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MENSTRUAL HYGIENE AND THE RIGHT TO EDUCATION: LEGAL DUTIES OF SCHOOLS AFTER THE SUPREME COURT'S 2026 DIRECTIONS

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Abstract

Menstrual hygiene within schools is no longer a peripheral concern within welfare administration; rather, it has made its way to the forefront of constitutional enforcement in India. This paper attempts to address the legal dilemma that exists owing to the gap between the formal right to education and the conditions of dignity and respect for women within schools. Using a doctrinal legal approach, it seeks to evaluate the Supreme Court's ruling in *Dr. Jaya Thakur v. Government of India* (2026) within the context of the equality and dignity provisions, as well as the right to health and education, the Right of Children to Free and Compulsory Education Act (2009), and the post-judgment administrative infrastructure. Additionally, it utilizes the available data related to the infrastructure of schools and the existing evidence of menstrual health in order to supplement the judgment based on the existing gaps in implementation. This paper concludes that the 2026 judgment, for the first time, made menstrual hygiene an entitlements issue within the context of safe, inclusive, and non-discriminatory schooling. This paper also posits that the judgment placed an affirmative obligation upon schools to provide toilets, privacy, access, menstrual hygiene management products, and safe disposal systems as well as education and menstrual hygiene management sensitization and monitoring for the school staff. This paper further posits that the ruling will, in turn, transform the positive obligations under the Constitution, and the relationship between the access to education and the design of an institution, will also be transformed. This paper further advanced the legal position that the absence of an enabling legal framework to address the barriers to the accessibility and dignity of education renders the barriers socially invisible.

Keywords: Menstrual hygiene, right to education, schools, substantive equality, constitutional duties.

Introduction

Menstrual hygiene issues in schools raise a deceptively intricate legal issue: can one really say a child has the right to education when there are no toilets, no water, no privacy, no menstrual products, and no supportive caregivers in the presence of a child who is menstruating? For most, the answer, for a long time, was a definitive “no.” Indian scholarship and public health research have time and again documented the impact of the stigma associated with menstruation and the combination of inadequate facilities and a lack of access to safe and hygienic protection on the ability to attend school, concentrate while at school, and participate while at school. However, they were all too often treated as issues of welfare administration rather than deficits in the legal system of education.¹

The Supreme Court of India, in *Dr. Jaya Thakur v. Government of India*², was the first to place menstruation hygiene in the context of the fundamental right to live with dignity and the right to equality in education. This was the first time a ruling encouraged better sanitation in the Indian school system and, at the same time, placed several obligations to build separate toilets with washing spaces, and provide free menstrual products and sanitary disposal systems. It also mandated several Trained and prepared menstrual product corners, awareness programmes, and hygiene corners to be set up and instituted regular inspections and monitoring at the institutional level. This was the first advance in moving menstrual hygiene policy from the domain of policy and practice aspirations to a legally mandated obligation in the education system.

This study focuses on the legal duties of schools after the 2026 directions and the extent to which existing constitutional doctrine, statutory regulation, and administrative practice can meet them. Although the study's primary focus is on legal practices, it draws from the available contemporary evidence on infrastructure and the inequities of menstrual health. The study contends that the decision should be interpreted as a moment in the evolution of law concerning positive obligations, the right to substantive equality, the right to an inclusive education, and

¹ Anna Maria van Eijk, M. Sivakami, et.al., "Menstrual Hygiene Management Among Adolescent Girls in India: A Systematic Review and Meta-Analysis", 6 *BMJ Open* 1 (2016).

² 2026 INSC 97.

the law concerning the gaps in age, accountability of private schools, and the absence of valid remedies to the Right of Children to Free and Compulsory Education Act, 2009.³

Constitutional and Jurisprudential Foundations

The constitutional significance of menstrual hygiene management in schools is an exacting requirement under the right to health and education and the right to dignity and equality. This explains why this issue is not peripheral to the right to education, but is central to the fulfillment of the right to education.⁴

Substantive Equality and Menstrual Disadvantage

Approaching menstrual disadvantage using a formal model of equality falls short for two primary reasons. First, this form of equality is concerned with the same rules being applied to all students. Menstrual disadvantage stems from the same 'neutral' students, who do not possess needs that are of a menstrual nature, being implemented across all students. Structural inequalities create a situation in which a specific class is excluded from equal participation of mid-level measures. Fredman's account is more relevant to this situation as it expands the concept of equality to the necessity of institutions being required to eliminate structural inequalities, as opposed to merely refraining from direct forms of discrimination.⁵ This is an especially relevant example of the structural inequalities/hygiene needs that schools are increasingly being required to address.

Indian equality frameworks have understood the reality that for women, particularly where historical and social contexts have created conditions of inequality, measures that appear unequal may be necessary to redress inequality. In the case of *State of Andhra Pradesh v. P. B. Vijayakumar*⁶, the court illustrated Article 15(3) as a measure to counter the historical and structural inequalities faced by women and was not an unequal measure within the framework of equality. The application of this reasoning to the issue of menstruation in schools is quite direct. Separate facilities, provision of free menstrual hygiene products, and support for menstruation are not 'gifts' that are being provided to school girls. They are legally and functionally aimed at providing equality of access, which the poor design of an institution is meant to provide to all students.

³ The Right of Children to Free and Compulsory Education Act, 2009 (Act 35 of 2009), ss. 3, 19.

⁴ The Constitution of India, arts. 14, 21, 21A.

⁵ Sandra Fredman, *Human Rights Transformed: Positive Rights and Positive Duties* 97 (Oxford University Press, Oxford, 1st edn., 2008).

⁶ (1995) 4 SCC 520.

Dignity, Privacy, and Reproductive Health

Discrimination based on menstruation-related exclusions is not only a Constitutional grievance; it is a grievance related to the undermining one's dignity. Restrictions on one's ability to safely carry out an absorbent change, wash in private, and dispose of menstrual waste with dignity undermines one's dignity and the integrity of one's body, especially in an environment in which one's presence is mandatory or, at the very least, is strongly encouraged. *K. S. Puttaswamy (Retd.) v. Union of India*⁷ is pertinent here, as the case's privacy-related jurisprudence is on the interrelation of autonomy, bodily integrity, and one's freedom to make decisions, and the Matrix of Article 21. Even though schools, in particular, were not the central focus of that case, the logic of that case is in support of the idea that menstruation is not a private inconvenience, which is solely the student's concern to bring about a solution for, with no assistance from the concerned institution.

Focusing on dignity aspects explains why the problem is legal – but not exclusively so – in relation to sanitation. Menstrual-related disadvantage brings embarrassment, secrecy, social stigmas, and the internalization of shame, all of which influence one's ability to fully participate in education. The capabilities approach of Martha Nussbaum is especially helpful in understanding why, for instance, a school that dismisses menstruation is not simply withholding a health-related amenity. It is, in fact, restricting, in a very real sense, the student's capabilities to appear, learn, move, and belong to the classroom as an equal.⁸

Education as an Enabling Right

Indian right-to-education jurisprudence has consistently evolved from abstract access to an emphasis on the tangible aspects of safe and meaningful schooling. *Avinash Mehrotra v. Union of India*⁹ is critical because it recognized school safety as an integral component of Articles 21 and 21A, rather than something peripheral to them. That framework can easily be applied to menstrual hygiene. If a school is open but inaccessible to a girl or someone who menstruates, then the school does not provide the educational access the Constitution mandates. The right is therefore meaningless if to exercise it one has to suffer pain, indignity, and to avoid that, voluntarily withdraw from school.

The shift in doctrine can be explained by Gautam Bhatia's theory of transformative constitutionalism. According to this theory, the negative limits of state action are necessary for

⁷ (2017) 10 SCC 1.

⁸ Martha C. Nussbaum, *Creating Capabilities: The Human Development Approach* 33 (Belknap Press, Cambridge, 1st edn., 2011).

⁹ (2009) 6 SCC 398.

the fulfillment of constitutional rights, but are not sufficient; the rights also necessitate the positive obligation of the state to undertake massive redistribution of social goods to dismantle the pervasive state of social and economic hierarchies. The presence of menstruation in schools is an example of such a social hierarchy.¹⁰ The jurisprudence for the 2026 case is therefore not a new right, but a new theory of the application of an existing constitutional right to a social and educational barrier that has been previously neglected by the law.

The Supreme Court's 2026 Directions

The 2026 judgment is essential to the future interpretation of Indian law, as the Supreme Court took a significant step further in recognizing the right to menstrual hygiene as a right protected by the Constitution. The Court also elaborated on what compliance with the Constitution would entail within the school systems. The Court provided instructions to ensure the guarantees of the Constitution, which, in this context, had been largely ignored.¹¹

The Petition and the Holding

In this context, the writ petition was primarily focused on the provision of free sanitary napkins and the construction of separate female toilets within the school building. The Court, in this case, held that the right to menstrual health is encompassed in Articles 14, 21, and 21A of the Constitution, and the right to educational equality is inextricably linked to the conditions under which girls are required to attend school. What makes this decision so important is that it refuses to treat the right to menstrual health as a peripheral issue to be dealt with through some ad hoc schemes, and instead subsumed the right to menstrual health within the larger right to dignified schooling.¹²

The Court also provides useful definitions and interpretations of rights to cast menstrual hygiene not only as an obstruction to one's ability to participate, one's privacy and one's well-being and dignity, but also as impediments to school infrastructure, public health, and the continuity of education, all in a single constitutional concern. This is of greater significance than a welfare order as it alters the normative standard against which school infrastructure is evaluated. A school cannot, therefore, be said to comply with the law if, through its planning, it makes students who menstruate less able to access the school's educational space on a basis

¹⁰ Gautam Bhatia, *The Transformative Constitution: A Radical Biography in Nine Acts* 45 (HarperCollins Publishers India, Noida, 1st edn., 2019).

¹¹ *Supra* note 2.

¹² *Supra* note 2.

of equality. This shift in doctrine strengthens the conceptual framework for future legal challenges.¹³

The Content of the Directions

The orders themselves are a marked departure from the MoE's Circulars. The Court mandated that schools must provide safe and hygienic separate girls' toilets and washing facilities with an assured supply of water and soap, provide oxo-biodegradable sanitary napkins in a girls' toilet, establish Menstrual Hygiene Management (MHM) corners with emergency supplies, and provide safe disposal systems along with covered waste disposal bins, maintenance systems, and sanitary systems. By prescribing such operational details, the Court minimized the scope for token compliance and correlated the right to education with a real, regulatory, and judicially ascertainable preparedness.¹⁴

The judgment also extended beyond physical infrastructure. It called for the integration of menstruation and puberty into the curriculum, the sensitisation of teachers, the implementation of regular monitoring visits by District Education Officers, the collection of anonymous student feedback, and the implementation of monitoring by the National Commission for the Protection of Child Rights and the respective State Commissions for the Protection of Child Rights. These orders are significant as school exclusion often continues in places where toilets exist. Silence, stigma, and the indifference of school staff can make a school as exclusionary as one that is unequipped. The Court, therefore, considered knowledge, the institutional environment, and monitoring as part of the obligations.¹⁵

Doctrinal Consequences for Public and Private Schools

A significant aspect of this judgment is that its provisions are applicable to all schools, and not just those that are state-run. Here, the judgement goes beyond the existing policy frameworks that have focused on Government and Government-aided institutions. The Menstrual Hygiene Policy for School-Going Girls, for instance, has a specific focus on girls in Government and Government-aided schools. Hence, the Court's directives widen the jurisdiction of the law beyond the immediate scope of the policy.¹⁶ This, in turn, has important consequences for the accountability of recognized private schools.

¹³ *Supra* note 2.

¹⁴ *Supra* note 2.

¹⁵ *Supra* note 2.

¹⁶ Ministry of Health and Family Welfare, "Menstrual Hygiene Policy for School-Going Girls" 4 (National Health Mission, 2025).

The wider implications of the judgment were quickly implemented by school management. Central Board of Secondary Education Circular No. Acad-12/2026 instructed the affiliated schools to adhere to the Supreme Court's orders regarding separate facilities, the provision of biodegradable sanitary napkins, the installation of Menstrual Hygiene Management corners, sanitary waste management, the conduct of awareness programmes, the submission of monthly compliance reports, and the cooperation during inspections. While administrative circulars do not create rights under the Constitution, they do signify that the judgment is more likely being interpreted as imposing obligations to act now and across the system, with an expectation to comply and go beyond the bare minimum.¹⁷

The judgment is best interpreted as a form of structural ongoing adjudication. It does not simply proclaim a right and leave the implementation to the courts; it establishes the criteria and the actors to enforce it and retains the authority to act through ongoing mandamus. That method is especially relevant when rights are contingent on the regular performance of administrative duties, the allocation of budgetary funds, procurement, oversight, and a change in the operations of the system. The provision of menstrual hygiene in schools is not established by a one-off building/facility or a one-off supply/distribution. The Court's design of the remedy, therefore, is in light of the prevailing reality of the system.¹⁸

Operational Duties of Schools and the Administrative Framework

According to the 2026 guidelines, the legal concern is not about schools having obligations toward menstrual hygiene, but rather how these obligations will be understood, structured, and implemented. The answer is a fusion of the interpretative case law, legislative frameworks, policy, and the nature of the public service of schooling.¹⁹

The Right of Children to Free and Compulsory Education Framework

Although the Right to Free and Compulsory Education Act of 2009 guarantees education for children between 6 to 14 years, the Act removes fees and conditions that act as barriers to the delivery of primary education. It further stipulates that schools will only be recognized once they comply with the mandated requirements and standards. Hence, once menstrual hygiene is viewed as a genuine cost and a barrier to school attendance, this Act sustains the argument that

¹⁷ Central Board of Secondary Education, "Compliance with Directions of the Hon'ble Supreme Court Regarding Menstrual Hygiene Management in Schools" (March, 2026).

¹⁸ *Supra* note 5 at 284.

¹⁹ *Supra* note 16 at 185.

lack of safe menstrual hygiene in schools is not a desirable luxury, but is a part of the legal safe and adequate conditions of the institutional floor of education.²⁰

The question of private schools is harder. Here, Tarunabh Khaitan's account of discrimination law is useful. It shows why certain duties may be imposed to those controlling access to valuable resources and to those performing functions of relative public importance.²¹ Recognised schools clearly do occupy that space. They do not only offer private consumption goods. They do provide access to an important social institution. When such schools design their premises in a way that foreseeably discriminates against students who menstruated, the case for legally enforceable duties is not a deviation but an application of the principles of equality that have been established.

The Menstrual Hygiene Policy and Administrative Uptake

The National Health Mission's Menstrual Hygiene Policy for School-Going Girls is important. It provides an administrative framework for supply chain management, awareness, water, hygiene and sanitation standards, disposal, and coordination of different departments. It, however, focuses only on girls in government and government-aided schools. This generates an asymmetry in light of the 2026 ruling. The scope of the policy is less than the constitutional minimum. For interpretative purposes, this asymmetry is significant. It indicates that the Court did not simply approve an existing policy. It, in effect, constitutionalised a policy that set out minimum standards beyond those previously guaranteed in the policy.²²

The administrative implementation after the judgment reveals a multilayered model of compliance. Schools have to consider infrastructure, product access, the educational environment, and oversight when thinking about menstrual hygiene issues. Compliance is more than just putting in toilets. Toilets must be usable, private, supplied with running water, and accessible to all students, including those with disabilities. There must be menstrual products available, and no one should be controlling access to those products. Teachers should be non-stigmatizing. Pathways for complaints, along with inspections and records, should capture any non-compliance. The legal requirement is cumulative.²³

²⁰ The Right of Children to Free and Compulsory Education Act, 2009 (Act 35 of 2009), ss. 3, 19 and the Schedule.

²¹ Tarunabh Khaitan, *A Theory of Discrimination Law* 145 (Oxford University Press, Oxford, 1st edn., 2015).

²² *Supra* note 16 at 175.

²³ *Supra* note 17 at 229.

Accessibility, Inclusion, and Waste Management

The judgment's requirement of accessibility integrates menstrual hygiene into the law of disability inclusion. In the *Rajive Raturi v. Union of India*²⁴ case, the Supreme Court stated that accessibility is a part of the enforcement of constitutional and disability rights. With the *Vikash Kumar v. Union Public Service Commission*²⁵ case, the Court went a step further in establishing that the provision of reasonable accommodations is actually the fulfillment of substantive equality, and is not an exercise of charity. As it pertains to schools, the role of accessibility, usability, and non-exclusivity in the design of menstrual facilities transcends the design for an average user.

Another legally pertinent area is waste disposal. Menstrual products require a high standard of disposal that is both safe and environmentally sustainable. The Court has recognized that poor disposal mechanisms and management of covered bins can pose a significant barrier to product use and create stigma. The burden of disposal routinely becomes the responsibility of the students and leads to girls avoiding school bathrooms or even engaging in unsafe practices. A school that provides products and lacks a safe disposal option has not met its duty of care.²⁶

Evidence of Need and Persistent Implementation Gaps

The 2026 Directions have a strong moral force. Menstrual disadvantage is real, and not a marginal issue. Official and reviewed literature shows the significant gap between girls' educational participation and the unsatisfactory support that enables them to remain in school.²⁷

Infrastructure Deficits and Uneven Accessibility

Figure 1 indicates that Indian school infrastructure has improved as a whole, but some important metrics with respect to menstrual dignity and inclusion have not improved at all. Unified District Information System for Education Plus data for the 2024-25 school year shows that the system has very large national coverage for drinking water, girls' toilets, and handwashing. Still, the system is left with a large deficit when analysed relative to the system as a whole.²⁸ Accessibility, with respect to ramps and handrails, is even worse and is lagging far behind the aforementioned water and toilet indicators. This means that progress is being

²⁴ (2018) 2 SCC 413.

²⁵ (2021) 5 SCC 370.

²⁶ *Supra* note 2.

²⁷ *Supra* note 1 at 164.

²⁸ Ministry of Education, "Unified District Information System for Education Plus 2024-25: Existing Structure" 10 (Department of School Education & Literacy, 2025).

made, but it is in areas of legally significant non-compliance with the mandates.

Figure 1 also shows why national averages should not be taken laxly. With nearly 14.71 lakh schools, even a gap of two or three percent can mean tens of thousands of schools not having the requisite facility, as shown in the grouped bar chart in the drinking water, hands-free girls' toilets, handwashing facilities, electricity, and ramps with handrails for 2022-23 to 2024-25, which are shown in Figure 1. The chart shows continuous improvement, but it also indicates that menstrual hygiene management is a minimum requirement that needs to be enacted, not celebrated, with progress nearing ideals and goals.²⁹

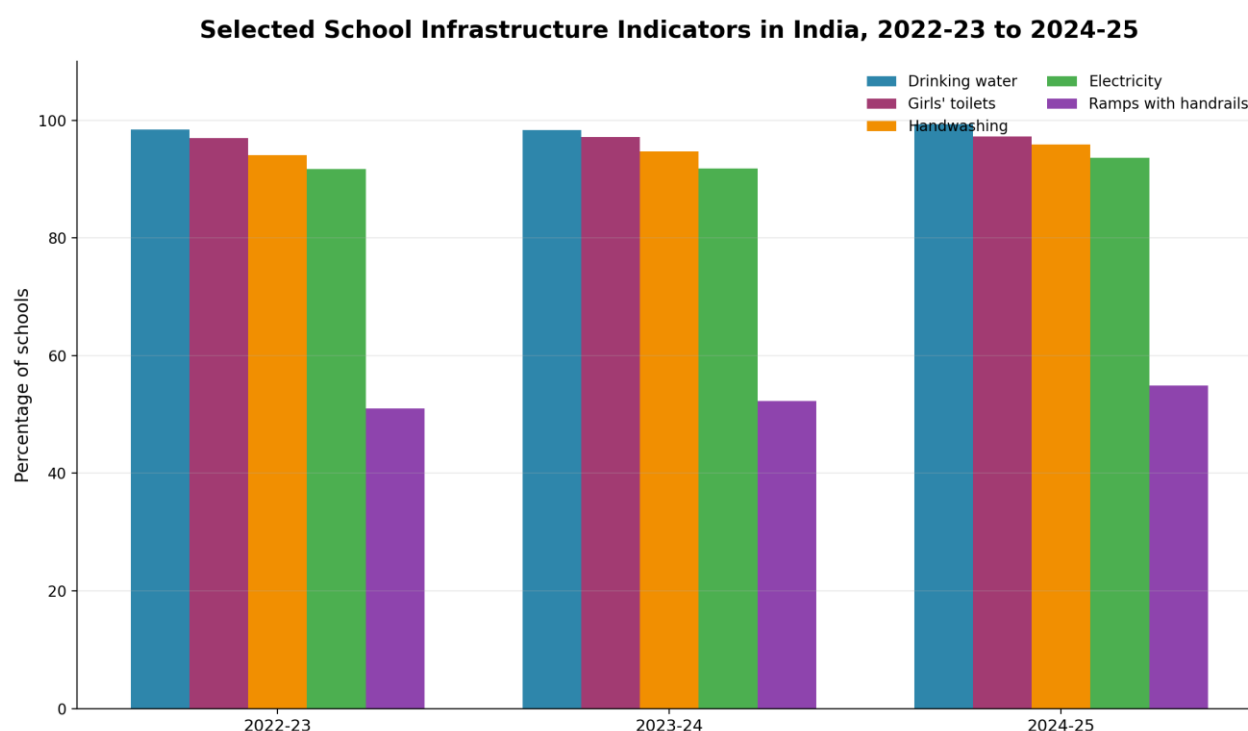


Figure 1. Selected school infrastructure indicators, 2022-23 to 2024-25.

Figure Note. The chart consists of five indicators of school infrastructure related to menstrual hygiene and inclusive access. It shows sustained improvement for three academic years. However, it has been observed that accessibility infrastructure lags behind water and toilets, handwashing facilities, and other basic amenities.³⁰

Protection Use, Poverty, and Rural Disadvantage

Menstrual Inequality is even more evident when school infrastructure is analysed alongside evidence of product use. Figure 2 demonstrates the distribution of protections used during menstruation among girls aged 15 to 19 and compares National Family Health Survey 4 and

²⁹ *Ibid.*

³⁰ *Supra* note 28 at 299.

National Family Health Survey 5. Use of sanitary napkins saw a significant increase, and the use of any hygienic method increased from 58.3% to 78.0%; however, the use of cloth remained high (49.3%) in the later survey. This is not solely a behavioural issue.³¹ It also demonstrates the dimensions of affordability and the geographical location of the subject, the level of education, and the available support from the institutions.

Disadvantage in rural areas is also significant. The same analysis in the National Family Health Survey notes that about 73% of rural adolescents use any of the hygienic methods compared to about 90% of urban adolescents. This gap is significant to School Law because it shows that formal enrolment does not mean that educational conditions are the same. Figure 2 aims to be a comparative bar chart that shows how menstrual protection practices vary over time while still showing inequalities. The intent is simple to schools: access to hygiene products and facilities is a requirement of equality in education in materially unequal conditions.³²

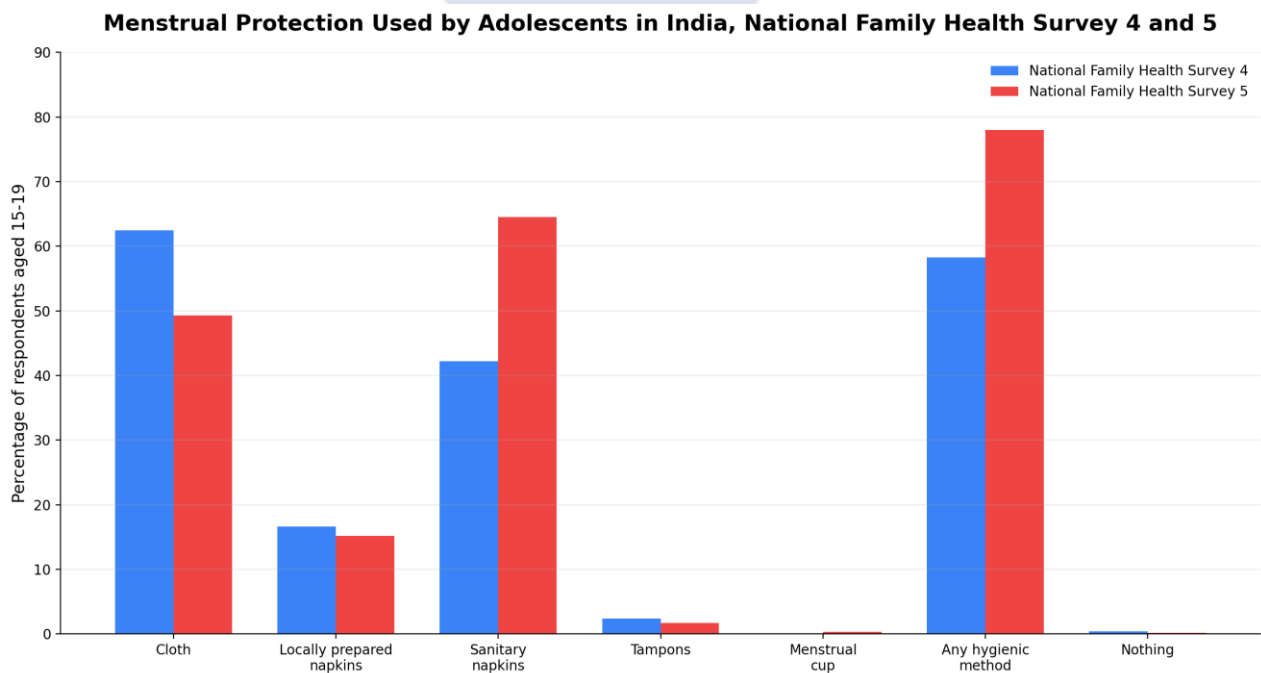


Figure 2. Menstrual protection used by adolescents, National Family Health Survey 4 and National Family Health Survey 5.

Figure note. The chart shows the results from two surveys on the use of cloth, locally prepared napkins, sanitary napkins, any hygienic method, and no protection. The results indicate major advancements in hygienic protection, increasing dependence on cloth, and inequality in the use

³¹ United Nations Population Fund India, "Menstrual Hygiene Among Adolescent Girls: Key Insights from the National Family Health Survey 5 (2019-21)" 1 (May, 2022).
³² *Supra* note 31 at 123.

of protection in different social and spatial locations.³³

The result from literature enriches this picture. Research in India and settings that are similar shows that adolescent girls have a lack of knowledge and are anxious and confused regarding menstruation. In schools, the way that they address menstruation can determine if the experience is something that students learn to deal with, or if it is something that prompts students to withdraw and feel embarrassed. Working with Indian students to understand their concerns and confusion, V. Chothe and colleagues found a significant lack of understanding and awareness on menstruation, menstrual hygiene, and disposal, as well as associated stigmas.³⁴ Thus, serious gaps in material provision are not the only concern. There is also a need for deliberate interventions to reshape the information and support available to schools.

Attendance, Retention, and Educational Outcomes

Figure 3 displays recent trends on student dropout rates at preparatory, middle, and secondary school levels. The 2022-23 and 2024-25 data show a positive change across the country, with greater improvements seen at the preparatory and secondary levels. While the improvements are not a direct result of the menstrual policy, the improvements are of value, as they demonstrate a change in attitude toward student retention. The policy recognizes the impact of menstruation on the overall school climate. This policy places the school requirements that relate to menstruation on the school's continuum of pedagogical activities, rather than addressing them in the context of health.³⁵

The evidence from the intervention also supports this. Despite a variety of school based studies with differing levels of menstrual hygiene policy implementation, many have shown a positive impact on attendance and academic performance, as well as improved psychosocial well-being. Earlier studies have also shown significant improvements in lower-income settings, as a result of improved menstrual hygiene, and positive impacts on safety and self-esteem.³⁶ Thus, Figure 3 should not be interpreted as establishing a simple cause and effect relationship, but rather should be used to underscore the policy of improving the conditions of schools for children who menstruate to allow for longer school attendance.³⁷

³³ *Supra* note 31 at 78.

³⁴ V. Chothe, P. Khubchandani, et.al., "Students' Perceptions and Doubts About Menstruation in Developing Countries: A Case Study from India", 15 *Health Promotion Practice* 319 (2014).

³⁵ *Supra* note 28 at 99.

³⁶ Biniyam D. Betsu, Berhanu Boru Bifftu, et.al., "Menstrual Hygiene Management Interventions and Their Effects on Schoolgirls' School Attendance, Academic Performance and Health-Related Outcomes: A Systematic Review and Meta-Analysis", 19 *PLOS ONE* 1 (2024).

³⁷ C. Sumpter and B. Torondel, "A Systematic Review of the Health and Social Effects of Menstrual Hygiene Management", 8 *PLOS ONE* 1 (2013).

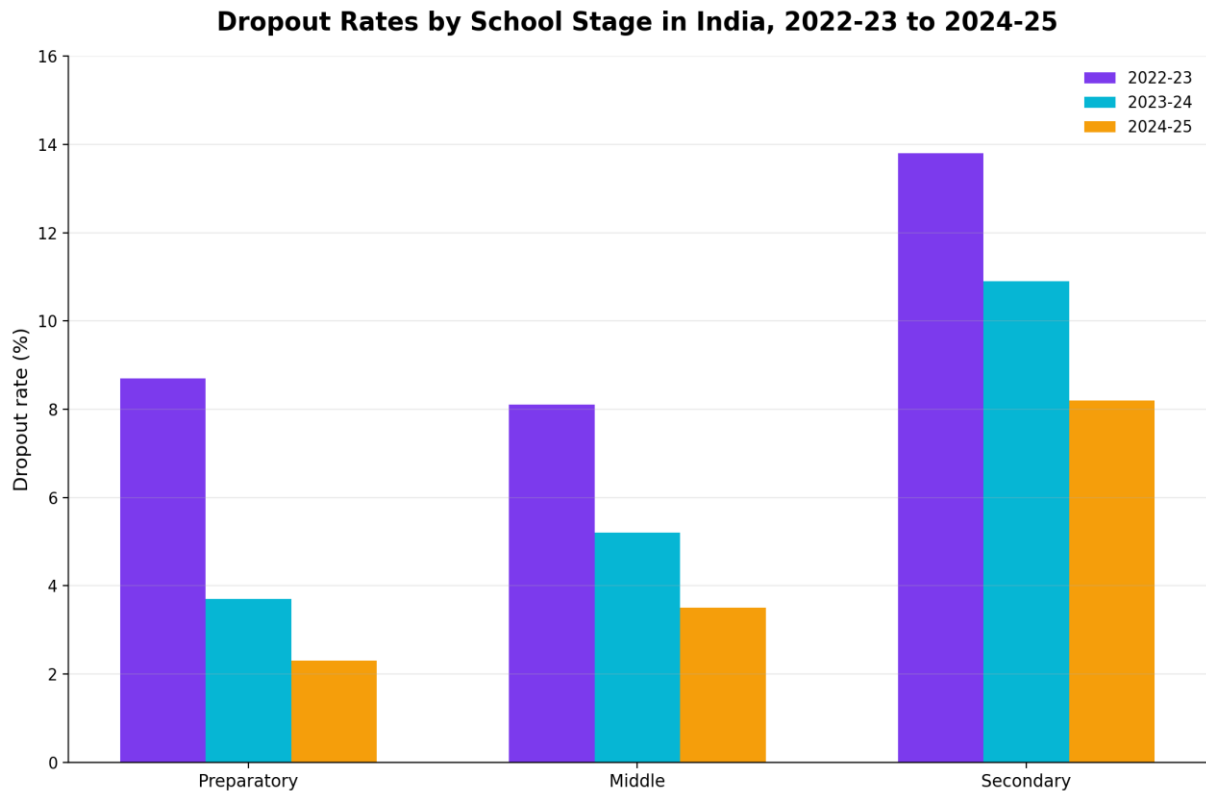


Figure 3. Dropout rates by school stage, 2022-23 to 2024-25.

Figure note. The chart illustrates the changes in dropout rates over three years for the preparatory, middle, and secondary stages. It shows a notable drop at all levels and aids in visually connecting the situational analysis of the school environment with retention, continuity, and the ability of the institution to respond to changing needs.³⁸

Evidence from India adds another layer. Research on adolescent tribal girls in rural Gujarat indicated that having better access to menstrual products and improved menstrual hygiene resulted in enhanced comfort, confidence, and quality of life. While these findings do not replace the need for a doctrinal analysis, they explain the significance of the 2026 judgment.³⁹ The law intersects with school planning, the management of the body, and the social recognition of the law. Without this broader understanding, compliance will be reduced to a costs versus benefits analysis of procurement, while the deeper implications for the education of the children remain unanswered.

³⁸ *Supra* note 28 at 113.

³⁹ S. P. Shah, S. Nair, et.al., "Improving Quality of Life with New Menstrual Hygiene Practices Among Adolescent Tribal Girls in Rural Gujarat, India", 21 *Reproductive Health Matters* 205 (2013).

Conclusion

The 2026 guidelines signal an important change to Indian education policy. They clarify that barriers tied to menstruation are not collateral issues outside the scope of the right to education. Instead, they are legal failures that concern the right to equality, the right to dignity, the right to health, and the accountability of the state as the provider of institutional education.⁴⁰

There are three points that must be properly understood about this judgment. One, this judgment becomes the first to give constitutional recognition to the right to menstrual hygiene in the context of the right to equal access to education. This judgment, therefore, is the first to convert the patchwork of available health policies and school policies into a single, comprehensive policy framework that clearly spells out various institutional responsibilities. Lastly, this judgment extends the scope of law from state-sponsored schemes and covers the entire school ecosystem, including an extended responsibility to recognized private schools. Therefore, this judgment is about more than just the availability of menstrual hygiene products or school sanitation infrastructure. It is about the entire minimal and substantive framework of both safety and equality that a school is obligated to provide.⁴¹

The implications of this case reach well beyond menstrual health. The ruling deepens one strand of Indian constitutional thinking wherein socioeconomic rights get actualized through judicially enforceable duties coupled with a supervisory remedy.⁴² The 'right to health' reasoning in *Paschim Banga Khet Mazdoor Samity v. State of West Bengal*⁴³ complements this trend by recognizing positive duties of the state in the face of the absence of state institutions where a threat to the Constitution is imminent. The same can be said about the education cases of *Mohini Jain v. State of Karnataka*⁴⁴ and *Unni Krishnan, J. P. v. State of Andhra Pradesh*⁴⁵, which, even in the absence of Article 21A, linked the right to education to the framework of Article 21.

Nonetheless, some complications still exist. The Constitution of India and the Right of Children to Free and Compulsory Education Act, 2009 guarantee free and compulsory education to

⁴⁰ *Supra* note 2.

⁴¹ *Supra* note 2.

⁴² *Supra* note 10 at 138.

⁴³ (1996) 4 SCC 37.

⁴⁴ (1992) 3 SCC 666.

⁴⁵ (1993) 1 SCC 645.

children aged six to fourteen, while the 2026 directions extend this to cover Classes VI to XII.⁴⁶ The 2026 directions are persuasive given that the need for menstrual health does not cease at age fourteen, but the exact legal basis for a duty to enforce this at schools for older adolescents may need to be further delineated. Within the existing legislative framework, the duty to enforce has the greatest strength when it is conceptualized as a combination of constitutional equality, the right to (social) dignity under Article 21, the State's positive regulatory control over schools, and a supervisory duty to enforce children's rights.

This case teaches us that educational equality is not achieved by thinking of students as abstract or homogenous. Menstruation illustrates how the absence of gender-sensitive design creates exclusion. A more resilient answer would demand the kind of integrated solutions that educational and equality scholarship has advocated for. In education, the right is not granted with entry to the school but is ensured with the legal arrangement of the school.⁴⁷ The 2026 ruling has made this perspective imperative for school law.

Suggestions

Taking the aforementioned constitutional and administrative provisions into account, the following actions would enhance compliance regarding the dignity, health, and educational continuity of school-going adolescents.

1. Adopt enforceable school standards: Each State and Union Territory must develop and implement school-level standards that outline the Supreme Court's requirements on toilets, water, supplies, privacy, disposal, and maintenance in measurable terms. These standards should be part of the recognition, inspection, and renewal processes. This integration will ensure that menstrual hygiene is treated as a critical compliance issue, not a welfare issue.
2. Create dedicated menstrual hygiene budgets: Schools must allocate budgets separately for menstrual products, the upkeep of washrooms, disposal systems, and emergency supplies. Absent separate budgets, compliance is likely to be undermined by the arbitrary allocation of funds to general sanitation and the shifting administrative priorities.

⁴⁶ The Constitution of India, arts. 14, 15(3), 21, 21A, 39(f), 47.

⁴⁷ Sandra Fredman and Meghan Campbell, *et.al.*, *Human Rights and Equality in Education: Comparative Perspectives on the Right to Education for Minorities and Disadvantaged Groups* 22 (Policy Press, Bristol, 1st edn., 2018).

3. Integrate menstrual hygiene into recognition audits: Recognition and affiliation inspections should incorporate a menstrual hygiene management checklist obtainable via mandatory photographic and documentary proof. This will lessen the occurrence of paper compliance, and create an evidentiary record for regulatory action when facilities are absent or not functioning.
4. Guarantee access without gatekeeping: Sanitary products should be made available discreet and timely via vending machines, health rooms, staffed provisions, or a Menstrual Hygiene Management corner. Accessibility should not be a product of public demand, teacher discretion, or informal unethical assessments of control. These practices further perpetuate stigma and discourage use.
5. Build disability-responsive facilities: Absence of infrastructure poses a significant obstacle to students with disabilities, and includes accessible toilets, dependable menstrual hygiene management systems, and emergency support that requires the least assistance. Accessibility should be regarded by school administrators as a legal obligation and not an optional post-improvement, thus respecting Equality and Reasonable Accommodation.
6. Institutionalise teacher sensitisation: Modules on menstruation, puberty and menstrual stigma, as well as confidentiality and referral pathways for pain and distress, should be integrated into teacher training. Ensuring that the infrastructure is effective is not enough, as staff attitudes that allow students to leave the classroom to get help without fear of being reprimanded are equally important.
7. Use anonymous student reporting: Periodic anonymous student feedback on the facilities, available resources, privacy, and employee interactions should be used to develop district-level assessments. Reporting issues helps identify shortcomings that typical evaluations fail to address, especially where locked, inaccessible, or socially locked infrastructure exists.
8. Link disposal to environmental compliance: Schools should develop transparent protocols for covered bins, for the segregated collection and disposal of menstrual waste, in order to comply with the local regulations. Failure to appropriately dispose of menstrual waste should be considered a dignity and public health concern, as it determines whether or not students can use menstrual products in a safe manner while at school.
9. Clarify duties beyond elementary education: Menstrual hygiene obligations would apply to secondary and senior secondary institutions, with the legislation and education

departments clarifying the regulatory basis to create less disputable coverage of age and better alignment of statutory school regulations with the constitutional rationale recognized by the Supreme Court.

10. Establish complaint and remedial pathways: There should be a simple complaint procedure within each school cluster whereby students or parents can report the lack of facilities and/or products and/or supportive and respectful assistance. Complaints should result in time-bound, enforceable remedial measures and, in the event of a failure to comply, an escalation to the child-rights or educational authorities.

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