**IN THE HIGH COURT OF MADHYA PRADESH,**

**BENCH AT INDORE,(M.P.)**

 **WRIT PETITION NO. 6840/2020 (PIL)**

**Petitioner:** Ms. Sheela S. D/O M. Savarimuthu,

Age – 34

 Occupation – Law Student

 Address – 407/2, Ganesh Nagar,

 Piplia Rao, Indore,M.P.

Versus

**Respondents:** 1. State of MP. Through,

Chief Secretary, Health and Family welfare Department, Vallabh Bhawan , Bhopal, M.P.

 2. Secretary Women and Child

Development Department Vallabh Bhawan Bhopal, M.P.

3. Collector

 District Indore, M.P.

 4. Secretary National health mission

 8, Jail Rd, Arera Hills, Bhopal,

 Madhya Pradesh

 5. Director Education Department,

 43, B, 44, Netaji Subhash Marg,

 Chiman Bagh, Indore,

 Madhya Pradesh 452003

 6. District Educational Officer,

 Malharganj,

Indore, M.P.

**WRIT PETITION UNDER ARTICLE 226 OF THE**

**CONSTITUTION OF INDIA (PIL)**

**R/w under Article 21 of the Constitution of India.**

**1.Particulars of the cause/order against which the petition is made:.**

1.1. Date of Order: Nil

1.2 Passed in (Case or File Number): Nil

1.3 Passed by: Nil

1.4**. Subject-matter in brief:**

A. Adolescent girls are entitled to a fundamental right to health in their right to life and equality under article 21, 14 and 15. The State has failed to promote, protect and preserve the health &hygiene of adolescent girls. The right to health & hygiene includes the access and availability of sanitary napkins in order to prevent infections and other health problems, such as a higher risk of ovarian or cervical cancer which is a result of the use of used cloth or other unhygienic means of menstrual protection. As mid-day meal is compulsory for the good health , calorie and protein-full diet as provided by government school. Likewise girls hygiene must also be treated sincerely and should be provided compulsorily sanitary napkins to all government schools.

That the instant is a writ petition filed in public interest under Article 226 of the Constitution of India seeking issuance of writ of mandamus or any other appropriate writ, order or direction of this Hon'ble Court to the Respondents for implementation of Menstrual hygiene and health under various schemes initiated by the Government of India for adolescent girls who belong to the poor background and studying in Govt. schools**.**

According to Menstruation Hygiene Scheme, ASHA workers are given free sanitary napkins pack every month for the work they do i.e. to distribute sanitary napkins to adolescent girls at subsidized rates(Rs. 6 for 6 napkins) , to spread awareness regarding menstruation hygiene among them. As per this scheme sanitary napkins had to be provided through either door to door services or by Anganwadi centers or ASHA workers, but the reality is the girls who were interviewed stated that they aren’t aware about any door to door services, Anganwadi facilities or the role of ASHA workers. MHS scheme annexed herewith marked as **ANNEXURE/P-1**

According to SABLA Scheme aims at empowering adolescent girls from 11 to 12 years by improving their nutritional health status. The girls would be equipped with information on personal hygiene (Including menstrual hygiene). It’s one of the objective is to promote awareness about health hygiene, nutrition, adolescent reproductive which include menstrual hygiene. SABLA scheme annexed herewith marked as **ANNEXURE**/**P**-**2**

Many girl students of government schools are suffering from different types of health issues because of using cloth as an alternative to sanitary napkin during menstruation. The adolescent girls are denied their basic rights. The adolescent girls lack access to proper menstrual hygiene facilities like availability, accessibility and affordability of sanitary napkins, awareness regarding menstrual hygiene.

 They even lack basic access to menstruation health products, the lack of awareness among the adolescent girls make them susceptible to various reproductive health related infections such as, cervical or ovarian cancer, Urinary tract Infections. Lack of accessibility to the hygiene products and the social stigma attached to menstruation has also resulted in the regressive practice of adolescent girls dropping out of schools.

Government of India has taken the initiative and issued the GR **(Govt. Circular No. D. O. No.4-160(10)/2013-NCW dt. 03/09/2014)** to install the vending machine which provides sanitary napkin in emergency. In some schools Vending machines for sanitary napkins are installed but they are not in a workable condition, ultimately leading to unavailability of sanitary napkins to adolescent girls in emergency situations. Also there are some girls who are not even able to afford sanitary napkins through these vending machines due to financial constraints. About Govt. Circular No. D. O. No.4-160(10)/2013-NCW dt. 03/09/2014 annexed herewith marked as **ANNEXURE/P-3**

Even Anganwadi Centres are lacking in disseminating menstrual health hygiene management through awareness and sensitization programme to the adolescent girls. There are various government schemes through which specified authorities are required to provide various menstrual health and nutritional benefits along with the supply of sanitary napkins at nominal prices through ASHA workers and AWWs to the adolescent girls. The respondent carries joint responsibility to ensure implementation of the scheme which they have failed to.

On behalf of the petitioners HRLN interns have done fact-finding in 8 government schools. They found that there is no awareness and consciousness about sanitation in schools and government don’t even acknowledge this. Students of government have no knowledge about government schemes. Vending Machines are found in some of the government schools, they are defected. But, some schools don’t even have them.

 That, State has failed to ensure that the school going girls get proper awareness regarding menstrual hygiene. The respondents have failed to fulfill their obligations under Constitution of India and has also infringed upon the fundamental rights guaranteed under Article 21 of the Constitution of India which talks about Right to life which further includes Right to health as being encapsulated as a Fundamental Constitutional guarantee in numerous cases.

2.**The antecedents of the petitioners :**

2.1 The petitioner is a Law student, the petitioner is the citizen of India.

2.2 That, the present petition under article 226 of the constitution of India are being filed by way of PIL and the petitioner have no personal interest.

2.3 That , the petitioner is filing the present petition on her own and not at the instant of someone as the litigation cost including the advocate fee and the travelling expenses of the lawyers are being borne by the petitioners himself.

3**. Facts of the case:**

3.1 That, Many adolescent girls are unaware of proper menstrual hygiene and are deprived of basic health products in government schools of Indore.

3.2 That, there are many school going girls who as a result of the aforementioned unawareness suffers from disease like cervical and ovarian cancer , UTI infection and Human Immuno Virus (HIV). Lack of accessibility to the hygiene products and social stigma attached to menstruation has also resulted in the regressive practice of adolescent girls dropping out of school.

3.3 That, out of the survey we conducted, most of the girls in government schools faces financial constraint in purchasing sanitary napkins on monthly basis. Due to that, girls use a single pad for whole day which has been proven harmful for their health by doctors. As usual, the state government authorities never acknowledge health issues of adolescent girls.

3.4 Under Menstrual Hygiene Scheme ASHA workers are given free sanitary napkins pack every month for the work they do i.e. to distribute sanitary napkins to adolescent girls at subsidized rates(Rs. 6 for 6 napkins) , to spread awareness regarding menstruation hygiene among them but girls are not getting any services by these workers under aforementioned scheme.

3.4 That, according to Swachh India, NDTV, 23 million women drop out of school every year when they start menstruating and many of them end up facing acute health problems. It was also noted out that 88% of Indian women do not use sanitary napkins. Also, 71% of girls in India remain unaware of menstruation till menarche. Menstruation is rarely discussed topic in homes and schools in India.

3.5. That, According to Business Standard as on 22 January, 2019, 84% Indian girls are not made ready for menstruation and therefore faces a lot for problems during menarche. Often, they are lead towards stereotypes which further increases their problems.

3.6 That, many schools have failed to provide adequate education regarding menstrual hygiene to the girls in their school. According to the survey conducted by fact finder, only awareness girls had were given from NGOs and not from their own schools that too once a year. Anganwadi Centres or ASHAS have failed to provide sufficient education and facilities assigned to them by virtue of various schemes such as SABLA, KSY and Menstruation hygiene scheme. It is duty of the state to ensure that adolescent girls are not deprived of proper health and hygiene**.(Ann-P/1 & P/2)**.

3.7 That, According to fact finder, most of the government schools of Indore lack facilities like vending machine and proper and regular health check up. Also, existing vending machines of some schools are not efficient and doesn’t work properly. It was also found that coins get stuck in machines which further increases problems of menstruating girls during emergency.

3.8 That, some girls even find it hard to get pads from vending machines due to financial constraints. For them, even subsidised rates of pads are not affordable. It was also found out that, rates of pads of vending machines were not constant everywhere. It varies from Rs. 1 to Rs.5 from school to school. Some girls have never used pads during menstruation because of the poverty or financial constraints, they are constantly using clothes during their menstrual cycle which eventually is very harmful for their overall health.

3.9 That, vulnerability of adolescent girls and their lack of awareness, social taboos and stereotypes are further enhanced by the non availability or non affordability of sanitary napkins. In order to rectify this issue, the government of India devised the

Adolescent Girl (AG) Scheme under the Integrated Child Development Scheme (ICDS). The AG Scheme under ICDS primarily aimed at breaking the inter-generational life-cycle of nutritional and gender disadvantage and providing a supportive environment for self-development.

3.10 That, interviewed adolescents, who attended schools, reported that although sanitary pads were supplied to them in their schools once that too by NGOs.

3.11 The residents of the rural area that were interviewed are poor. The commercially manufactured sanitary napkins are high-priced and therefore, the residents in the above mentioned neighborhood will not be able to afford these products. Even the implementation of the MHS which would provide subsidized sanitary pads is improper. Therefore the adolescent girls are stuck in a situation of no alternatives and thus they are forced to use cloth and other alternatives during their menstruation Many of the girls who were interviewed reported having suffered menstrual cramps, pain, rashes etc regularly. These girls do not seek medical aid at these times because they believe it will attract unnecessary attention and ridicule that is often associated with the topic. The failure of the Government schemes has lead to a lack of awareness amongst the adolescent girls in the community which has lead to them using unsafe an unhygienic alternatives to

sanitary napkins without realizing the harmful consequences.

3.12 On the behalf of the petitioner , for the fact finding, HRLN Interns went to 8 government schools of Indore namely Kasturba Girls Higher Secondary School Indore, Ahilya Asharam Indore, Excellence Bal Vinay Mandir, Shaskiya Kanya Madhyamik Vidhyalaya Nehru Nagar Indore, Swami Vivekanand Government School, Shaskiya Sanyogitaganj Kanya Uchatar Madhyamik Vidhyalaya and Malav Kanaya Higher Secondary School, Indore.In these schools 20 girls were interviewed regarding the awareness of menstrual hygiene and availability , affordability and accessibility of sanitary napkins.

3.13 On the behalf of Petitioner, the fact finding was done by HRLN Interns in which they interviewed various girls of government schools of Indore who face issues related to menstrual hygiene. The names listed below are **not original** but changed for the privacy purpose and the rest of the details are true and original

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| S.N. | Name of girls | Age | Class  | School  | Pad / cloth | Rate per pad in school (vending machine)  |
|  1. | Kashish  | 15 | 9th | Kasturba girls higher secondary school | Pad  | 3rs |
|  2. | Alfriya  | 14 | 9th | Kasturba girls higher secondary school | Cloth  | 3rs |
|  3. | Sanya  | 14 | 9th | Kasturba girls higher secondary school | Pad  | 3rs |
|  4. | Kiran  | 17 | 12th | Ahilya Ashram School indore | Pad  | 2rs |
|  5. | Anamika  | 17 | 12th | Ahilya Ashram School indore | pad | 2rs |
|  6. | Harshita  | 16 | 11th | Excellence school | cloth | 5rs |
|  7. | Priyanka  | 16 | 8th | Excellence school, indore | pad | 5rs |
|  8. | Komal  | 17 | 11th | Excellence school, indore | both | 5rs |
| 9. | Kiran  | 18 | 12th | Government girls Hr.Sec. school sayogitaganj indore | cloth | vending machine not workable |
| 10 | Harshita  | 16 | 12th | Government girls Hr.Sec. school sayogitaganj indore | both | Vending machine not workable |
| 11. | Ritu  | 14 | 9th | Shaskiya kanya madhyamik vidhyalaya, nehru nagar, Indore | pad | No vending machine |
| 12. | Priya  | 14 | 8th | Shaskiya kanya madhyamik vidhyalaya, nehru nagar, Indor | both | No vending machine |
| 13. | Suhani  | 15 | 8th | Shaskiya kanya madhyamik vidhyalaya, nehru nagar, Indor | Both  | No vending machine |
| 14. | Rupali  | 16 | 11th | Swami vivekanand Government school | Cloth  | 2rs |
| 15. | Shivani  | 18 | 12th | Swami vivekanand Government school | cloth | 2rs |
| 16. | Chetanya  | 14 | 9th | Kasturba Higher secondary school, indore | pad | 3rs |
| 17. | Manatasha  | 17 | 12th | Government girls Hr.Sec. school sayogitaganj indore | pad | Vending machine not workable |
| 18. | Bharti  | 17 | 12th | Government girls Hr.Sec. school sayogitaganj indore | pad | Vending machine not workable |
| 19. | Anjali  | 16 | 9th | Malav kanya higher secondary school, Indore | pad | No vending machine |
| 20. | Diya  | 14 | 10th | Malav kanya higher secondary school, Indore | pad | No vending machine |

**The list of the girls who were interviewed is shown below :** -

**3.11**.**Kashish**

Kashish is a 15 years old girl, who studies in Kasturba Girls Higher Secondary School, Indore.She is now in class 9th. Her family income is Rs.5000 per month.She uses pads but she gets it on her own. She also said that they never get any free pads from the schools, though there is a vending machine which charges Rs 3 per pad but it does not work properly. Furthermore, she shared that they don’t get awareness session by teachers regularly.

**3.12 Alfriya**

Alfriya is a 14 years old girl , who studies in Kasturba Girls Higher Secondary School, Indore.She is now in class 9th. Her family income is around Rs. 10000. She uses cloth during her menstruation. She mentioned that she uses pad only when it is provided free of cost by school because of financial constraint. Though there is a vending machine which charges Rs 3 per pad which is not affordable by her. . She also mentioned that it will be alot convenient if school provide them free sanitary napkin.

 **3.13 Sanya**

Sanya is a girl of 14 years, who studies in Kasturba Girls Higher Secondary School, Indore. She is is class 9th . She uses pad during her menstruation which she purchase herself. Her family income is around 15000. She said that her school never provided with free sanitary pads to the girls studying there. She also stated that she was not provided by any services by the Anganwadi workers concerning awareness about menstrual hygiene.

**3.14 Kiran**

Kiran is a girl of 17 years, who is in class 12th. She tudies in Ahilya Asharam School, Indore. She uses pads during her periods which is not always feasible because of the financial constraint. Her school has a vending machine which provides pads of Rs. 2 each. She said that her school provide pads only once a year that too only one packet with 7 pads in it. She told that they are not provided with any services by the Anganwadi.

**3.15 Anamika**

Anamika is a girl of 17 years, who is in class 12th. She studies in Ahilya Asharam School, Indore. She does only uses pads during menstruation. She further complains that there is still few of the stereotype and myths associated with periods- as during it her mother won’t allow her to touch pickels or any of the sacred things in the house. Though her school provide them with some amount of awareness and counselling sessions regarding reproductive health, but Anganwadi workers in her community do nothing in terms of providing them with any adolescene education.

**3.16 Harshita**

Harshita is a student of Excellence School, Indore. She is in 11th standard and is 16 years old. She uses cloth during menstruation. She also mentioned about her financial constraint and stereotype mentality of her family. Because of which is not allowed to enter into the kitchen. She told that though their school has a vending machine but it provide only one pad in Rs. 5 which is not at all feasible by looking at her financial situation. There is very less initiative taken by the school regarding the awareness programme. None of the Anganwadi or ASHAs have ever provided her with sanitary pads or other talked to her about menstrual hygiene.

**3.17 Priyanka**

Priyanka is a student of Excellence School, Indore. She is in 8th standard and is 16 years old. She uses pads during her periods. Her family income is 10,000. She told that there has been held only one class in a year regarding the menstrual hygiene. As the pads are of much cost that is Rs 5 per pad, she uses pads in accordance to the financial situation at that time. There hasn’t been any instance that they are provided with free pads by the school authorities. Though a doctor visits the hospital but that too once a year.

**3.18 Komal**

Komal is a 17 year old girl. She studies in 11th standard in Excellence School, Indore. Her family income is 7000. She uses pads and cloth both. It actually depends on whether her father is getting the money or not. There is very little initiative by the school regarding awareness and even by her mom she is taught that menstruation is impure. It is matter of concern that none of the Anganwadi have ever visited her house or has provided her with sanitary pads or talked to her about menstrual hygiene.

**3.19 Kiran**

Kiran r is 18 years old, she is 12th standard and studies in Government Girls Higher Secondary School Sayogitaganj, Indore. Her family income is 8000. She uses cloth during her periods. There is no vending machine in the school, which actually broadens their issues because the school did not provide free pads to the students. There is no awareness programme conducted by school neither any doctor visit so as to give awareness reagarding menstrual hygiene. When asked about services provided by Anganwadi she told that she doesn’t even know what Anganwadi is.

**3.20 Harshita**

Harshita is 16 year old girl who studies in Government Girls Higher Secondary School Sayogitaganj, Indore. She studies in 12th standard. Her family income is around 14000. She uses both Pad and cloth during her menstruation. She mentioned about the vending machine that it is not working properly. There has also been instance when even after entering the required amount they did not get any pad and the coin got stuck in the machine itself.She told that Anganwadi did not provide her with any awarenes s regarding menstrual hygiene.

**3.21 Ritu**

Ritu is a 14 years old girl who studies in 9th class at Sashkiya Kanya Madhyamik Vidhyalaya,Nehru Nagar. Her family income is around 15000. she uses pads during her menstruation. She mentioned about non-availability of vending machine in school premises.It add on to the financial burden on her family as pads in market are of really high cost. She also discussed about awareness programme regarding menstruation that takes place in her school but she also mentioned that no doctor visited them ever for this purpose.

**3.22 Priya**

Priya is 14 years old. She is from Sashkiya Kanya Madhyamik Vidhyalaya,Nehru Nagar. studing in class 8th. She uses pads and cloth both during her menstruation time. She discussed about non availability of vending machine in school campus. She receives no benefits from Anganwadi centres. She discussed about class programme regarding awareness of health and hygiene that takes place once a year in school.She also told that once in a year a doctor visits them for their checkup. She told that she doesnt receive any benefits from Anganwadi services. Due to financial constraint in her family , she faces a lot of problem to purchase pads every month.

**3.23 Suhani**

Suhani is of 8th class studing at Sashkiya Kanya Madhyamik Vidhyalaya,Nehru Nagar. She is 15 years old. She uses cloth and pads both during her menstruation days because of financial constraint in her family. She mentioned about non availability of vending machine in school premises. She told that she receives pads from school but that too once in a year. It is matter of concern that none of the Anganwadi or ASHAs have ever visited her house or has provided her with the sanitary napkins talked to her about menstrual hygiene.

**3.24 Rupali**

Rupali is 16 years old. She studies in Swami Vivekananda Government School in class 11th. Her family income is around 10,000 due to which she uses cloth during her menstruation. Although vending machine is available in school but it charges too for sanitary napkins. She mentioned that she receives pad from school once in a year and that awareness programme in school takes place once in a year only. She informed that she doesnt receive any kind of benefits from Anganwadi Centre.

**3.25 Shivani**

Shivani is 18 years old student of 12th class at Swami Vivekananda Government School. She uses cloth during her menstruation as her family restricts her to use cloth instead of pads because of financial issues. She mentioned about pads being distributed by school only in case of emergency which costs Rs. 2 each. Furthermore, she shared that she has to miss her schools during her periods as because of the menstrual cramps or sometimes out of embarrassment. She informed that no awareness programme was done by either school or Anganwadi centres regarding menstruation hygiene on regular basis. She also mentioned that no health checkup are done in her school.

**3.26 Chetanya**

Chetanya is a 14 year old girl, who studies in class 9th. She is in Kasturba Higher Secondary School, Indore. Her family income is Rs. 10000. She uses pads. Though there is initiative taken by the school regarding the awareness programme but for pads there is a vending machine which charges Rs 1 per pad, no free pads are provided to any of the girls.She didn’t get any assistant from the local Anganwadi as they are completely absent from providing any services to the adolescent girls of the community. She further states that there is still few of the stereotype and myths associated with periods as during it her mother would prohibit from area and kitchen in the house.

**3.27 Mantasha**

Mantasha is 17years old, she is in 12th standard and studies in Government Girls Higher Secondary School Sayogitaganj, Indore. She uses pads during her menstruation.Her family income is 6000. No free pads are provided from school though there is a vending machine it which is not in a working condition. There is a very less initiative by the school regarding the awareness of menstrual hygiene. She misses her school for 2-3 day during menstruation because of cramps and uneasiness. She mentioned no assistance of Anganwadi regarding the menstrual awareness.

**3.28 Bharti**

Bharti is 17 years old, she is in 12th standard and studies in Government Girls Higher Secondary School Sayogitaganj, Indore. She uses pads which she gets from her home. She further complains that there is still few of the stereotype and myths associated with periods- as during it her mother won’t allow her to touch the food or any of the sacred things in the house. She has never been to Anganwadi and is not a beneficiary of any scheme which is for adolescent girl.

**3.29 Anjali**

Anjali is a student of Malav Kanya Higher Secondary School, Indore, who studies in class 9th . She is 16 years old. She uses pads during her periods. Her family income is 15,000. She mentioned that there is no assistance on the part of the school either in providing free pads or initiating awareness programme. Also there is no vending machine for sanitary napkins which causes trouble in emergency situation. Furthermore, she stated that if they get periods in school hours they have to rush to their homes as there is no assistance by school even in emergency situation. It is shocking to know that she didn’t even know about Anganwadi and its schemes.

**3.30 Diya**

Diya is a student of Malav Kanya Higher Secondary School, Indore, who studies in class 10th . She is 14 years old. She uses pads. There is no awareness programme conducted by the school which is evident from the instance happened during interview, the girls asked interviewer, whether pads are good or cloth. She is not even aware of basic health hygiene that is to be maintained during menstruation. None of the Anganwadis have ever provided her with the sanitary pads or other talked to her about menstrual hygiene.

**4.Source of information**

 The information has been provided by the the fact finding done by the interns of HRLN Indore, went to government schools of Indore city met with some of the girl students and took the interview.

5.  **Nature and intent of injury caused.**

 The adolescent girls, who uses cloth during menstrual cycle can be diagnosed with various health issues such as vaginal infection, ovarian cancer or UTI etc.

6. **Issue was neither dealt nor decided** .

 The issue was neither raised nor decided in any petition filed by the petitioner.

7. **Any representation made .**

 A representation was made as per along with receipt date on 16/12/19. The government and other respondents are already having knowledge about the issue but till now no actions have been taken. Representation and receipt annexed herewith **ANNEXURE-P/4**

**8. Grounds urged**

That in the abovementioned facts and circumstances, the present petition is being filed on the basis of the following, amongst other, grounds:

**8.1** Because, adolescent girls are entitled to a fundamental right to health in their right to life and equality under article 21, 14 and 15. The State has failed to promote, protect and preserve the health of adolescent girls.

**8.2** Because, the state is bound by principles of natural justice, enshrined under Art. 14 of the Constitution and obligations under international law, including the UDHR, ICESCR, CEDAW and CRC.

**8.3** Because the right to health includes the access and availability of sanitary napkins in order to prevent infections and other health problems, such as a higher risk of ovarian or cervical cancer which is a result of the use of used cloth or other unhygienic means of menstrual protection.

**8.4** Because the necessity of sanitary napkins is acknowledged by the Menstrual Hygiene Scheme.

**8.5** Because in the government schools of Indore , adolescent girls are being curtailed their right to health as bestowed under the Constitution and are forced to either forego menstrual hygiene in its totality or are forced to purchase sanitary napkins from private entities at unaffordable cost.

**8.6** Because this shows an outrageous disregard towards the right to life and the right to health of the adolescent girls.

**8.7** Because this Hon’ble Court has jurisdiction under Art. 226 of the Constitution to restore the fundamental rights of the people of Indore and in particular of marginalized and vulnerable adolescent girls.

**8.8** Because there is no other equitable, equally efficacious remedy available to the Petitioners, therefore the Petitioners is left with no other option than to approach before this Hon’ble Court for grant of appropriate relief under its extraordinary jurisdiction and the remedy asked for is just, adequate and complete.

**8.9** The AG Scheme was the first scheme to address menstrual health and hygiene among adolescent girls. Under the Scheme,the adolescent girls who are unmarried and belong to families below the poverty line and school dropouts are selected and

attached to the local Anganwadi Centres for six-monthly stints of learning and training activities. AG Scheme is annexed herewith **ANNEXURE-P/5**

**8.10**. The Kishori Shakti Yojana (KSY) is a redesign of the existing AG scheme emphasizing the provision of health awareness toadolescent girls. A true copy of the Guidelines for the Implementation of Adolescent Girls Scheme are annexed hereto and referred to as **ANNEXURE-P/6.**

 That the Menstrual Hygiene Scheme which is a part of Adolescent Reproductive and Sexual Health (ARSH) component under RCH II provides that counseling and guidance regarding menstrual hygiene should be provided to the adolescent girls. The scheme also provides that communication activities like

creating awareness about health problems including sexual and reproductive health should be conducted at the level of village outreach through AWCs and youth groups. Further, supply of subsidized sanitary napkins manufactured by Self Help Groups (SHG) through ASHA workers was also initiated under the scheme in order to provide adolescent girls with access to the sanitary napkins. The Menstrual Hygiene Scheme further states that the sanitary napkins should be sold to the adolescent girls at the rate of Rs. 6 for a pack of six sanitary napkins by an ASHA

worker through door to door sales and also utilizing the platforms such as schools and Anganwadi centers. A true copy of the Implementation Guide on RCH II (Adolescent Reproductive and Sexual Health Strategy) is annexed hereto and referred to as **ANNEXURE- P/7.**

8.11. That the Rajiv Gandhi Scheme for Empowerment of Adolescent Girls or SABLA intends to promote awareness about adolescent reproductive and sexual health and hygiene among adolescent girls (between 11-18 years of age), using the platform of ICDS Scheme through Anganwadi Centers (AWCs). Further according

to the scheme, guidance on Family Welfare, ARSH and child care practices will be provided at the Anganwadi Centers. A true copy of the Rajiv Gandhi Scheme for Empowerment of Adolescent Girls or SABLA is annexed hereto and referred to

8.12. That the Rashtriya Kishor Swasthya Karyakram (RKSK) aims at improving the sexual and reproductive health of the adolescent girls through a variety of service delivery points and outreach activities. These service delivery points will be ANMs, ASHAs, AWWs, Primary Health Centers and other service providers**.** RKSK Scheme is herewith annexed as **ANNEXURE-P/8.**

Adolescent Friendly Health Clinics Scheme (AFHCS) annexed herewith as **ANNEXURE-P/9.**

**8.13** For the women and girls of state of Madhya Pradesh UDAYA YOJNA has been launched by government. But it is not in progress yet by government. It is herewith annexed as **ANNEXURE-P/10**

**LEGAL VIOLATION**

That Article 21 of the Constitution of India provides for the Right to Life. In several cases, the ‘Right to Health’ has been encapsulated as a fundamental Constitutional guarantee in numerous cases. The social justice objective that the Supreme Court has read into Article 21 includes the Right to Health - and

sets out a clear requirement of qualitative standards for the provision of healthcare facilities. This right was held to be a “most imperative constitutional goal” in Consumer Education and Research Centre v. Union of India, (1995) SCC (3) 43. The Apex Court in this case, also mentioned that the expression ‘life’ under Article 21 has a much wider meaning which includes right to livelihood, better standard of living, hygienic conditions in workplace and leisure.

**8.14.** In Paschim Bangal Khet Mazdoor Samity v. State of West Bengal,(1996) SCC (4) 31 the Supreme Court affirmed that providing “adequate medical facilities for the people is an “essential part” of the government’s obligation to “safeguard the right to life of every person”.

**8.15**. That in Ratnam Municipal Council v. Vardichand, AIR 1980 SC 1622, the Supreme Court held that improvement of public health is a primary duty of the State and the Court should enforce this duty against defaulting authorities.

**8.16**. The Supreme Court in CESC Limited v. Subash Chandra Bose, AIR 1992 SC 573 held that their “health; implies more than an absence of sickness. Health is thus a state of complete physical, mental and social well being and not merely the absence of disease or infirmities”.

**8.17**. That maintenance and improvement of public health is the duty of the State to fulfill its constitutional obligations cast on it under Art. 21, as held in Unnikrishnan, JP v. State of AP, AIR 1993 SC 2178.

**8.18**. The High Court of Delhi in Mohd. Ahmed v. Union of India [W.P.(C) No. 7279 of 2013] has held that “right to health care and health care access are a part of Article 21, 38 and 46 of the Constitution of India. Therefore, every person has a

fundamental right to quality health care that is affordable, accessible and compassionate.”

**8.19**. That further, the Delhi High Court in Laxmi Mandal v. Deen Dayal in Writ Petition (C) No. 8853 of 2008 recognized that the main focus of the these central schemes is the economically and socially disadvantaged sections of the society and the implementation of these schemes was to ensure and protect the different facets of Right to Life under Article 21.

**8.20**. Further, Article 14 and Article 15 of the Constitution of India, the State shall not arbitrarily deny proper and necessary healthcare to adolescent girls.

**8.21**. Arbitrary denial of health care services is illegal and amounts to violation of the fundamental right to equality under Art. 14 & 15 of the Indian Constitution. It was held in Maneka Gandhi v. Union of India, (1978) 1 SCC 248 that it is not enough that the provision is not arbitrary; the state action must not infringe on a person’s fundamental rights in an arbitrary manner either. In the present case, the lack of distribution of sanitary pads to women in poorer sections of the society is a violation of the right to equality.

**8.22**. Further, Art. 38 of the Indian Constitution provide a guarantee of access to medical services, regardless of status.

**8.23**. That under Article 47, it is the Duty of the State to raise the level of nutrition and the standard of living and to improve public health. The present fact finding reflects a failure on the part of the State to perform its Constitutional duty.

**8.24**. Besides natural justice principles and legal precedent, international law places obligations on States to provide for quality healthcare. These international obligations have also been affirmed by the Supreme Court’s Constitutional Benches over the years; further the Supreme Court has recognized that International treaty obligations can well be enforced (unless in direct conflict with national legislation) as held by the apex court in Vishaka & Ors. v. State of Rajasthan (1997) 6 SCC 241.

8.25. That the Universal Declaration of Human Rights, 1948 under Article 25(1) has affirmed that "Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, housing and medical care and necessary social services".

**8.26**. That India has acceded to the International Covenant on Economic, Social and Cultural rights on 10th April 1979. According to Article 12(1) of the ICESCR, “the States Parties to the present Covenant should recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”

8.27. That India has ratified the Convention on Elimination of All forms of Discrimination against Women in 1993.

(i) Article 12 (1) of the Convention, requires that States Parties "eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those

related to family planning”.

(ii) Article 14 2(b) of the Convention provides that “ State Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure they have access to adequate health care facilities, including information, counseling and services in family planning”.

**8.28**. That India has acceded to the Convention on the Rights of Child on 11th December 1992 and according to:

(i) Article 1 a child means any person below the age of eighteen

(ii) Article 24(1) State parties must recognize the “right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. State Parties shall strive to ensure

that no child is deprived of his or her right of access to such health care services.”

(iii) Article 24(1)(b) the States Parties are required to “To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care.”

(iv) Article 24 (3) States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

9. **Details of remedies exhausted**

No remedies exhausted except this petition.

10 **Delay if any in filing the petition.**

There is no delay in filing the petition.

11**. RELIEFS PRAYED :**

It is therefore prayed that your lordship may graciously be Pleased:

In the light of facts stated above, arguments advanced, grounds urged and authorities cited, this Hon’ble Court the Petitioner prays for the following Relief/s:-

For issuance of an appropriate writs /orders/ directions directing and commanding upon the respondents authority,

1. Government should provide 10 free sanitary napkins every month to all government schools.
2. Vending machine for sanitary napkin should be installed in every government school and pads through these vending machines should be provided at subsidized rate i.e., 1 or 2 rupees. Those machine which are currently installed should be repaired and must be maintained periodically for its proper functioning.
3. The price for the pads that are obtained from the vending machine should be made unitary as there is a lot of variation in the price in different school.
4. One committee should be created who will look after the installation and proper working of vending machine in government school.
5. The school authorities should conduct regular sexual awareness program in the interval of one month which will specifically focus on menstrual hygiene that includes proper usage and disposal of pads.
6. To ensure that ASHA is being appointed and there role should be increased.
7. One committee should be made by the government so as to have a check on the implementation of schemes that are made for the aforementioned issue.
8. Issue a writ of mandamus to the respondents to ensure that the awareness programme related to menstrual health and hygiene are conducted through Anganwadi centres and ASHA workers.
9. For an order directing respondents for proper Provision of proper cleanliness and hygiene of school toilets.
10. That any other relief which this Hon’ble Court may deem fit.
11. Issue a writ of Mandamus or any other appropriate writ order or direction to the Respondents to ensure the availability and accessibility of menstrual hygiene products to all adolescent girls through focal points like Anganwadi Centres, through ASHA workers, Primary Health Centres (PHCs), adolescent friendly health clinics (AFHCs), DISHA clinics, schools and other vending machines at public places free of cost at samaypur Badli industrial area, lal bagh jhuggi, Mansarovar park and also extend to the

National Capital Territory of Delhi where such facilities are not made available.

 Issue a writ of Mandamus or any other appropriate writ order or

 direction to the Respondents to ensure the accessibility and

 availability of menstrual hygiene products to all adolescent girls

 through the implementation of existing schemes like MHS under RKSK . etc. for Adolescent girls;

 13 Issue a writ of Mandamus or any other appropriate writ order or direction . . to the Respondents to ensure the availability of sanitary pad through . . . . vending machines thereby distributing them free of cost and also to include . . Sanitary napkins in the List of Essential Medicine provided under NLEM, . . 2015.

 14 Issue a writ of Mandamus or any other appropriate writ order or direction . to the Respondents to ensure that the awareness programs relating to . menstrual health and hygiene are conducted through Anganwadi Centres, . . ASHA workers and any other accredited community centre;

 15 For any such other and suitable order/s as this Hon’ble Court may deem fit . and necessary in the facts and circumstances of the case and in the interest . . of justice;

 12. **Interim Order/writ, if prayed for:**

A. Vending machine for sanitary napkin should be installed in every government school and those machines which are currently installed should be properly maintained.

B. An officer should be appointed for the supervision of working of the vending currently installed.

 13. **Caveat**:

That, no notice of lodging a caveat by the opposite party is received.

 Submitted by

INDORE
DATE: **ADVOCATE FOR THE PETITIONER**

 **SHANNO SHAGUFTA KHAN**

**IN THE HIGH COURT OF MADHYAPRADESH**

**BENCH AT INDORE**

**W R I T P E T I T I O N No. / 2020**

**P E T I T I O N E R:** **Ms. S. Sheela D/O M. Savarimuthu**

 **VERSUS**

**RESPONDENTS: State of M.P.**

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PLACE: Indore SUBMITTED BY

DATE: 06/03/2020

  **SHANNO SHAGUFTA KHAN**

 COUNSEL FOR THE PETITIONER

**BEFORE THE HON’BLE HIGH COURT OF M.P**

**BENCH AT INDORE**

W.P. No. /2020

 **Petitioner S. Sheela**

 **V/s**

 **Respondent State of M.P**

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PLACE: Indore SUBMITTED BY

DATE: 06/03/2020

  **Shanno Shagufta Khan**

 **COUNSEL FOR THE PETITIONER**

**THE HIGH COURT OF MADHYAPRADESH**

**BENCH AT INDORE**

**W R I T P E T I T I O N No. / 2020**

**Petitioner S. Sheela**

 **V/s**

 **Respondent State of M.P**

**Chronology Date and Event**

|  |  |  |
| --- | --- | --- |
| Sr.No. | Date  | Events |
| 1. | 2011 | MENSTRUAL HYGEINE SCHEME (MHS) |
| 2. | 27/9/2010 | SABLA scheme |
| 3. | 03/09/2014 | About Govt. Circular No. D. O. No.4-160(10)/2013-NCW dt. 03/09/2014  |
| 4. | 14/12/2019 | Representation and receipt |
| 5. | 31/08/2018 | Scheme of Adolescent girls Administrative Guidelines. |
| 6 | 31/08/2017 | Kishori Shakti Yojna |
| 7 | 13/04/2006 | Implementation Guide on RCH II Adolescent Reproductive Sexual Health strategy |
| 8 | 7/1/2014 | Rashtriya Kishore Swastya Karyakram (RKSK)  |
| 9 | 2006 | Adolescents Friendly Health Clinics(AFHCs) |
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/

PLACE: Indore SUBMITTED BY

DATE: 06/03/2020

  **Shanno Shagufta Khan**

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**---------------------------------------------------------------------------------------------**

 **Representation** Date-14/12/19

(Registry A.D)

To,

1. Chief Secretary, Health and Family Welfare Department

 Vallabh Bhawan , Bhopal, M.P.

1. Secretary Women and Child

 Development Department

Vallabh Bhawan , Bhopal, M.P.

1. Collector

District Indore, M.P.

1. Chief Medical and Health Officer

Indore , M.P.

1. Secretary National health mission

8, Jail Rd, Arera Hills, Bhopal,

 Madhya Pradesh

1. District Women and Child

Development Department

Indore, M.P.

7. Director Education Department

 Indore, M.P.

8. District Educational Officer,

Indore, M.P.

**Subject:Regarding the improper functioning of vending machines and poor implementation of government schemes and lack of reponsibility shown by ASHA workers in government schools.**

Respected Sir,

1. This is to inform you that many adolescent girls of government schools suffer due to lack of awareness about menstruation and menstrual hygiene and access to sanitary products like sanitary napkins due to poverty in Indore, M.P.

2. The fact finding done by HRLN interns in the government schools of Indore, namely Kasturba Girls Higher Secondary School Indore, Ahilya Asharam Indore, Excellence Bal Vinay Mandir, Shaskiya Kanya Madhyamik Vidhyalaya Nehru Nagar Indore, Swami Vivekanand Government School, Shaskiya Sanyogitaganj Kanya Uchatar Madhyamik Vidhyalaya and Malav Kanaya Higher Secondary School, Indore on 07/12/2019.

3. That, many schools have failed to provide adequate education regarding menstrual hygiene to the girls in their school. According to the survey conducted by fact finder, only awareness girls had were given from NGOs and not from their own schools that too once a year.

In some schools , vending machines for sanitary napkins were not installed and even in some schools where vending machines for sanitary napkins were there , they were not in proper working condition and sometimes even coins get stuck in that machine.

4. That, the teachers of government schools should teach the girls about the consequences of using the cloth instead of sanitary napkins. These consequences would be severe for them in the later stages of their life. If in this age the school going girls are given proper awareness regarding health and hygiene specially menstrual hygiene, they will be protected from such health issues such as vaginal infection, ovarian cancer or UTI.

 5. According to menstruation hygiene scheme, ASHA workers are given free sanitary napkins pack every month for the work they do i.e. to distribute sanitary napkins to adolescent girls at subsidized rates(Rs. 6 for 6 napkins) , to spread awareness regarding menstruation hygiene among them. As per this scheme sanitary napkins had to be provided through either door to door services or by Anganwadi centers or ASHA workers, but the reality is the girls who were interviewed stated that they aren’t aware about any door to door services, Anganwadi facilities or the role of ASHA workers.

6. According to SABLA Scheme aims at empowering adolescent girls from 11 to 12 years by improving their nutritional health status. The girls would be equipped with information on personal hygiene (Including menstrual hygiene). It’s one of the objective is to promote awareness about health hygiene, nutrition, adolescent reproductive which include menstrual hygiene.

7. Anganwadi Centres or ASHAS have failed to provide sufficient education and facilities assigned to them by virtue of various schemes such as SABLA,,KSY and Menstruation hygiene scheme where they were assigned to provide sanitary napkins pack at subsidised rates to adolescent girls , aware them about pros and cons of using sanitary napkins , teach them about menstrual hygiene and other health issues. It is duty of the state to ensure that adolescent girls are not deprived of proper health and hygiene which they fail to do.

8. According to Swachh India , NDTV , 23 million women drop out of school every year when they start menstruating and many of them end up facing acute health problems. It was also noted out that 88% of Indian women do not use sanitary napkins . Also , 71% of girls in India remains unaware of menstruation till menarche. Menstruation is rarely discussed topic in homes and schools in India.

9. That, According to Business Standard as on 22 January ,2019, 84% Indian girls are not made ready for menstruation and therefore faces a lot for problems during menarche. Often, they are lead towards stereotypes which further increases their problems.

10. It is therefore, we inform you to take the appropriate and necessary steps to overcome these problems as there is a pressing need to put these into action at the earliest. You already have knowledge about this issues through govt. records , social media and many newspapers and in spite of that we sent you this said representation.

 **Advocate Shanno Shagufta Khan**