2026 INSC 994

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

Writ Petition (Civil) No. 1000 of 2022

IN THE MATTER OF:

JAYA THAKUR ...PETITIONER

VERSUS

GOVERNMENT OF INDIA & ORS. ...RESPONDENTS

O R D E R

1. This matter has come up today to report compliance of our directions issued in the main judgment and further progress.

2. By our order dated 25.05.2026, we had sought for a fresh report from all States as regards further progress on due compliance with our directions. We had also requested Ms. Archana Pathak Dave, the learned A.S.G. for the Union of India, to look into the aspect of the material of sanitary napkins that are to be distributed or made available in schools.

Signature Not Verified
Digitally signed by VISHAL ANAND
Date: 2026.09.16 10:12:13 IST
Reason:

3. In response, an affidavit dated 31.08.2026 has been filed by the Union. The same reads thus:

"***<u>Progress under toilet and washing facilities</u>***

8. A D.O. letter no. 28-3/2021-Stat-Part(1) dated 31.12.2025 was sent to all the Chief Secretaries, requesting them to make the remaining 39,439 girls toilets functional for saturation in country before 8th March, 2026 as per gap identified in the UDISE+ report 2024-25. As reported by States/UTs out of these 77% i.e. 30458 have been constructed and 11% i.e. 4236 are under construction, leaving a gap of 12% i.e. 4745. A true copy of the D.O. letter no. 28-3/2021-Stat-Part(1) dated 31.12.2025 is annexed herewith and marked as ANNEXURE-A5 (Page 209 to). A true copy of the details as submitted by States/UTs is annexed herewith and marked as ANNEXURE - A6 (Page 210 to 213)

9. As reported by the States/UTs, most of the schools are equipped with gender-segregated toilets along with water connectivity, ensuring better hygiene, safety, and privacy for students. These improvements have been particularly beneficial for adolescent girls, as they support proper menstrual hygiene management, help reduce absenteeism during menstruation, and create a more comfortable and confident learning environment. States/UTs such as Andaman & Nicobar Islands, Assam, Chandigarh, Delhi, Dadra & Nagar Haveli and Daman & Diu, Goa, Himachal Pradesh, Lakshadweep, Puducherry, Punjab and Tamil Nadu have reported complete coverage of gender-segregated toilets. Other States, including Chhattisgarh, Gujarat, Haryana, Jammu & Kashmir, Jharkhand, Karnataka, Kerala, Maharashtra, Nagaland, Odisha, Rajasthan, Sikkim, Tripura, Uttarakhand, Uttar Pradesh, and West Bengal have also reported high levels of coverage across large school systems. It shows considerable progress in the provision of separate and functional toilets for girls and boys. Handwashing facilities with soap and water have also been substantially expanded. Full or near-full coverage has been reported in 27 States/UTs.

<u>Sanitary products and MHM corners</u>

10. The availability of free sanitary napkins has received considerable attention across States and UTs. Many States/UTs distribute sanitary napkins or menstrual hygiene kits through Samagra Shiksha, State health programmes, direct benefit transfer, adolescent-health programmes and residential-school interventions. Most of the States/UTs provide sanitary pads in schools and hostels to girls in classes VI-XII. Bihar has reported financial assistance under the Mukhyamantri Kishori Swasthya Yojna, while Sikkim has implemented free distribution through the Bahini Scheme.

11. It is further submitted that Sanitary napkin vending machines are being installed in a number of States. Chandigarh, Puducherry, Jammu & Kashmir, Arunachal Pradesh and Odisha reported extensive coverage. Where vending machines are not yet available in all schools, States have generally identified designated locations, nodal teachers or other arrangements through which girls can obtain free sanitary pads.

12. That Progress has also been made towards establishing MHM corners and support spaces. Dadra & Nagar Haveli and Daman & Diu, Karnataka, Jammu & Kashmir, Odisha, Chandigarh, Arunachal Pradesh and Puducherry reported full & near full coverage MHM corners in all schools with sanitary pads, spare uniforms, innerwear and disposal bags.

13. That Bihar has established Sakhi Sahayta Desks in secondary and senior-secondary schools, while other States/UTs have issued directions or initiated programmes for establishing MHM corners. Such responses show encouraging movement towards compliance.

<u>Disposal systems and covered bins</u>

14. The States have reported installation of incinerators, covered bins and other disposal mechanisms. Andaman & Nicobar Islands, Chandigarh, Karnataka, Puducherry, Jammu

& Kashmir, Delhi, Odisha, and Arunachal Pradesh have reported extensive coverage. Some States are using different mechanisms for disposal.

15. The position regarding covered waste bins is also very progressive. Several States, including Andaman & Nicobar Islands, Chandigarh, Dadra & Nagar Haveli and Daman & Diu, Jammu & Kashmir, Punjab, Puducherry, Gujarat, Bihar, Delhi, Jharkhand, Rajasthan and Uttar Pradesh, reported extensive coverage corresponding to their stated school totals.

16. For availability of toilet cleaners, Andaman & Nicobar Islands, Dadra & Nagar Haveli and Daman & Diu, Chandigarh, Delhi, Goa, Himachal Pradesh, Lakshadweep, Puducherry, Punjab, Rajasthan, Sikkim, Uttar Pradesh and Rajasthan reported extensive coverage. Many States/UTs claim that cleanliness is ensured through workers hired from agencies through composite school grant.

IEC activities and teacher sensitization

17. Awareness Campaigns: Most of the States/UTs have conducted some form of menstrual-health awareness activity in convergence with health department. These include the School Health and Wellness Programme, adolescent education, health and hygiene clubs, peer educators, counselling, parent meetings, MHM Day events, printed materials, television programmes and digital awareness initiatives.

18. Teacher Training: For coverage of teacher training and sensitization on appropriate ways of supporting and assisting menstrual students, all States/UTs are providing these as per calendar and their program.

DEO Notices and inspections

19. Eleven State/UTs reported that DEOs under Section 18 of the RTE Act have issued notices in accordance of section 18 of the RTE Act read with Rule 16 (a) of the RTE rules. While reporting the coverage of school inspection by DEO for school Infrastructure, especially with regard to toilets, washing facilities, availability of menstrual absorbents, sanitary waste disposal mechanisms and training/awareness measures undertaken by the concerned schools, State/UT Governments of Andaman & Nicobar, Chandigarh, Manipur, Karnataka, Odisha, Puducherry and Punjab claimed inspection of all or near to all schools. Other States/UTs have reported ongoing inspections or inspections to be conducted."

4. We acknowledge that progress has been made by the State/UTs on the matter since directions have been issued in the main judgment. However, we are of the considered opinion that a lot more needs to be done.

A. <u>Nature of the material of sanitary napkins</u>

5. This Court *vide* its judgment dated 30.01.2026 had directed thus:-

"*II. As regards the "availability of menstrual absorbents", we direct that:-*

i. All States and Union Territories shall ensure that every school, whether Government-run or privately managed, in both urban and rural areas, provides oxo-biodegradable sanitary napkins manufactured in compliance with the ASTM D-6954 standards free of cost. Such sanitary napkins shall be made readily accessible to girl students, preferably within the toilet premises through sanitary napkin vending machines, or, where such installation is not immediately feasible, at a designated place or with a designated authority within the school."

6. By an interim application bearing number I.A. No. 138830/2026, the Indian Compostable Polymer Association brought to our notice the impact of oxo-biodegradable sanitary napkins on environment. It was highlighted that oxo-biodegradable sanitary napkins break down into fragments of nano plastics and microplastics when disposed of in landfills, through deep burial, composting, pit burning, or incineration. As a result, it would exacerbate the problem of microplastic pollution. The difference in the material bears some significance for the present discussion.

Compostable	**Biodegradable**	**Oxo-Biodegradable**
Materials which are capable of breaking down completely in a controlled composting environment within a specified time period without leaving any harmful residue or microplastics.	Materials which breakdown over time or through the action of microorganisms. However, the rate and extent of biodegradation depend on surrounding conditions namely, temperature, humidity, sunlight, most importantly, microorganisms.	Materials are made of fossil-based plastics containing additives that trigger degradation when exposed to heat, light and oxygen. In absence of exposure to ultraviolet radiation, oxygen and suitable temperatures, which are often absent in landfills or burials, the materials behave similarly to conventional plastics i.e., fragments of micro or nano plastic.

7. In response, the Union graciously requested that this Court may

consider to direct the use of biodegradable napkins. The response reads thus:-

> *"25. In this context, an interim application I.A. No. 138830/2026 was filed by a Non-Profit Society. It is submitted that few States/UTs have raised the issue of non-availability of the sanitary napkins of above specification. In this regard, the Hon'ble Court may consider to direct use of biodegradable sanitary napkins which are also environment friendly."*

8. Thus, biodegradable and compostable sanitary napkins manufactured from material like bamboo, jute, banana, starch and corn, offers a sustainable solution to the growing problem of menstrual waste. When biodegradable and compostable sanitary napkins are disposed through burial pits they would decompose naturally. Whereas, oxo-biodegradable material merely accelerates the breakdown of visible plastic into smaller or rather less manageable forms.

9. We emphasize on the use of biodegradable and compostable napkins for two good reasons. *First*, these biodegradable sanitary napkins are free from harmful chemicals, bleaching agents, synthetic fragrances which lead to long-term health risks. *Secondly*, it reduces the environmental burden that eventually our children would inherit. In short, this is about making sure that the choices we make right now, do not create problem for the young children after a few decades.

10. The distribution of biodegradable compostable sanitary napkins

assumes greater importance owing to inadequate segregation at source, limited infrastructure for processing, and prevailing social and behavioural constraints when it comes to menstruation. At present, menstrual waste are disposed with municipal dry and wet waste, or through open dumping, burial, or incinerators, all of which result in environmental pollution, more particularly, contamination in soil and water.

11. We take this opportunity to emphasize that the States shall slowly move towards more eco-friendly and scientifically validated menstrual absorbents, more particularly, biodegradable sanitary napkins, cloth-based sanitary napkins or reusable sanitary napkins, menstrual cups, period panties. The States/UTs may begin by promoting the use of reusable sanitary napkins by educating the girl children about the manner of use, and precautions to be undertaken while using them. Afterall, sustainability is an act of care for the next generation.

12. In view of the aforesaid, the direction in Para 178(II)(i) i.e., "*oxo-biodegradable sanitary napkins manufactured in compliance with the ASTM D-6954 standards*" shall be now read as "*biodegradable, biocompatible and compostable sanitary napkins in compliance with ISO 17088 read with IS 5405 standards*". It must be noted that the it would be the responsibility of the States/UTs Government to ensure that such sanitary napkins are safe and effective to use.

B. <u>Takeaways from the responses of the State/UTs</u>

13. Having carefully gone through the reports by the States/UTs, we are constrained to say that we are discontent with the manner in which compliance is reported. The response by some States exhibit non-application of mind or rather mere formality. *For instance*, where the response shall be subjective, some States have indicated compliance through mere statistics or objective yes/no responses.

14. Additionally, Para 19 of the affidavit states that District Education Officer (DEO) in 11 States/UTs have issued notices and conducted inspection. In this regard, we would like the States/UTs to put on record the takeaways of the DEO from such inspections, and feedback of students collected in furtherance of our directions in Para 174 of the judgment. For convenience, we reproduce the relevant direction:-

> "*174. The District Education Officer (DEO) is directed to conduct periodic inspections, preferably once in a year, of school infrastructure, particularly with regard to toilet and washing facilities, availability of menstrual absorbents, sanitary waste disposal mechanisms and training/awareness measures undertaken by the concerned school. <u>Whilst conducting such periodic inspections, the DEO must mandatorily obtain anonymous feedback in the form of a tailored survey from the students themselves and ensure that any further action taken pursuant to such a periodic inspection gives due regard to the responses received from such a survey.</u>*"
>
> (Emphasis supplied)

15. Furthermore, the Union's affidavit states that most of the schools are equipped with gender-segregated toilets alongwith continuous

water connectivity. Although, the following States/UTs have reported full coverage as regards functional toilets, yet we have noticed some discrepancies in their responses.

State/UTs	Issue
Andaman & Nicobar Island, Goa, Himachal Pradesh, Lakshadweep, Puducherry	How could the State/UTs report saturation when the number of the schools where toilets are accessible for children with special needs are not the same as the total number of schools?
Assam	The number of schools having functional hand washing facility with soap and water all time is not the same as the total number of schools.
Punjab	The report submitted is illegible.
Tamil Nadu	How could the State report saturation when the number of schools where gender segregated toilets are far less than the total number of schools?

16. In addition to aforesaid, the Union's affidavit as regards the "*sanitary products and MHM corners*" states that the following States/UTs have reported full coverage. However, having perused the reports by the State/UTs, the following issues crop up:-

State/UTs	Issue
Dadra & Nagar Haveli and Daman & Diu	The data in Column 5 and 7, respectively, does not exhibit a clear picture as to the number of schools where sanitary napkins are made available to girl students and the manner thereof.
Karnataka, Jammu & Kashmir,	How could the State/UTs report full coverage when the number of schools where sanitary vending machines are installed, and the

Odisha, Arunachal Pradesh	number of schools where sanitary napkins are provided, respectively, are far less than the total number of schools?

17. Moreover, the affidavit also reports that these States/UTs have reached saturation as regards installing disposal systems. However, again, the following issues arise from the responses provided by them.

State/UTs	Issue
Bihar, Gujarat, Delhi, Jharkhand, Rajasthan, Uttar Pradesh	How could the State/UTs report full coverage when the number of schools having a disposal system in place far less than the total number of schools in the State/UTs? For Jammu & Kashmir, Gujarat, UP, how could the data in two columns dealing with disposal mechanism differ?
Punjab	The data is illegible.

18. One another aspect that we could notice is that the response of many States as regards the process applied by the States/UTs for compliance of the directions reflect issuing directions or circulars. It is one thing to say that policy exists, it is another thing that it is reaching the beneficiaries.

19. The aforesaid exercise had to be undertaken by the Union before compiling the data, and placing the affidavit before us.

20. It is the petitioner's submission that the compliance affidavit filed by the Union of India does not disclose the number of cleaners

appointed. We, *prima facie*, see some logic in this submission. In this regard, the responses of some States also reveal that either no cleaners have been appointed but schools are managing on their own, or there are internal arrangements, or no response has come forth by the States. We would like to know how the States/UTs are complying with directions issued in Para 173(I) of the judgment, more particularly, the maintenance of toilets in order to keep them functional.

21. The right to education goes beyond enrolment to address retention, more particularly, attention to reasons behind drop-outs and absenteeism. Mere declaration is not going to serve the purpose. The States/UTs shall not be lethargic in implementing the changes meant for children with special needs. The authorities shall be more vigilant towards such children. These children face barriers that go beyond ordinary challenges of schooling. The Union and all the States Governments have to act jointly in the right direction to make the right to menstrual health more meaningful. The progress may be slow but it shall be meaningful.

22. We are directing a change in the manner of collection of data and reflection of responses thereto for the next cycle. To get a better understanding of the situation on ground, the District Education Officer shall form teams of teachers to conduct surprise inspections across districts for all the schools within its jurisdiction. The inspection shall be conducted to seek information as regards our directions in Para 173 of the judgment.

23. In addition to above, the States/UTs shall take the gaps highlighted by us in the foregoing paragraphs into consideration while reporting their next progress. The responses shall now reflect the gaps instead of what has already been achieved. *For instance*, the focus should be on the number of schools that **lack** gender-segregated, functional toilets with usable water connectivity, ensuring accessibility and privacy. While indicating this gap, the States/UTs shall also identify the cause behind the gap, and the time required to bridge the gap.

24. Interim application is disposed of in above terms.

25. W.P. No. 987 of 2026 is disposed of in terms of our judgment in the main matter.

26. Post this matter on 29.09.2026.

……J.

(J.B. PARDIWALA)

……J.

(R. MAHADEVAN)

New Delhi

01st September 2026