Anchal Pradhan, to the concerned Judge i.e. to this Court for taking necessary action.

27. It is substantially correct that hearing was concluded on 21st April 1989 and judgement was reserved for the time being. From the record, it appears that on 7th June, 1989, an application, affirmed by the petitioner on 6th June, 1989 was filed for direction for releasing some grant in favour of the Institution for the temporary construction of the house building of the institution and on 9th June, 1989, this Court gave liberty to the petitioner to implede the Sub-Divisional Officer, Tamluk, as respondent No. 7 and learned Advocate Miss. Aruna Mukherjee, appearing for the State, was requested to have instruction for her clients i.e. State of West Bengal.

28. This writ petition could have been disposed of without making any comment with regard to the modalities of the school administration in the districts but though the claim of the petitioner is in respect of a primary school of a particular district within the State but the issues raised by the petitioner and so also by the other respondents, namely, the State Government, District School Board, Midnapore and



Midnapore Zilla Parishad, cannot be brushed aside and as such I have been called upon to consider the mechanism of primary school administration in the State, as undoubtedly, primary education is the foundation of educational system of our country, which requires prime consideration from all concerned.

29. In the aforesaid application filed on 7th June, 1989, petitioner made a prayer for certain direction to release adequate grant in the purpose of reconstruction of the school concerned before starting of the rainy season in view of the fact that due to cyclone/tornado affecting the district on 29th May, 1989, the existing chalahar of the said school had been completely damaged and the teachers were holding class under open sky. Prompted by such exigency petitioner made this application for direction which was considered by this Court on 7th July, 1989 and this Court was reluctant to pass any order directing authorities to release any grant as a step gap measure inasmuch as adjudication of the main writ application was pending and this Court had intention to deliver judgement on the substantive writ application. Accordingly on the 7th July, 1989, the interlocutory application dated 7th June, 1989, was disposed of without any effective order.

30. After receiving the copy of the letter dated 1st September, 1989, addressed to the learned Chief Justice, the matter was placed for further hearing on 14th September, 1989, inasmuch as, this Court was of the opinion that the memo enclosed by the petitioner to the learned Chief Justice, disclosing factum of a release of grant of Rs. 50 thousand by Zilla Parishad, Midnapore, in terms of a memo bearing No. 1384(2) dated 27th July, 1989 issued by Midnapore Zilla Parishad to Anchal Pradhan, Baybattar Hat, Paschim Gram Panchayat, would resolve the dispute which is the subject matter of the writ petition.

31. I appreciate the agony and anxiety of the petitioner. I have not taken any exception so far the letter of the petitioner addressed to the Learned Chief Justice is concerned. But considering the facts and circumstances, I cannot ignore and overlook the mechanism of delivery system of justice when a citizen is prompted to address a letter to the learned Chief Justice for access to justice and that too for a just and genuine public cause.

32. I place it on record that this writ petition was initially moved on 11th April, 1988, and on 5th October, 1989, the learned Advocate Miss. Aruna Mukherjee, appearing for the State respondents, addressed a letter to Mr. Kanti Biswas, Minister for School Education, Writers' Building, through office of the learned lawyer Legal Remembrancer on 5th October, 1988. I am yet to appreciate why instead of seeking instruction from the State respondents, the learned Advocate for the State requested the Minister concerned to look into the matter. But from the letter dated 5th October, 1989, circumstances can be ascertained. The letter speaks as follows :

His Lordship was pleased to adjourn the said matter on 3rd October, 1988, and the matter would again appear one week after Puja vacation to see what steps have

been taken by the State Government to release the grant in question. As directed by the learned Advocate General, I request him to look into this matter for compliance with the Hon"ble Court's order and to intimate me the result within 12.10.1988.

33. It is pertinent to mention that on 10th August, 1988, learned Advocate General with Miss. Aruna Mukherjee, learned Advocate-on-record appeared for the State respondents when this Court directed the respondents to file affidavit-in-opposition within two weeks from date.

34. On diverse date this matter was taken up for hearing but no return was filed by the State respondents contrasorting and/or placing material facts before the court for effective adjudication. This court was compelled to serve copy of the orders passed on diverse dates to the respondents viz., on 29th November, 1988, 9th January, 1989 and 3rd March, 1989, only because, the State respondents did not file any return inspite of the court's order dated 10th August, 1988, passed even in presence of the learned Advocate-General. Though ultimately District School Board and Zilla Parishad, Midnapore filed their respective affidavit-in-opposition but State learned Advocate Miss. Mukherjee, appearing for the State respondents, expressed her predicament to obtain necessary instruction from her clients i.e. State respondents and only pursuant to order dated 29th November, 1988, a report dated 17th December, 1988, by the Joint Secretary, Education Department, was submitted to this Court. The State respondents did not care to file any return against the writ petition and the supplementary affidavit filed by the petitioner contending, inter alia, that crores of rupees were subsidised by the Central Government were returned to the Central Government and State Government failed to utilise 31 crores rupees granted by Central Government under the scheme "Upgradation of Standard of Administration" or "Operation Black Board" scheme during the period April 1985 to March 1989. Neither in the report filed by the Joint Secretary (School Education) on 19.12.88 nor by filing any return State respondents have justified their in action. Adjudication was unnecessary delayed due to the in action of State respondents. Possibly in this backdrop petitioner had no other alternative than to approach the learned Chief Justice for having access to the mechanism of Justice.

35. State of West Bengal is required to take some effective steps improve its status in primary education. From the report dated 19 December, 1988, as discussed herein before, it transpires that in the year 1988-89, some fund amounting to Rs. 100 lakhs was spent under "Operation Black Board". It is clear that this fund of (Rs. 100 lakhs) was diverted for implementation of the scheme under "Operation Black Board" but according to State Government, no amount was received by the State Government from the Central Government in the year 1988-89.

Central Government by the scheme "Upgradation of Standard of Administration" allotted 31 crores for 7,700 primary schools in the State during April 1985 to March 1989. It has been reported in the news item as referred to in the supplementary affidavit affirmed by the petitioner on 6th September, 1988, that State Government

for construction of schools allotted 4 crores 65 lakhs 60 thousand in 1985-86 for 2,692 schools, 10 crores 76 lakhs 80 thousand was allotted in the next phase, considering cost of construction @ Rs. 40,000 for each school. Subsequently, Central Government had agreed to allot Rs. 60,000 per school, as claimed by the State Government, due to increase of cost of building materials. No record has been made available to this Court whether State Government has decided to enhance the allotment @ Rs. 60,000 per school or has revised the specification of the school building.

I have reason to believe that "Operation Black Board", a very important and effective device of the new education policy, announced in 1986, has been accepted and implemented belatedly only in the year 1988-89. Obviously, the scheme envisages provision of a permanent building, adequate teachers and initial tools for imparting education namely black board, map etc. in all primary schools in every district. Possibly the modalities of the scheme under "Operation Black Board" is different from the urgent need for repair and renovation of existing primary schools in the State the need for repair or such emergent necessity should have been monitored by the District Inspector of Schools (Primary Education), if necessary, through its agency i.e. Sub-Inspectors for each circle. Perhaps, it is high time when Education Directorate should come forward to fix the accountability of the Officers concerned who are supposed to be the watch dog to protect our future generation.

36. Undoubtedly, the claim was reasonable, inasmuch as, since 1986, the school has been suffering due to lack of proper maintenance, housing of the school and repair or renovation or reconstruction was effected by any of the authorities, namely, District School Board, Zilla Parishad, Midnapore or State of West Bengal for a long time.

37. Be that as it may, Zilla Parishad, Midnapore, by memo No. 200, dated 28th August, 1989, intimated the petitioner/Headmaster of the said primary school that a fund of Rs. 50,000 was allotted for construction of the school in terms of memo No. 1384(2) dated 27th July, 1989 and petitioner was directed to open a bank account jointly with Pradhan of Byabattar Hat, Paschim Gram Panchayat by 2nd September, 1989.

38. Mr. Basu, appearing for Zilla Parishad, has contended on instruction that the amount was released by Zilla Parishad for construction of school building according to the specification approved by Zilla Parishad and the Headmaster along with Anchal Pradhan will open a bank account jointly and will monitor the construction of the school building, and the Headmaster and Anchal Pradhan are required to comply the terms and conditions of such grant.

39. Thus amount has been released by Zilla Parishad, Midnapore in favour of school for construction of school building, as such, I think grievance of the petitioner has been considered effectively and thus no further order is necessary save and except,

the following directions, which I propose to pass for effective implementation, construction and utilisation of the grant for the school building.

40. Petitioner Sri Sudhansu Shekhar Manna, Headmaster, Neel Kantha Primary School and Anchal Pradhan of Byabattar Hat Paschim Gram Panchyat are directed to open a bank account jointly, if not already done, in terms of memo dated 1.3.1984(2) dated 27.9.89 issued by Zilla Parishad.

41. The petitioner and the Anchal Pradhan, as directed by Zilla Parishad will take immediate steps for construction of the school building in accordance with the specification and within the time limit, if any, or immediately preferably within 31st December, 1989.

42. Local Block Development Officer is directed to tender all assistance and to monitor the construction of the aforesaid school building in terms of specification as approved by Zilla Parishad, Midnapore or District School Board, as the case may be, with the help of an Officer with technical know-how and engineering background, provided Zilla Parishad or District School Board had no infrastructure for such implementation. If there is no such incumbent/officer under the Block Development Officer, assistance of local Executive Engineer may be requisitioned in terms of this order and Block Development Officer is given liberty to take assistance of the local Executive Engineer attached to public works department.

43. The Petitioner/Headmaster and Anchal Pradhan are accountable for effective completion of the construction work and they will submit utilisation certificate, phase-wise and also completion report to the Zilla Parishad.

44. The petitioner and the Anchal Pradhan are given liberty to approach Zilla Parishad for further grant, if necessary, or alternatively to revise specification vis-a-vis grant.

45. As the petitioner/Headmaster of the primary school has come before this writ court not for personal interest or gain but for the interest of the school, particularly, students at large, I record my appreciation for the exercise and trouble he has taken for a public cause. I hope and trust that petitioner/Headmaster will be able to motivate other teachers of the school for regular, punctual attendance and effective administration so far academic side is concerned. Considering huge expense, petitioner has incurred, for upholding a genuine claim and noble cause, I think and hold that petitioner is entitled to get cost. Accordingly, I direct the State of West Bengal, through the Director of School Education (Primary) pay a cost to the petitioner, which I assess Rs. 2,000 (Rupees two thousand only) and Rs. 5,000 (Rupees Five thousand only) to the school and in favour of Nilkantha Prathamik Vidyalaya. Headmaster is directed invest the amount of Rs. 5,000 under fixed deposit scheme or Unit Trust scheme, in the name of the school, so that Headmaster or his successor can undertake minor repair or emergency repair with the annual interest to be accrued against such investment. Director of School

Education (Primary) is directed to release the cost, as directed, within 15th November, 1989 and Headmaster, on receipt of the cost and after effecting investment, as directed, shall submit a compliance report on 1st December 1989. This matter will appear on 1st December, 1989, under "for order for recording compliance report.

46. This writ petition is disposed of accordingly.

47. A plain copy of the order, duly countersigned by the Assistant Registrar, Court, be given to Zilla Parishad who will supply xerox copy of the same to the learned Advocates for State Respondents, District School Board. Petitioner is also directed to serve a copy of the order to the Director of School Education (Primary) by 30th September, 1989. Registry is directed to serve a copy of the order to learned Legal Remembrancer for information and communication to concerned authorities.