

National Human Rights Commission
Manav Adhikar Bhawan Block-C, GPO Complex, INA., DELHI -110023

Dilip Kanti Chakma,
 C3/441, Top Floor, Janakpuri, New Delhi WEST DELHI , DELHI
Dated: 17/06/2020

Dear Dilip Kanti Chakma,
 The Commission has received your complaint and it has assigned diary number as **8022/IN/2020** with the following details:-

Complainant Details

Name:	Dilip Kanti Chakma		
Mobile:	7406314043	Email:	indigenouslylawyers@gmail.com
Address:	C3/441, Top Floor, Janakpuri, New Delhi		
District:	WEST DELHI	State:	DELHI

File Uploaded successfully (Right to online education for tribal children.pdf)

Victim Details

Victim Name:	Tribal school students	Gender:	Both
Religion:		Cast:	
Address:	All over India		
District:	ALL OVER INDIA	State:	ALL OVER INDIA

Incident Details

Incident Place:	All over India	Incident Date:	25/03/2020
Incident Category:	EDUCATIONAL INSTITUTIONS/ TECHNICAL INSTITUTIONS (GOVT./PVT.)		
Incident District:	ALL OVER INDIA	Incident State:	ALL OVER INDIA
Is it filed before any Court / State HRC	No		

Incident Details:	<p>The Indigenous Lawyers Association of India (ILAI) is writing to seek the urgent intervention of the National Human Rights Commission (NHRC) against continued exclusion of underprivileged sections of society including Scheduled Tribes, Scheduled Castes, forest dwellers and the poor from online classes during the COVID19 lockdown period due to lack of access and smartphones/laptops. Since the lockdown was announced by Prime Minister Shri Narendra Modi w.e.f. 25 March 2020, all the educational institutions including schools and colleges have been closed down across India to fight the COVID19 pandemic. By mid-April 2020, most of the schools have started imparting online classes via platforms like Zoom, Microsoft Teams and Google Classroom to their students starting from Nursery to Class XII. Classes have been held regularly until the summer vacation was announced in the last week of May 2020. The schools are likely to resume classes in several states based on the actual situation of spread of COVID19. I. The right to education is a fundamental right Article 21-A of the Constitution provides for compulsory education of all children in the age group of six to fourteen years as a Fundamental Right in such a manner as the State may, by law, determine. The Right to Child Education Act, 2009, which came into effect from 1 April 2010, provides 'free and compulsory' elementary education upto Class VIII standard. 'Compulsory' education is the obligation on the appropriate Government and local authorities to provide and ensure admission, attendance and completion of elementary education by all children in the 6-14 age group. During the COVID19 lockdown the appropriate Government has failed to secure the fundamental right to education for the underprivileged children, particularly belonging to the tribal and other underprivileged sections of the society while the privileged sections of the society continued to access education through online classes conducted by the respective schools. II. Underprivileged students are deprived of online education due to lack of facilities. Although online education via platforms like Zoom, Microsoft Teams etc may be the best available means of imparting education during the COVID19 lockdown to keep the students learning their lessons, it is submitted that the very purpose of online education for all is defeated given the fact that more than 50% of the population do not have access to internet as per a study by the Statista Research Department dated 8 May 2020 (https://www.statista.com/topics/2157/internet-usage-in-india/#:~:text=Despite%20the%20large%20base%20of,access%20to%20internet%20that%20year.&text=A%20majority%20of%20India's%20digital,internet%20via%20their). Furthermore, even where high speed internet is available, the students belonging to the underprivileged sections of the society, such as the tribals, dalits and the poor are not able to access online classes due to lack of facilities such as smart phones/laptops with internet connectivity at home. The tribal population in this country as per 2011 census is 10.43 crore, a total population and 89.97% of them live in rural areas. Their literacy rate was only about 59 percent in 2011, much below the national average of 73 percent. The tribals are concentrated in the 8 North Eastern States and 5th Scheduled Areas in erstwhile Andhra Pradesh (including Telangana), Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh and Rajasthan. As majority of the areas inhabited by the tribals either do not have proper internet connectivity or because of their poverty, most tribal families do not own smartphones/laptops/computers at home, majority of the tribal students have been left out of the online teachings being imparted by their schools. The online classes are direct result of digital divide and inequalities and gap in learning in the classrooms because of the failure of the appropriate Government to provide access to online education to all the students. This has violated Article 21-A and the Right to Education Act. Therefore, the State – both the Centre and the State governments – has the constitutional duty to take measures to provide equal access to students during the COVID19 lockdown. Since the State has not done anything in this regard, the NHRC has a role to play. The ongoing Summer Vacation provides an opportunity for the authorities to fix the things before the schools re-open. III. Our suggestions: As there is uncertainty as to when the schools can reopen in times of COVID19 pandemic, online classes should be resumed in a "new normal" and therefore the Central Government and the State Governments must work on war footing to ensure that tribals and other underprivileged students can have a fair and facilities must be provided to enable them to join the online classes right after the Summer Vacation. The Indigenous Lawyers Association of India (ILAI) takes the liberty to make the following suggestions which the Governments/ parliamentarians and members of the legislative assembly/council can implement which, however, are by no means exhaustive: - Provide uninterrupted 3G/4G internet services and uninterrupted power supply during the lockdown period to facilitate online learning; - Wherever internet has not reached, the governments/UTs should have dedicated TV channels for online learning, including for vernacular medium; - Each state government/UTs should extend necessary support to tribal and other underprivileged students to access digital tools such as smart phones and internet data and the Central Government may allocate funds for this purpose; - All MPs, MLAs/MLCs and representatives may use their Local Area Development Funds to help procure devices (namely smartphones) for students belonging to the Scheduled Tribes and other underprivileged sections of the society; - Study materials, lectures and video lessons developed by selected teachers/experts may be uploaded/telecast; - Directive should be issued to schools/educational institutions to provide all the students to the school's online teachings and provide the digital tools/devices to the underprivileged students of the school;</p>
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By HRCNet Portal

17 June 2020

To,
The National Human Rights Commission
Manav Adhikar Bhawan
Block-C, GPO Complex, INA
New Delhi – 110023

Subject: Complaint against continued exclusion/deprivation of underprivileged students belonging to Scheduled Tribes, Scheduled Castes, forest dwellers and the poor from online classes during the COVID19 lockdown period.

Dear Sir,

The Indigenous Lawyers Association of India (ILAI) is writing to seek the urgent intervention of the National Human Rights Commission (NHRC) against continued exclusion/deprivation of underprivileged sections of society including Scheduled Tribes, Scheduled Castes, forest dwellers and the poor from online classes during the COVID19 lockdown period due to lack of internet access and smartphones/laptops.

Since the lockdown was announced by Prime Minister Shri Narendra Modi w.e.f. 25 March 2020, all the educational institutions including schools have been closed down across India to fight the COVID19 pandemic. By mid-April 2020, most of the schools have started imparting online classes via platforms like Zoom, Microsoft Teams and other platforms to their students starting from Nursery to Class XII. Classes have been held regularly until the summer vacation was announced in the last week of May 2020. The schools are likely to re-open after the summer vacation in several states based on the actual situation of spread of COVID19.

I. The right to education is a fundamental right

Article 21-A of the Constitution provides for free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right in such a manner as the State may, by law, determine. The Right of Children to Free and Compulsory Education (RTE) Act, 2009, which came into effect from 1 April 2010, provides 'free and compulsory' elementary education upto Class VIII standard.

‘Compulsory education’ casts an obligation on the appropriate Government and local authorities to provide and ensure admission, attendance and completion of elementary education by all children in the 6-14 age group.

But during the COVID19 lockdown the appropriate Government has failed to secure the fundamental right to education for the underprivileged children, particularly belonging to the tribal communities due to lack of facilities while the privileged sections of the society continued to access education through online classes conducted by the respective schools.

II. Underprivileged students, including tribals, deprived of online education due to lack of facilities

Although online education via platforms like Zoom, Microsoft Teams etc may be the best available means of imparting education during the COVID19 lockdown to keep the students learning their lessons, it is submitted that the very purpose of online education for all is defeated given the fact that more than 50% of the country’s population do not have access to internet as per a study by the Statista Research Department dated 8 May 2020 (<https://www.statista.com/topics/2157/internet-usage-in-india/#:~:text=Despite%20the%20large%20base%20of,access%20to%20internet%20that%20year.&text=A%20majority%20of%20India's%20digital,internet%20via%20their%20mobile%20phones.>)

Furthermore, even where high speed internet is available, the students belonging to the underprivileged sections of the society, such as the tribals, dalits and the poor are not being able to attend the online classes due to lack of facilities such as smart phones/laptops with internet connectivity at home.

The tribal population in this country as per 2011 census is 10.43 crore, constituting 8.6% of the total population and 89.97% of them live in rural areas. Their literacy rate was only about 59 percent in 2011, much below the national average of 73 percent. The tribals are mostly concentrated in the 8 North Eastern States and 5th Scheduled Areas in erstwhile Andhra Pradesh (including Telangana), Chhattisgarh, Gujarat, Himachal Pradesh, Jharkhand, Madhya Pradesh, Maharashtra, Odisha and Rajasthan.

As majority of the areas inhabited by the tribals either do not have proper internet connectivity or because of their poverty, most tribal families do not own smartphones/laptops/computers at home, majority of the tribal students have been left out of the online teachings being imparted by their schools. The online classes are directly creating further inequalities and gap in learning in the classrooms because of the failure of the appropriate Government to provide access to online education to all the students. This has violated Article 14, Article 21-A and the Right to Education Act.

Therefore, the State – both the Centre and the State governments –has the constitutional duty to take measures to provide equal access to education to all the students during the COVID19 lockdown. Since the State has not done anything in this regard, the NHRC has

a role to play. The ongoing Summer Vacation provides an opportunity for the concerned authorities to fix the things before the schools re-open.

III. Our suggestions:

As there is uncertainty as to when the schools can reopen in times of COVID19 pandemic, online classes may become the “new normal” and therefore the Central Government and the State Governments must work on war footing to ensure that tribals and other underprivileged students can have access to online teaching and facilities must be provided to enable them to join the online classes right after the Summer Vacation.

The Indigenous Lawyers Association of India (ILAI) takes the liberty to provide the following suggestions which the Governments/ parliamentarians and members of the legislative assembly/council can implement which, however, are by no means exhaustive:

- Take measures to provide uninterrupted 3G/4G internet services and uninterrupted power supply during the lockdown period to facilitate online learning;
- Wherever internet has not reached, the state governments/UTs should have dedicated TV channels for online learning, including for vernacular medium;
- Each state government/UTs should extend necessary support to tribal students and other underprivileged students to access digital tools such as smart phones and internet data and the Central Government may allocate funds for this purpose;
- All MPs, MLAs/MLCs, and other elected representatives may use their Local Area Development Funds to help procure devices (namely smartphones) for students belonging to the Scheduled Tribes and other underprivileged students;
- Study materials, lectures and video lessons developed by selected teachers/experts may be uploaded/telecast;
- Directive should be issued to schools/educational institutions to ensure accessibility of all the students to the school’s online teachings and provide the digital tools/devices to the underprivileged students of the school;

IV. PRAYERS:

In the light of the above facts, we request urgent intervention of the National Human Rights Commission to:

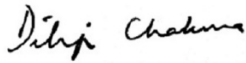
- Direct the Ministry of Human Resources Development and the Central Board of School Education (CBSE) to take the necessary measures, before the schools re-open after Summer Vacation, to ensure online education is accessible to all

students, in particular the ST/SC students, and submit a report to the NHRC within two weeks;

- Direct the State Governments/Union Territory administrations to take the necessary measures, before the schools re-open after Summer Vacation, to ensure online education is accessible to all the students, in particular the ST/SC students and submit a report to the NHRC within two weeks; and
- Pass such other and further order(s) that the Hon'ble Commission deems fit and proper.

With kind regards,

Yours sincerely



Dilip Kanti Chakma
President