



CGHC010247482026



2026:CGHC:41155

AFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPC No. 3452 of 2026****Order Reserved on 10/08/2026****Order Delivered on 22/09/2026**

1 - Sudarshan S/o Rajkumar Lodhi Aged About 32 Years All R/o Village Saja Tahsil Saja, District Bemetara C.G.

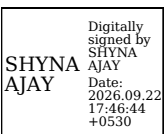
2 - Suraj Sahu S/o Ashok Sahu Aged About 35 Years R/o Village Saja Tahsil Saja, District Bemetara C.G.

3 - Govind Patel S/o Prakash Patel Aged About 35 Years R/o Village Saja Tahsil Saja, District Bemetara C.G.

4 - Dakwar Banjare S/o Mansukh Das Banjare, Aged About 33 Years R/o Village Saja Tahsil Saja, District Bemetara C.G.

5 - Lalaram Soni S/o Ramji Soni Aged About 33 Years R/o Village Saja Tahsil Saja, District Bemetara C.G.

6 - Chandra Prakash S/o Ashok Sahu Aged About 37 Years R/o Village Saja Tahsil Saja, District Bemetara C.G.



7 - Mukesh Soni S/o Shiv Kumar Soni Aged About 44 Years R/o Village Saja Tahsil Saja, District Bemetara C.G.

8 - Atma Ram Sahu S/o Shatruhan Sahu Aged About 35 Years R/o Village Saja Tahsil Saja, District Bemetara C.G.

9 - Bharat Sahu S/o Bisru Sahu, Aged About 31 Years R/o Village Saja Tahsil Saja, District Bemetara C.G.

10 - Om Prakash Soni S/o Keju Ram Soni, Aged About 40 Years R/o Village Saja Tahsil Saja, District Bemetara C.G.

11 - Sunila Verma Tulsiram Verma, Aged About 41 Years R/o Village Saja Tahsil Saja, District Bemetara C.G.

12 - Dekoram S/o Prahalad Yadav, Aged About 34 Years R/o Village Saja Tahsil Saja, District Bemetara C.G.

--- **Petitioner(s)**

versus

1 - State Of Chhattisgarh Through The Secretary, Department Of School Education, Mantralaya, Mahanadi Bhawan Atal Nagar, Naya Raipur District Raipur C.G.

2 - Collector Bemetara District Bemetara C.G.

3 - The District Education Officer, Bemetara District Bemetara C.G.

--- **Respondent(s)**

(Cause Title downloaded from CIS Periphery)

For Petitioner(s) : Mr. N. Naha Roy, Advocate

For Respondent(s) : Dr. Saurabh Kumar Pande, Dy. AG

SB: Hon'ble Mr. Justice Amitendra Kishore Prasad

C A V Order

1. By way of the instant petition, the petitioners pray for issuance of an appropriate writ, order or direction, calling upon the respondent authorities to grant admission to the wards of the petitioners in Lower Kindergarten (LKG) across various Swami Atmanand Excellent English Medium Schools situated within District Bemetara. While in a majority of districts throughout the State of Chhattisgarh, eligible children are being duly admitted in the LKG section of the Swami Atmanand Excellent English Medium Schools, the respondent authorities in District Bemetara District have arbitrarily failed and neglected to conduct the admission process for the said class, thereby depriving the aspiring students of their Right to Education. Despite repeated requests and representations made by the parents and guardians of the aspiring students seeking initiation of LKG admissions within District Bemetara, the respondent authorities, including the Principals and Headmasters of Swami Atmanand Excellent English Medium Schools, have ignored the same and failed to take any remedial action thereon. As a consequence, the wards of the petitioners, who hail from the economically weaker and

lower strata of society, are being denied equal access to foundational pre-primary education. While the State Government actively provides LKG admissions under the Swami Atmanand Scheme under various other districts throughout the State of Chhattisgarh, the selective non-conduction of LKG admissions exclusively in District Bemetara is arbitrary and discriminatory. Such inaction by the respondents directly infringes upon the petitioners' fundamental Right to Equality guaranteed under Article 14 read with Article 21-A of the Constitution of India and defeats the main object of early childhood education embodied under Section 11 of the Right of Children to Free and Compulsory Education Act, 2009 (in short "the RTE Act, 2009"). Left with no other remedy, the petitioners invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India for redressal of their grievances, seeking the following reliefs:

10.1 Issue an appropriate writ in the nature of mandamus and direct the respondents to permit the admission of students/petitioner's children at the LKG level through the web portal in the Swami Atmanand Excellent English Medium Schools in the District of Bemetara.

10.2 Grant any other relief, which is deemed fit in the circumstances of the case.

2. The essential facts, as projected by the petitioners, are that they belong to the economically weaker and marginalized strata of

society. The petitioners are primarily engaged in occupations within unorganized sectors, earning modest and uncertain livelihoods. Thus, despite their earnest endeavours to secure high-quality education for their young children by seeking admission into standard State-run institutions like Swami Atmanand Excellent English Medium Schools, their efforts are being frustrated due to arbitrary and unreasonable policy of the respondent school authorities and the State Government. The State Government introduced a welfare policy/scheme under which Swami Atmanand English Medium Schools were established throughout all districts in the State of Chhattisgarh. The primary objective of this policy is to provide high-quality English medium education to students from all socio-economic backgrounds, enabling them to compete on an equal footing with students of private English medium institutions. Under this uniform State Scheme, admissions are systematically conducted from LKG to Class XII in Swami Atmanand Excellent English Medium Schools in almost all districts throughout the State of Chhattisgarh. However, in sharp contrast to other districts, the respondent authorities in District Bemetara have completely failed to implement or extend the LKG admission process in their schools. As a result, the petitioners' young wards are being deprived of the benefit of this key welfare scheme, which is in violation of their fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India. Once a policy decision has been taken by the State Government to establish Atmanand

Excellent English Medium Schools and to provide admissions seamlessly from LKG to Class XII throughout every district, such a beneficial facility cannot be denied or withheld in District Bemetara alone. The petitioners are desirous to secure admission for their young wards in the LKG section of the said Swami Atmanand Excellent English Medium Schools so as to afford them quality English medium education. However, due to the inaction of the respondents in extending this facility, the wards of the petitioners are being unfairly deprived of foundational schooling at the entry level. Hence, this Petition.

3. Mr. N. Naha Roy, learned counsel for the petitioners submits that upon inquiries made with the school administration, the petitioners were informed by the concerned Principal of Atmanand Excellent English Medium School, Rajamohgaon, Block Saja, District Bemetara that LKG classes cannot be started due to the non-allocation of the required sanction and budget by the State Government. Further, it was communicated that the State Government did not sanction necessary staffing setup and infrastructure required to conduct LKG classes in the said school. As a consequence, even though LKG Classes are fully operational across various other districts throughout the State of Chhattisgarh, the same remain non-functional and unavailable within District Bemetara. He submits that the failure on the part of the State to commence LKG classes constitutes a clear violation of Article 14 and Article 21-A of the Constitution of India. The petitioners and their wards cannot be selectively deprived of the

benefits that stand duly extended and operational across other districts within the State of Chhattisgarh. The Right to Education is a constitutional right guaranteed to students up to Class XII and any such discrimination or deprivation on the part of the State authorities is impermissible and unsustainable in the eyes of law. He further submits that a perusal of the communication dated 27.2.2026 issued by the District Education Officer, Bemetara and the communication dated 28.2.2026 issued by the Headmaster of the subject English Medium School, clearly shows that the respondent authorities failed to render LKG classes functional due to the non-availability of the requisite staffing setup and funds. Thus, it stands admitted on record by the respondent authorities themselves that lack of sanctioned posts and financial allocation from the State Government is the sole impediment preventing the commencement of LKG classes in the school in question. He submits that these administrative communications clearly establish that the State authorities have subjected Bemetara District and the concerned school in particular to discrimination by refusing to commence LKG classes on the mere pretext of non-allocation of funds and non-sanctioning of staff. Such arbitrary inaction on the part of State authorities reflects a sorry state of affairs, inimical to the principles of a Welfare State. The Right to Education being a cherished fundamental right enshrined under Article 21 of the Constitution of India, its denial warrants strictures from this Court, accompanied by a writ of mandamus directing the State respondents to commence LKG

classes forthwith. He lastly submits that the petitioners seek no undue privilege but a bonafide entitlement founded upon the law, which cannot be defeated by the whimsical and capricious conduct of the State machinery. Learned counsel for the petitioner lastly submits that the writ petition deserves to be allowed with costs in the interest of justice.

4. Per contra, Dr. Saurabh Kumar Pande, learned counsel for the State submits that the instant petition is devoid of merits and it is liable to be dismissed at the threshold. He submits that the State of Chhattisgarh, as a Welfare State, remains conscious of its constitutional mandate to impart education to the populace. He submits that the public representatives submitted several recommendations for opening English medium schools in their respective constituencies, enabling children from economically weaker sections to access quality English medium education. The State Government, in its benovelent capacity, considered these representations in the larger public interest. Hence, a policy decision was formulated to upgrade educational standards statewide, pursuant to which the State resolved to establish at least one model school in each district under the name and style of "Swami Atmanand Excellent English Medium School". He submits that in furtherance of the aforementioned policy, selected Government Hindi Medium Schools were duly sanctioned with the requisite staff cadres for their operationalization. The funding for these upgraded institutions is sourced through the District Minerals Fund. To streamline admissions into these upgraded

institutions, detailed procedures and guidelines have been formulated and amended periodically. He further submits that a policy decision of the State Government cannot be casually challenged, even where a violation of Article 21-A of the Constitution of India or the RTE Act, 2009 is alleged. He submits that the foundational pre-school education (LKG) does not automatically attract the mandatory statutory obligations under Article 21-A or the Right to Education framework, which applies to elementary education for children aged 6 to 14 years. Furthermore, a policy decision formulated by the Executive cannot be interfered with in a routine manner unless and until it suffers from manifest arbitrariness on the part of authorities. He further submits that the State Government, in exercise of its policy and administrative discretion, determines the opening of LKG classes across regions based on local necessity and feasibility. Learned counsel submits that a policy decision falls within the exclusive domain of the State Government. A citizen can only seek the enforcement of an existing legal right and in the absence of a corresponding statutory duty cast upon the State, the concerned authorities cannot be compelled to grant a relief that they are under no legal obligation to provide. As such, the petition is bereft of merits and is liable to be dismissed.

5. Heard learned counsel for the parties and also perused the documents annexed with the petition with utmost circumspection.
6. Evidently, the letters/memo 27.2.2026 and 28.2.2026 dated issued by the District Education Officer (respondent No.3) and the

Head Master/Principal of the subject School (respondent No.4) respectively, reveal that these authorities have categorically admitted that LKG classes could not be commenced only due to non-availability of infrastructure and the lack of budgetary allocation, despite demand raised in this regard. Nowhere in the record has any other reason been assigned on the basis of which it can be inferred that the authorities genuinely declined to open LKG classes in the subject school. Being a Welfare State, the State is expected to frame and execute its policies uniformly across all districts so that benefits reach every section of society rather than being confined to a select few. Territorial discrimination in matters pertaining to foundational education cannot be permitted under the constitutional scheme. Once the State took a policy decision to impart quality English-medium education through the Swami Atmanand Excellent English Medium Schools throughout all districts of the State of Chhattisgarh, the said policy ought to have been implemented in its true letter and spirit universally. The benefit of such a Welfare Scheme cannot be denied to students of parents of a particular district or social class nor can access to basic education be restricted in a discriminatory manner.

7. The RTE Act, 2009 was enacted with the objective of extending equal access to quality education to all strata of Society, without territorial or socio-economic restrictions. Consequently, in my view, the petitioners are equally entitled to seek admission for their wards in Swami Atmanand Excellent English Medium

Schools right from the pre-primary stage (LKG/UKG). Being a Welfare State, the State Government is expected to extend its beneficial educational facilities uniformly throughout all districts, ensuring that students of a specific region are not deprived of high-standard education provided from a policy formulated for the benefit of students statewide.

8. In the matter of **Dinesh Biwaji Ashtikar Vs. State of Maharashtra and others** reported in **(2026) 7 SCC 267**, the following was observed in paragraphs 2, 6, 7, 7.1, 8 & 9 :

2. The constitutional declaration of the right under Article 21-A, followed by the statutory mandate under Section 3 of the Act for free and compulsory elementary education can be realised only with effective implementation of the provisions of the Act. We have held that ensuring admission of such students must be a national mission and an obligation of the appropriate Government and the local authority. Equally, Courts, be it constitutional or civil, must walk that extra mile to provide easy access and efficient relief to parents who complain of denial of the right

6. Article 21-A declares the fundamental right to free and compulsory education of all children of the age of 6 to 14 years.

“21-A. Right to Education.—The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.”

The obligation that the “State shall provide free and compulsory education in such manner as maybe

determined by law”, translates into the 2009 legislation, the Right of Children to Free and Compulsory Education Act

“3. Right of child to free and compulsory education.—(1) Every child of the age of six to fourteen years, including a child referred to in clause (d) or clause (e) of Section 2, shall have the right to free and compulsory education in a neighbourhood school till the completion of his or her elementary education.”

7. It is important to recognize that the Constitution declares elementary education as a fundamental right, as against many other liberties, which are in the nature of fundamental freedoms. The consequence of identifying the right to elementary education as a positive right is the recognition of co-relative duties and identification of five duty bearers, being : (i) the appropriate Government (ii) the local authority (iii) the neighbourhood schools (iv) the parents/guardians, and (v) the primary school teachers. It is important to highlight the obligations and duties of these duty bearers in detail not only for accountability, but also to ensure that they have sufficient support from the Government and the society.

7.1. The first duty bearer; is the “appropriate Government”. The duty of the appropriate Government to establish neighbourhood schools is prescribed in Section 6.

“6. Duty of appropriate Government and local authority to establish school.—For carrying out

the provisions of this Act, the appropriate Government and the local authority shall establish, within such area or limits of neighbourhood, as may be prescribed, a school, where it is not so established, within a period of three years from the commencement of this Act."

The financial responsibilities under the Act are shared between the Central and the State Governments under Section 7. Further duties upon establishing the neighbourhood schools are prescribed in Section 8, which inter alia mandate that the appropriate Government shall, "ensure availability of a neighbourhood school as specified in Section 6".

8. *It is necessary to underscore two foundational constitutional values that Section 12 of the Right of Children to Free and Compulsory Education Act, 2009 ("the RTE Act") is designed to articulate and secure. The first, in unequivocal terms, mandates that not less than twenty-five percent of the strength of an entry-level class shall be reserved for and filled by children belonging to "weaker sections" and "disadvantaged groups", who are thereby guaranteed access to free elementary education. The second is that such children are to be admitted to unaided schools in their neighbourhood, thereby embedding within the statutory framework the principle that the constitutional promise of education under Article 21-A is to be realised through common local schools rather than segregated or parallel systems.*

9. *The legislative choice to implement the right to free and compulsory education through neighbourhood*

schools is not merely administrative; it is a deliberate constitutional strategy to operationalise equality of status, dignity, and social integration among children in their formative years. In sustaining Section 12, the Supreme Court has recognised that the rights of children carry corresponding obligations on the State to “respect, protect and fulfil” those rights and to regulate private educational institutions so that children's rights are not violated even in non-State spheres.

9. Coming to the facts of the present case, in view of the foregoing discussion and in light of the principles laid down in the aforesaid judgment, this Court is of the considered opinion that judicial intervention is eminently warranted. Equality of educational opportunity is a constitutional guarantee under Articles 14 and 21 of the Constitution of India. Further, as Education falls under Entry 25 of the Concurrent List (List III) in the Seventh Schedule, both the State Government and the Union of India share a solemn responsibility to ensure non-discrimination in access to public education and to effectively implement the legislative mandate under the Right to Education framework. Furthermore, once the State Government formulates a policy to impart pre-primary education through its institutions, it cannot selectively deny the benefit to a particular region.

10. Accordingly, the Writ Petition is **Allowed** with the following directions :

1. *The State Government and its respondent authorities are directed to forthwith commence LKG classes*

throughout all districts in the State of Chhattisgarh and specifically in District Bemetara, including Swami Atmanand Excellent English Medium School, Rajamohgaon, Block Saja, District Bemetara (CG).

- 2. The concerned authorities shall ensure that necessary arrangements, infrastructure and admission for LKG classes are finalized within a period of four weeks from the date of receipt of a copy of this order, ensuring that the academic future of young children (naunihals) is not jeopardized in the current academic session.*
- 3. The students of District Bemetara shall be placed at par with students of other districts in accessing state-sponsored pre-primary English medium education without discrimination .*

Sd/-

(Amitendra Kishore Prasad)
Judge