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CASE COMMENT ON EXPANSION OF RIGHT TO LIFE UNDER ARTICLE 21: DR. JAYA THAKUR VERSUS GOVERNMENT OF INDIA

-Khushi Singh

Citation:

2026 INSC 97; Writ Petition (Civil) No. 1000 of 2022 **Bench:**

Justice J.B. Pardiwala and Justice R. Mahadevan **Introduction:**

Dr. Jaya Thakur v. Government of India & Ors. Is a significant public interest litigation that brought national attention to the challenges faced by adolescent girls in managing menstrual health while pursuing their education. The petition was filed before the Supreme Court under Article 32 of the Constitution, seeking directions to ensure that school going girls, particularly those studying in Classes VI to XII, have access to essential menstrual hygiene facilities. The petitioner requested measures such as the distribution of free sanitary pads, construction of separate and hygienic toilets for girls in schools, appointment of sanitation staff for maintenance of these facilities, and implementation of awareness programmes aimed at improving understanding of menstrual health and hygiene.

The case highlighted the practical difficulties encountered by many girl students due to inadequate sanitation infrastructure and limited access to menstrual hygiene products. These deficiencies often result in absenteeism, discomfort, and, in some instances, discontinuation of education. Recognizing the seriousness of the issue, the Supreme Court examined menstruation

not merely as a health-related concern but as matter directly connected to constitutional rights and human dignity.

In its Judgment, the Court emphasized that no girl should be deprived of educational opportunities because of a natural biological process. It observed that proper menstrual hygiene management is closely associated with the principles of equality, dignity, privacy, health, and meaningful participation in society. The Court further acknowledged that ensuring access to menstrual hygiene facilities is essential for realizing the guarantees provided under Articles 14, 21, and 21A¹ of the Constitution, thereby reinforcing the State's obligation to create an environment where girls can pursue education with dignity and confidence.

Historical Background:

The present Public Interest Litigation was instituted by the petitioner, a social activist, to draw attention to the challenges encountered by school going girls due to the inadequate availability of sanitary products and proper sanitation facilities. The petition emphasized that the lack of effective menstrual hygiene management often leads to frequent absenteeism among female students and, in several instances, compels them to discontinue their education altogether.

Through the petition, the petitioner requested the Court to issue appropriate directions to the Union of India, the States, and the Union Territories to ensure the provision of free sanitary pads to girl students studying in Classes VI to XII. Additionally, the petitioner sought the establishment of separate toilet facilities for girls in government, aided, and residential schools, the appointment of sanitation personnel for the upkeep and cleanliness of such facilities, and the implementation of awareness programmes focusing on menstrual health and hygiene.

During the proceedings, the Union Government acknowledged that menstruation continues to be associated with social prejudices and longstanding taboos. It further recognized that insufficient access to sanitary products and sanitation infrastructure has a detrimental impact on the health, well-being, and educational participation of adolescent girls. The Government also informed the Court about various schemes and policy initiatives aimed at improving menstrual hygiene, strengthening sanitation facilities, promoting awareness, and facilitating the distribution of sanitary products. Likewise, several State Governments placed on record the

¹ Pramati Educational & Cultural Trust v. Union of India (2014) 8 SCC 1, AIR 2014 SC 2465

measure undertaken by them to enhance menstrual hygiene management and support girls' access to education.

While taking note of these initiatives, the Court observed that the primary concern was not the absence of policies or schemes, but rather the need for their effective, uniform, and sustained implementation across the country.

Issues-

1. Whether the absence of separate toilet facilities for girls and the lack of access to menstrual hygiene products amount to violation of the right to equality guaranteed under Article 14 of the Constitution.
2. Whether the entitlement to menstrual health with dignity can be regarded as an integral component of the right to life protected under Article 21 of the Constitution.
3. Whether inadequate menstrual hygiene management facilities hinder effective participation and deny equal opportunities, thereby infringing the guarantees embodied in Article 14 of the Constitution.
4. Whether the failure to provide gender specific sanitation facilities and menstrual absorbents adversely affects the right to education guaranteed under Article 21A of the Constitution and the provisions of the Right of Children to Free and Compulsory Education Act, 2009.

Rules and legal Principles-

1. The Court based its analysis on several constitutional provisions, namely Articles 14, 21, 21A, and 51² of the Constitution of India, read together with the provisions of the Right of Children to Free and Compulsory Education Act, 2009.
2. In Addition to domestic Legal provisions, the Court referred to various international human rights instruments, including:
 - The Universal Declaration of Human Rights (UDHR);
 - The International Covenant on Economic, Social and Cultural Rights (ICESCR);

² Ashoka Kumar Thakur v. Union of India, (2008) 6 SCC 1

- The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);
 - The Convention on the Rights of the Child (CRC); and
 - UNESCO principles concerning equal access to education and educational opportunities.
3. The Court also relied upon several judicial precedents, including *Bandhua Mukti Morcha v. Union of India*³, *Mohini Jain v. State of Karnataka*⁴, and *Unni Krishnan v. State of Andhra Pradesh*⁵, along with other decisions that acknowledge education as a vital element of human dignity and overall human development.

Judgment

The Supreme Court affirmed that education is a basic human right and an indispensable prerequisite for ensuring a life of dignity. The Court observed that obstacles preventing girls from regularly attending school during menstruation have a direct bearing on their constitutional rights to equality and equal access to education.

The Court further noted that menstrual health extends beyond being a mere public health issue and is closely connected with an individual's dignity, privacy, bodily autonomy, and equal opportunities. It emphasized that the absence of proper sanitation infrastructure and limited availability of menstrual hygiene products place girl students at a distinct disadvantage, adversely affecting their ability to participate fully in the educational process.

The judgment also recognized menstrual hygiene management as an essential element of the rights to life and dignity guaranteed under Article 21 of the Constitution. In this regard, the Court held that the State carries a constitutional responsibility to ensure that no girl is denied or discouraged from pursuing her education on account of menstruation.

Additionally, the Court underscored that the right to education under Article 21A cannot be interpreted in a narrow or formalistic manner. Instead, it must be understood in a way that guarantees conditions conducive to meaningful and effective participation in school.

³ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161.

⁴ *Mohini Jain v. State of Karnataka*, (1992) 3 S.C.C. 666.

⁵ *Unni Krishnan v. State of Andhra Pradesh* (1993) 1 S.C.C. 645.

Accordingly, the Court acknowledged that access to adequate sanitation facilities, menstrual hygiene products, and awareness programmes forms a crucial part of ensuring educational opportunities for adolescent girls and enabling them to continue their studies with dignity, confidence, and equality.

Analysis-

The Importance of this judgment lies in its recognition of menstrual hygiene as a matter of constitutional rights rather than merely a welfare concern. The Court adopted a substantive approach to equality by acknowledging that providing admission to schools alone is not sufficient if girls are unable to participate effectively due to biological and societal challenges.

A notable feature of the decision is its linkage of menstruation with the constitutional principles of dignity, privacy, autonomy, equality, and education. In doing so, the Court moved beyond conventional understandings of discrimination and addressed the systematic obstacles that disproportionately impact adolescent girls.

The judgment also drew considerable support from international human rights standards, thereby reaffirming India's commitments under various global human rights frameworks. Another significant aspect of the ruling is its acknowledgment that exclusion from education may result not only from denial of admission but also from inadequate facilities that hinder regular attendance.

Furthermore, the decision promotes gender justice by recognizing the interconnected effects of menstruation, social stigma, economic hardship, and educational disadvantage. It emphasizes the necessity of ensuring effective implementation of existing policies and programmes instead of relying solely on the introduction of new schemes.

Conclusion-

Dr. Jaya Thakur v. Government of India & Ors. Stands as a significant constitutional ruling that advances and safeguards the rights of adolescent girls in India. The judgment acknowledges that access to menstrual hygiene products, adequate gender-responsive sanitation facilities, and awareness regarding menstrual health are essential prerequisites for ensuring genuine equality and meaningful access to education.

By associating menstrual health with the constitutional guarantees contained in Articles 14, 21, and 21A, the Supreme Court reaffirmed that the values of dignity, equality, and education must

be understood in light of the everyday experiences and challenges faced by girl students. The Court recognized that these constitutional rights cannot be effectively realized unless the practical barriers arising from menstruation are adequately addressed.

The Decision marks an important development in the protection of girls' rights by emphasizing that menstruation should never operate as an obstacle to educational participation. It reinforces the State's responsibility to create an environment in which every girl can continue her education without discrimination, stigma, or disadvantage. Ultimately, the judgment seeks to ensure that all girls are able to access educational opportunities in conditions that uphold their safety, dignity, and equal treatment.