

## Smt. Dipti Roy Etc. Vs. State - Court Judgment

<b>LegalCrystal Citation</b>	legalcrystal.com/535782
<b>Subject</b>	Constitution
<b>Court</b>	Orissa High Court
<b>Decided On</b>	Nov-17-2004
<b>Judge</b>	A.S. Naidu, J.
<b>Reported in</b>	[2005(104)FLR1116]
<b>Appellant</b>	Smt. Dipti Roy Etc.
<b>Respondent</b>	State
<b>Disposition</b>	Petition allowed
<b>Cases Referred</b>	Unni Krishnan J.P. v. State of Andhra Pradesh

### Excerpt:

.....orissa education (recruitment and conditions of service of teachers and members' of staff of aided educational institutions) rules, 1974 which reads as follows: government is legally bound to comply with the provisions of the orissa education act, 1969, 1974 rules, grant-in-aid order as well as the resolution issued on 15th october, 1999. after issuing the resolution it is not open to the government to adopt dilly dally tactics in implementing the same. it appears that government has failed to maintain parity in the matter of granting financial benefits among the private aided schools vis-a-vis private aided colleges. but then every child up to the age of fourteen years has a right to free education in consonance with the mandates of articles 45 and 41 of the constitution as well as the.....from the stale government, and includes an educational institution which has been notified by the state government to receive grant-in-aid.section 7-c(1) of the said act defines grant-in-aid:the state government shall within the limits of its economic capacity, set apart a sum of money annually for being given as grant-in-aid to private educational institution in the state.7. in exercise of the powers conferred by sub-section (4) of section 7-c of the act, the state government framed a set of orders for regulating payment of grant-in-aid to private educational institutions, being high schools and upper primary schools, namely,

the orissa education (payment of grant-in-aid to the high schools and upper primary schools) order, 1994 (hereinafter called 'the 1994 order').8. order 2(1) of.....

**Judgment:**

A.S. Naidu, J.

1. According to Justice Gajendaragadkar (as he then was) in the case of University of Delhi v. Ram Nath : 1963 (7) FLR 177 (SC).

Education seeks to build up the personality of the people by assisting his physical, intellectual, moral and emotional development.

2. Supreme Court as long back as in 1993 in the case of Unni Krishnan J.P. v. State of Andhra Pradesh : AIR 1993 SC 2178, observed:

A true democracy is one where education is universal, where people understand what is good for them and the nation and know how to govern themselves. The three Articles 45, 46 and 41 are designed to achieve the said goal among others. It is in the light of these Articles that the content and parameters of the right to education have to be determined. Right to education, understood in the context of Articles 45 and 41, means: (a) every, child/citizen of this country has a right to free education until he completes the age of 14 years, and (b) after a child/citizen completes 14 years, his right to education is circumscribed by the limits of economic capacity of the State and its development.

3. The question which arises in the present case is as to whether the aforesaid Constitutional goal or right to free education can be achieved if the State fails to pay salaries to the teachers engaged for imparting education at the Primary and High School levels and as to whether a teacher under-paid or in some cases not paid at all for months together can discharge his pious obligations of imparting education to the children who are the future citizens of the country.

4. In modern days, education is perhaps the most important concern of a State. Laws enacted for compulsory school attendance and a great expenditure set apart for education demonstrates the commitment of a State to achieve the goal sought to be achieved by the Constitution. Education today is a principal instrument in awakening a child's cultural value and helps in preparing him for his later professional training besides helping him to be a good citizen.

5. It was not possible for Government: or local bodies to establish adequate number of educational institutions required to cater to the needs of the common populace. The State was therefore constrained to permit establishment of private educational institutions. In order to control the said educational institutions and also to assist them to maintain the standard of education, Government took a decision to give substantial aid to such private educational institutions and nomenclature them as 'Aided Educational Institutions.'

6. Section 3(b) of the Orissa Education Act, 1969 (hereinafter called 'the Act') defines 'Aided Educational Institution' as follows: