

(2003) 04 CAL CK 0005

Calcutta High Court

Case No: Writ Petition No. 1654 (W) of 2002

All Backward Class Relief and  
Development Mission

APPELLANT

Vs

State of West Bengal

RESPONDENT

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**Date of Decision:** April 11, 2003**Acts Referred:**

- Constitution of India, 1950 - Article 226, 41, 45, 46

**Citation:** (2004) 2 CHN 381**Hon'ble Judges:** Barin Ghosh, J**Bench:** Single Bench**Advocate:** Ashok Das Adhikari, Ekramul Basi and Gazi Faruque Hossain, for the Appellant;  
Rabilal Maitra and Sridhar Panja, for the Respondent

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### Judgement

Barin Ghosh, J.

The West Bengal Government has provided appropriate infra-structure for primary education in this State. It has also made primary education compulsory in terms of the provisions of the Act. In order to impart primary education, the State of West Bengal has made the necessary infra-structure to provide primary education principally to the students belonging to the backward class, a large number of primary schools have been established by the petitioners. It is claimed that a large number of students belonging to backward class study in those primary schools. The petitioners wanted from the Government appropriate help in relation to study materials, i.e., text books, that was not provided and accordingly the present writ petition was filed.

2. The principal reason for which the text books were not supplied by the State to the petitioners or to the schools established by the petitioners was that the schools so established by the petitioners were non-governmental institutions as well as not recognised by the State. The State made it clear that insofar as the students, who

are imparted education at the schools established or recognised by the Government, are concerned, they would be provided study materials, i.e., text books free of cost and printing of such text books has budgetary support, but it is not known how many students are studying in the schools established by the petitioners and accordingly it is not known how much money would be spent for supplying the books to those students and in any event there is no budgetary support therefor.

3. When the matter was being heard on earlier occasions, it was pointed out by the learned Counsel for the petitioners that the student who is entitled to primary education has at least a right to be taught in proper manner, but because he has been constrained to study in the schools established by the petitioners for there may not be a Government established or recognised school in the vicinity, the student will be deprived of the right to be imparted education in the line as the other students are being taught was not proper. This discussion prompted the Government to look into the matter in a broader aspect. Today the learned Counsel for the State has produced before this Court the instructions given to him by the Director of School Education, West Bengal which contains a proposal being Memo No. 185 T.B.C. dated 19th March, 2003, wherein it has been provided that having considered the fact that a student has a right to know what the others are learning, the Government has decided to supply study materials, i.e., text books at cost price to the petitioners as well as to the schools established by the petitioners from the next academic session of 2003-04. This stand of the Government is laudable as it has taken the right decision to reach the right kind of benefit to the beneficiaries for whom all these efforts are being made.

4. By reason of the decisions of the Apex Court, education in this country is not a business but is charitable. A student who is studying in a Government established or recognised institution is entitled to study materials, i.e., text books free of cost. Those have to be bought by the petitioners and the schools established by the petitioners at cost price from the Government for the reason indicated above. The petitioners and their schools will, however, be not entitled to pass on this cost price to the students for if that is done, that will once again discriminate for no just reason the students of the schools established by the petitioners and the students of the schools established by the Government only for the reason that the Government has not been able to establish a school in the vicinity.

5. I, therefore, dispose of the writ petition by making the said letter of the Director of School Education, West Bengal as well as the proposal being Memo No. 185 T.B.C. dated 19th March, 2003, annexed thereto, as part of this order with the observations as mentioned above with the hope that from the next academic session, 2003-2004, the petitioners have no grievance and the students studying in the schools established by the petitioners would be treated with same fairness as the students of the schools established by the State are treated.

6. The writ application is accordingly disposed of.

7. There shall be no order as to costs.

8. Let xerox certified copy of this order be given to the learned Advocates for both parties as expeditiously as possible.