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# **BREAKING BARRIERS TO EDUCATION: AN IN-DEPTH STUDY OF IMPLEMENTATION OF SECTION 12(1)(C) OF THE RIGHT TO EDUCATION ACT ACROSS INDIAN STATES**

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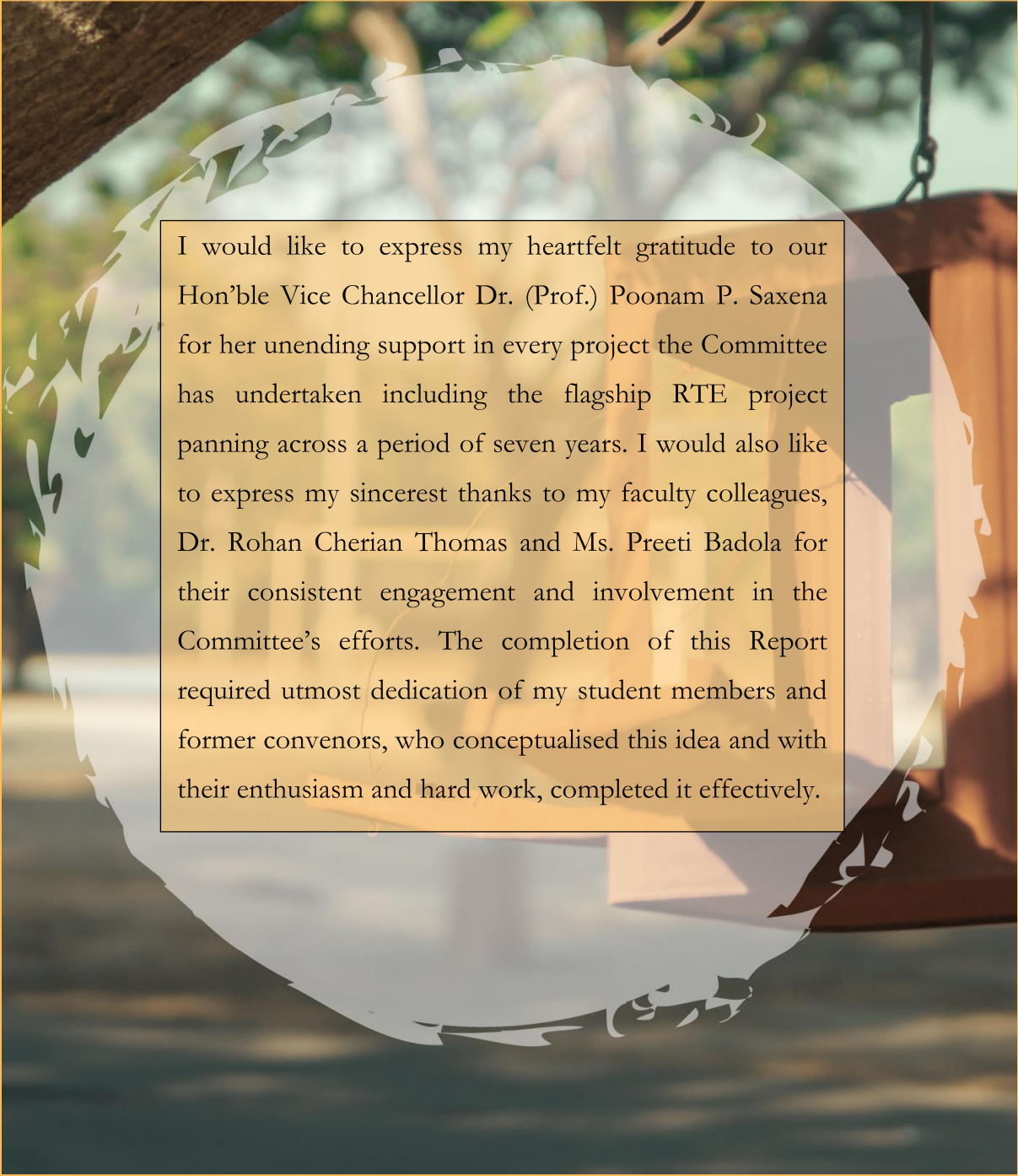


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**This report is an independent,  
non-commissioned  
piece of work by the  
members of the  
Legal Aid and Awareness Committee (LAAC),  
an independent student body of  
National Law University, Jodhpur.**



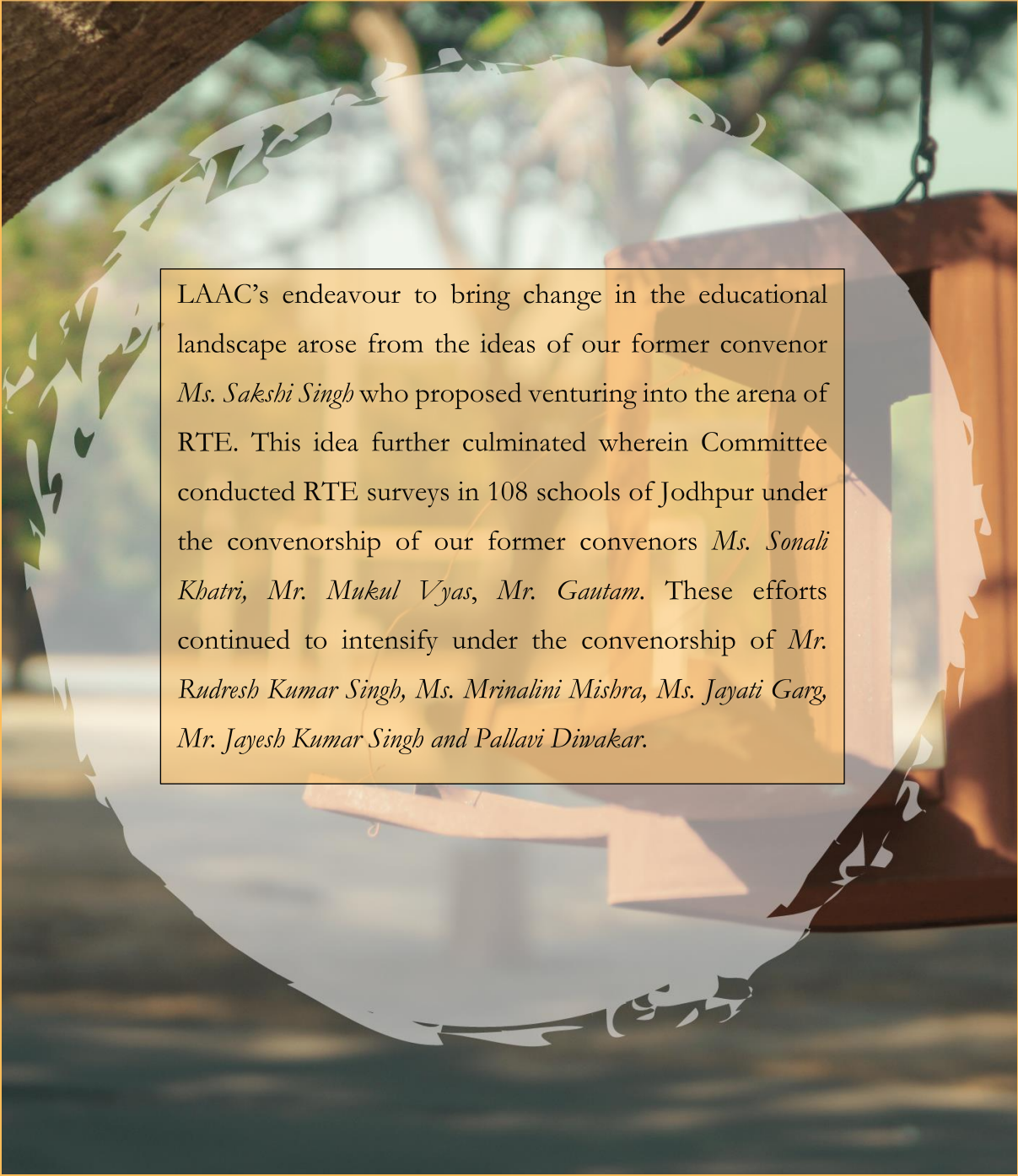
# ACKNOWLEDGMENT



I would like to express my heartfelt gratitude to our Hon'ble Vice Chancellor Dr. (Prof.) Poonam P. Saxena for her unending support in every project the Committee has undertaken including the flagship RTE project panning across a period of seven years. I would also like to express my sincerest thanks to my faculty colleagues, Dr. Rohan Cherian Thomas and Ms. Preeti Badola for their consistent engagement and involvement in the Committee's efforts. The completion of this Report required utmost dedication of my student members and former convenors, who conceptualised this idea and with their enthusiasm and hard work, completed it effectively.



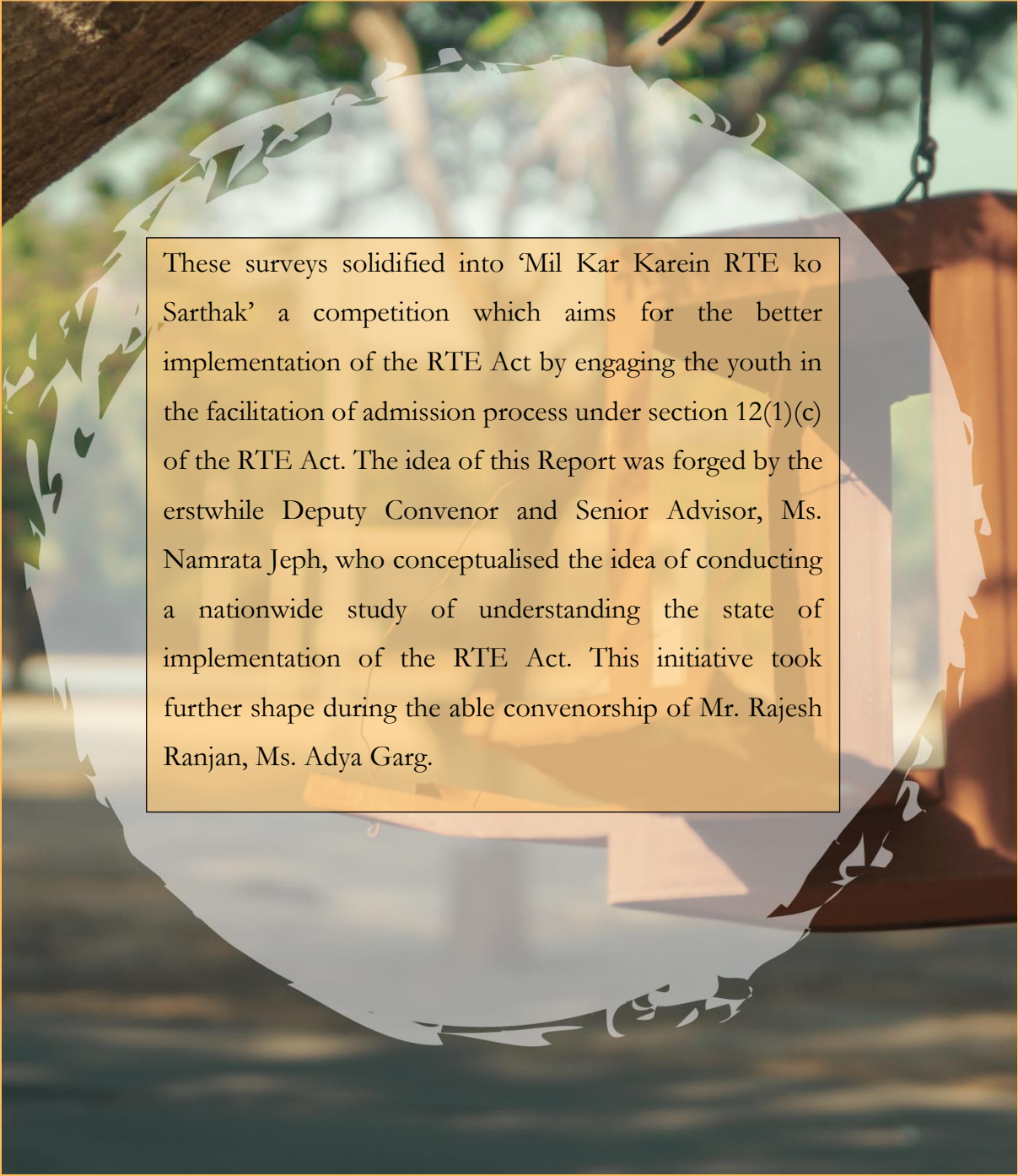
# ACKNOWLEDGMENT



LAAC's endeavour to bring change in the educational landscape arose from the ideas of our former convenor *Ms. Sakshi Singh* who proposed venturing into the arena of RTE. This idea further culminated wherein Committee conducted RTE surveys in 108 schools of Jodhpur under the convenorship of our former convenors *Ms. Sonali Khatri, Mr. Mukul Vyas, Mr. Gautam*. These efforts continued to intensify under the convenorship of *Mr. Rudresh Kumar Singh, Ms. Mrinalini Mishra, Ms. Jayati Garg, Mr. Jayesh Kumar Singh and Pallavi Diwakar*.




# ACKNOWLEDGMENT



These surveys solidified into ‘Mil Kar Karein RTE ko Sarthak’ a competition which aims for the better implementation of the RTE Act by engaging the youth in the facilitation of admission process under section 12(1)(c) of the RTE Act. The idea of this Report was forged by the erstwhile Deputy Convenor and Senior Advisor, Ms. Namrata Jeph, who conceptualised the idea of conducting a nationwide study of understanding the state of implementation of the RTE Act. This initiative took further shape during the able convenorship of Mr. Rajesh Ranjan, Ms. Adya Garg.



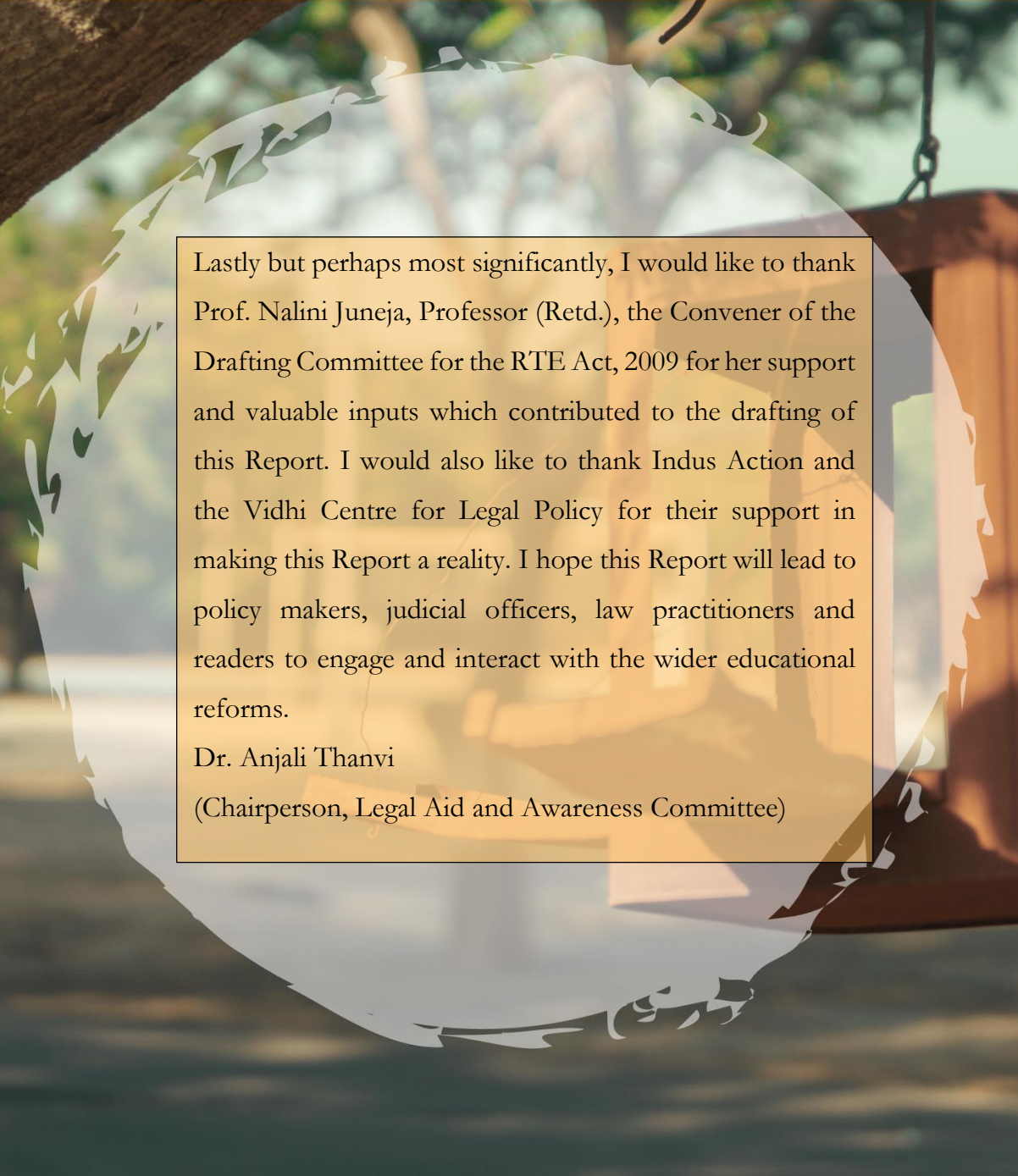
# ACKNOWLEDGMENT



The Report was finally compiled and completed during the tenure of present convenors Ms. *Aarzoo Gang* and Ms. *Ananya Awasthi*. The making of this Report has been the result of the following hardworking members of the committee who authored the Report— *Srijesh Kumar Singh, Bhanu Jindal, Deeptam Bhadauria, Daksha Bairwa, Naivedhya Kala, Aashish Gupta, Bhwnesh Kumar, Vipashyana Hilsayan, Fatema Kinkhabwala, Jayam Jha, Lavanya Agarwal, Mihir Nigam, Mohak Agarwal, Nandini Arya, Nigam Vrat Attri, Pooja Rajawat, Samiksha Lobia, Simran Bherwani, Srividya M.S., Sarthak Ahuja, Sinchan Chatterjee, Tasneem Fatema, Tanvi Kaushal, Kanya Gupta, Avani Sirsikar, Dhruv Singhal*. Further, the Report has been compiled and edited by *Namrata Jeph, Rajesh Ranjan, Mihir Nigam, Pooja Rajawat, Jayam Jha, Nandini Arya* and *Vipashyana Hilsayan*.



# ACKNOWLEDGMENT



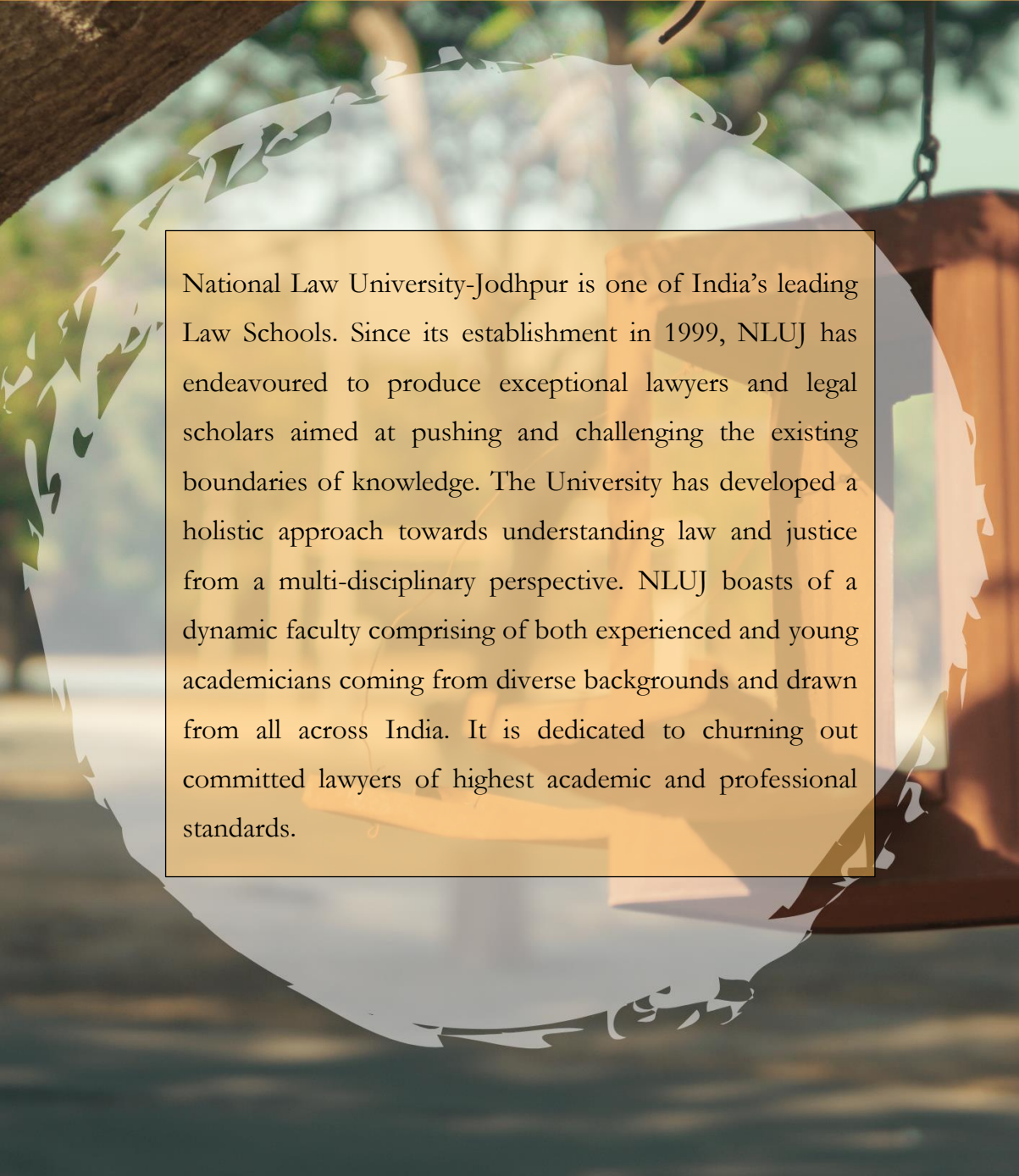
Lastly but perhaps most significantly, I would like to thank Prof. Nalini Juneja, Professor (Retd.), the Convener of the Drafting Committee for the RTE Act, 2009 for her support and valuable inputs which contributed to the drafting of this Report. I would also like to thank Indus Action and the Vidhi Centre for Legal Policy for their support in making this Report a reality. I hope this Report will lead to policy makers, judicial officers, law practitioners and readers to engage and interact with the wider educational reforms.

Dr. Anjali Thanvi

(Chairperson, Legal Aid and Awareness Committee)



## ABOUT THE UNIVERSITY



National Law University-Jodhpur is one of India's leading Law Schools. Since its establishment in 1999, NLUJ has endeavoured to produce exceptional lawyers and legal scholars aimed at pushing and challenging the existing boundaries of knowledge. The University has developed a holistic approach towards understanding law and justice from a multi-disciplinary perspective. NLUJ boasts of a dynamic faculty comprising of both experienced and young academicians coming from diverse backgrounds and drawn from all across India. It is dedicated to churning out committed lawyers of highest academic and professional standards.



## **PREFACE**

Education is the harbinger of change in the society. Undoubtedly, the Indian education system is striving for inclusive education for all but beyond the role of the state is there any engagement of law students in effective implementation of right to education? The Legal Aid and Awareness Committee in its efforts to map the status of right to education and its individual realisation at different levels has tried to answer this question. The state-wise status of implementation of the Right to Education Act, for the purpose of this Report is understood in terms of the challenges faced by different states, the historical evolution of RTE in India, plausible solutions and recommendations. In our research we find different state mechanisms in different states, the different approach of civil society organisations in the realms of right to education.

The state of Rajasthan where the Committee has primarily focused its work on the RTE has a dedicated portal while other states of Hindi heartland like the state of Bihar does not have a dedicated portal. The common underpinning of the efforts of effective implementation of RTE in the states which this research encompasses reveal that there is a policy and governance gap in arena of RTE. The issue of reimbursement, transfer of children, digital divide, lack of awareness, and parental education are deciding factors in exercise of the right to education enshrined in Part III of the Constitution. Rights granted under Part III need a proper mechanism for enforcement. In a small sample of our research, we get the idea that along with the State, law students, legal aid clinics and civil society play a crucial role towards achieving this end.

A collection of data, overview of RTE portals in different states and role of legal aid clinics have certain limitations. Gauging information from governmental portals, the limited institutional growth of legal aid clinics and the least dedicated portals of RTE has conscious and unconscious impact on the preparation of this Report. The lack of response on Right to Information Applications, the institutional ignorance of education of the children and the lack of attention of public discourse on the RTE has been the visible challenges that are documented in the Report. While coming up with solutions to ensure education for all, the Report make it clear on the face of it that it requires concerted efforts of State, institutional and non-institutional stakeholders. The public consensus, institutional efforts and active role of law students, legal aid clinics can bridge the policy gaps and aid the efforts taken by the central and the state governments for enforcement of education rights.



## ABOUT THE LEGAL AID AND AWARENESS COMMITTEE

For a common man in a country like India, seeking justice is a cumbersome journey due to the dearth of legal knowledge and the unavailability of affordable justice. In a legal system where every person is supposed to be acquainted with the law, it is lamentable that few are aware of their own rights and duties. Such a deplorable state of affairs has stimulated various legal aid and awareness activities all of which aim to reach the goal of an informed and aware citizenry. The institutions imparting legal education play a vital role in achieving this objective by not only educating the students, but also by working towards for the welfare of the society. Keeping this as a foundation, Legal Aid & Awareness Committee [“**LAAC**”] was started by the faculty and students of National Law University, Jodhpur with the mandate of imparting legal awareness and providing legal aid.

Since its inception, LAAC has been discharging its role under the patronage of Hon’ble Vice Chancellor, Prof. (Dr.) Poonam Pradhan Saxena and the able guidance of Prof. (Dr.) I. P. Massey (Dean, Faculty of Law). Established as the Centre for Legal Aid and Social Services, it initially focused on prisons across Jodhpur in collaboration with the CHRI Initiative for under-trial prisoners. Gradually, due to an increased understanding of socio-economic conditions, the LAAC has undertaken initiatives aimed at spreading legal awareness and improving the quality of life of the less privileged sections of society by helping them attain their rights under various socially beneficial legislations. LAAC seeks to generate a respectful attitude amongst people towards fulfilling their social and legal obligations.

### OUR AIMS

- To impart practical knowledge and create awareness regarding basic legal rights and remedies provided under various laws.
- To act as an intermediary between a layman and the opportunities of free legal aid services present across the country.
- To facilitate better implementation of legislation and governmental schemes.
- To work towards securing the rights of women in general and under the socially beneficial legislation.
- To analyse and report on the socio-economic condition of various communities in the country.
- Development of Surpura village under smart village initiative.



## FROM VICE CHANCELLOR'S DESK



Since its inception, the Legal Aid and Awareness Committee has worked extensively towards the implementation of the RTE Act, and I believe that committee's commitment to it has only intensified with time.

Under the RTE initiatives, the committee has completed two major projects: the first is a survey of 110 schools in the Jodhpur district to determine whether the infrastructure provided by the government schools is adequate and in line with the mandate of the RTE Act. Second is the Milkari Karein RTE Ko Sarthak competition, to ensure that all underprivileged children have access to Section 12(1)c of the RTE Act.

The Right to Education Report made by LAAC provides the actual picture on the implementation of the provisions of the RTE Act. It has highlighted the impediments faced by the disadvantaged sections of the society while availing the benefits of the RTE Act. Furthermore, the Report has likewise tried to suggest ways in which the provisions of the RTE Act can be implemented more effectively.

I believe that the Report will help in realising the importance of quality education. Furthermore, the suggestions will help in overcoming the roadblocks to accessing quality education for the children. I wish the best to LAAC in all its future endeavours as well.



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## EXECUTIVE SUMMARY

The Report aims to present the reality of the current status of implementation of the RTE Act<sup>1</sup>. The RTE Act, though a noble provision, has not achieved its intended objective because of poor implementation of the Act.

The findings of the Report demonstrate that there exists a stark digital divide across all states which creates huge problems of inclusivity, leaving vulnerable persons who do not have access to the internet or are digitally illiterate.<sup>2</sup> Further, due to various reasons like reputational concerns as well as non-reimbursement of fees by the government, private schools fail to comply with the provisions of the RTE Act<sup>3</sup>. This is particularly prevalent in Tamil Nadu, Uttarakhand, Madhya Pradesh, and Karnataka.

In some states, it is observed that due to a lack of awareness among eligible beneficiaries about their rights as well as the means and procedure for their enforcement, the students fail to get admissions. The parents, especially if they are migrant workers, often do not have the appropriate documents or find it difficult to prove their residence near the school they wish to take admission to, leading to their disqualification from the process.

Communication gaps between the stakeholders obstruct the sound functioning of the RTE Act's provisions<sup>4</sup>. Parents who do not know the stages of the admission process or students who are uninformed of their allotment and never end up taking admission are two prominent examples, especially in Tamil Nadu and Delhi. Not only informational and digital access but physical accessibility and proximity also hinder the procedure of admissions.

The Report recommends that it is high time that the School Management Committees envisaged as a part of the Act be strengthened and extended to private unaided schools as well, which will serve the goal of enhancing community involvement in the conception and implementation of the school improvement programmes. To further this, it is incumbent upon the authorities to have outreach programmes in place that can informationally empower the potential beneficiaries of their rights.

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<sup>1</sup> The Right to Education Act, 2009.

<sup>2</sup> National Statistical Organisation, "Household social consumption" (2017-18).

<sup>3</sup> A Ragu Raman, Times of India, "Tamil Nadu orders to reimburse only 75% of RTE fees to private schools for 2020-21" <https://timesofindia.indiatimes.com/city/chennai/tamil-nadu-orders-to-reimburse-only-75-of-rte-fees-to-private-schools-for-2020-21/articleshow/87987676.cms> (Nov 29, 2021).

<sup>4</sup> Sanchayan Bhattacharjee, Observer Research Foundation "Ten Years of RTE Act: Revisiting Achievements and Examining Gaps" (Aug 2019).



The government needs to expedite the efforts to ensure a time-bound reimbursement model for private schools. It has been recommended that an online portal be set up to track and check its status. This portal may even be used for the updating attendance and the grades of the students, which may facilitate the identification of dropouts.<sup>5</sup>

A dedicated helpline number must be in place to address the queries of students or their parents who are in the enrolment process under the Act. A mechanism needs to be set in place to ensure timely admissions, avoiding delays that can prejudicially affect their academics. One way of meticulous monitoring of the RTE Act's implementation is the conduct of regular social audits.<sup>6</sup> It is also important to maintain district-wise data on admissions on the state level as well as the records of children up to the age of 14 years within the local jurisdiction. Furthermore, there is a need to relax the strict requirements for documents, especially in the interests of migrant workers. Relevant verification of the details of the student can also be made by using volunteers for income and address verification.

To abridge the digital divide, it has been recommended that children admitted under the RTE Act must be provided with either free or affordable devices, so that they can avail the benefits of online resources as well. The Report believes that there is a long way to go to provide free and accessible education to all.

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<sup>5</sup>Forum for People's Collective Efforts & Anr. v. The State of West Bengal & Anr., Writ Petition (C) No. 116 of 2019.

<sup>6</sup> Oxfam India, "10 things you need to know about the RTE Act" <https://www.oxfamindia.org/blog/10-things-rte> (Dec 4, 2018).



## CHAPTER I: RTE THROUGH THE LENS OF TIME

The RTE Act<sup>7</sup> enacted on 4 August 2009, describes the modalities of the importance of free and compulsory education for children between 6 and 14 years in India under Article 21A<sup>8</sup> of the Indian Constitution. India became one of 135 countries to make education a fundamental right of every child when the RTE Act came into force on 1 April 2010.<sup>9</sup>

With respect to RTE Act, World Bank's education specialist for India, Sam Carlson, has observed: *“The RTE Act is the first legislation in the world that puts the responsibility of ensuring enrolment, attendance and completion on the Government. It is the parents' responsibility to send the children to schools in the US and other countries.”* The RTE act imposes a legal obligation upon private unaided schools to reserve 25% of the seats in the entry level class for children from disadvantaged categories.

The intention behind RTE is to ensure that the states as well as other stakeholders in the society share the obligation of realizing the right to free and compulsory elementary education. The increased prevalence of unaided private schools makes them a natural stakeholder to the fulfilment of this obligation. The mandate should also be understood as an effort to arrest the increasing segregation in Indian schooling and promote an environment of knowledge sharing between different sections of society to encourage the narrowing of current societal divisions. The RTE Act also provides that no child shall be held back, expelled, or required to pass a board examination until the completion of elementary education<sup>10</sup>. However, the implementation of this very important provision has witnessed various practical difficulties in India. The aim of this Report is to inform the readers about various difficulties encountered while invoking this provision in different states.

The study uses DISE data, as it is considered to be the most comprehensive education data set currently available to provide a snapshot of the implementation of the provisions in each state. However, an important caveat that needs to be highlighted is that there is a fair amount of inconsistency between the DISE data and the data available in the Sarva Siksha Abhiyan [“SSA”] website, state websites, and even those reported as response to RTI queries that we had filed. These alternative numbers show large differences in the data as compared to each other and as

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<sup>7</sup> The Right to Education Act, 2009.

<sup>8</sup> Art 21A, The Constitution of India, 1950.

<sup>9</sup> Gorav Sharma, The Times of India *“What is Right to Education Act (RTE Act)?”* <https://timesofindia.indiatimes.com/readersblog/igoravsharma/what-is-right-to-education-act-rte-act-32034/> (May 15, 2021).

<sup>10</sup> The Right to Education Bill, 2008.



compared to DISE. This points to the necessity of having more reliable data collection and management systems.

The research methodology followed for the purpose of completion of this project is doctrinal in nature. Theoretical research has thus been carried out involving analysis of the ground realities of the implementation of the RTE act in different states and deducing the problems faced in each state through rational deduction. For the successful completion of this study, data has been gathered from secondary sources such as government websites in order to gain a holistic view of the topic.

The Report has identified many issues prevailing in the country regarding the right to education. India faces a huge digital gap due to which access to education and admissions to school has become extremely difficult. This has made the implementation of the RTE provisions extremely difficult. Moreover, lack of awareness and non-compliance by private schools have further added to the problem. The Report has likewise elaborated on how there are different criteria in different states for the child to take benefit of this provision which makes it confusing and vague. The provision mandating a school in a radius of about 1-2 km is problematic in certain areas. Moreover, the income criteria in states is also very different from each other.

The Report suggests changes which could address these problems. There should be uniform criteria and rules at the national level so as to remove any vagueness and confusion regarding the implementation aspect. Measures should also be taken to ensure that the digital divide is reduced to least possible extent. The Report has found that the income criteria provided by the states are outdated and thus, there is a need to renew the same. The Report furthermore suggests organising awareness campaigns and ensuring strict action against private schools for better implementation of the provisions of the Right to Education.

### **JOURNEY OF RTE**

India inherited an educational system which was not only quantitatively inadequate but was also marked by strong gender and regional disparities, at the time of independence. Only 1 child out of 3 had been enrolled in primary school. The Right to Education was debated in the Constituent Assembly. The Sub-Committee on Fundamental Rights included the right to primary education as a fundamental right. However, the Advisory Committee of the Constituent Assembly rejected this proposal and placed it in the category of Directive Principles of State Policy. In 1950, universal education for all children of age group 6-14 became a constitutional provision by Article 45 of the



Directive Principles of State Policy in the Constitution.<sup>11</sup> The special consideration of the economic and educational interests of the weaker sections of the country also became a constitutional obligation.<sup>12</sup>

With the Constitution (Eighty-Sixth) Amendment Act on 12th December 2002, Article 21A was amended to introduce Right to Education as a fundamental right.<sup>13</sup> The rough draft of the Right to Education Bill, 2005, which was to give effect to the Constitution (Eighty-Sixth) Amendment Act, received much opposition due to the mandatory provision to provide 25% reservation in private schools for disadvantaged children.<sup>14</sup> The RTE Act was eventually given force on 1<sup>st</sup> April 2010 and the central government agreed to share the funding for implementing the law in the ratio of 65:35 between the centre and the states, and in a ratio of 90:10 for the north-eastern states.<sup>15</sup> However, in mid-2010, the Centre agreed to raise its share to 68%. Presently, the ratio of the financial burden between the centre and the state is 55:45. Moreover, the central government had approved Rs. 15,000 crores for the implementation of the RTE Act for the year 2010-2011.

Section 3 of the RTE Act states that every child of the age of 6 to 14 years shall have a right to free and compulsory education in a neighbourhood school till the completion of his or her elementary education. Further, no child shall be liable to pay any kind of fee, charges or expenses which may prevent him or her from pursuing and completing elementary education.<sup>16</sup> Some of the salient features of the RTE Act are as follows –

- **SPECIAL PROVISIONS FOR CHILDREN NOT ADMITTED TO, OR WHO HAVE NOT COMPLETED, ELEMENTARY EDUCATION**

Section 4 provides that if a child above 6 years of age has not been admitted in any school or though admitted, could not complete his or her elementary education, then, he or she shall be admitted in a class appropriate to his or her age.<sup>17</sup>

In such cases, where a child is directly admitted in a class appropriate to his or her age, then, he or she shall, in order to be at par with others, have a right to receive special training, in such manner,

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<sup>11</sup> Art 45, The Constitution of India, 1950.

<sup>12</sup> Id.

<sup>13</sup> Right to Education, “Chronology” [www.righttoeducation.in/know-your-rte/chronology](http://www.righttoeducation.in/know-your-rte/chronology).

<sup>14</sup> Id.

<sup>15</sup> Supra note 13.

<sup>16</sup> S. 3, The Right to Education Act, 2009.

<sup>17</sup> S. 4, The Right to Education Act, 2009.



and within such time limits, as may be prescribed. Such a child shall also be entitled to free education till completion of elementary education even after 14 years.<sup>18</sup>

### ▪ DUTIES OF THE GOVERNMENT

Section 6 makes it the duty of the appropriate Government and the local authority to establish, within the limits of the neighbourhood, a school, where it is not so established, within a period of 3 years from the commencement of this Act.<sup>19</sup>

As per Section 8, the appropriate Government shall provide free and compulsory elementary education to every child.<sup>20</sup>

- Further, it shall ensure the availability of a neighbourhood school as specified in section 6.
- It shall also ensure that the child belonging to weaker section and the child belonging to disadvantaged group are not discriminated against and prevented from pursuing and completing elementary education on any grounds.
- It shall provide infrastructure including school building, teaching staff and learning equipment
- It shall provide special training facility specified in section 4.
- It shall ensure and monitor admission, attendance and completion of elementary education by every child.
- It shall ensure good quality elementary education conforming to the standards and norms specified in the Schedule.
- It shall ensure timely prescription of curriculum and courses of study for elementary education, and provide training facility for teachers.

### ▪ EVERY SCHOOL SHALL BE RESPONSIBLE FOR FREE AND COMPULSORY EDUCATION

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<sup>18</sup> Id.

<sup>19</sup> S. 6, The Right to Education Act, 2009.

<sup>20</sup> S. 8, The Right to Education Act, 2009.



As per Section 12 of the Act, even private schools shall admit at least 25% of the strength of each class, children belonging to weaker section and disadvantaged group in the neighbourhood and provide free and compulsory elementary education to them.<sup>21</sup>

### ▪ PROHIBITION OF CAPITATION FEE AND SCREENING PROCEDURE FOR ADMISSION

As per Section 13, there is a complete ban on charging capitation fees and subjecting the child or his or her parents to any screening procedure. Any school found contravening this would be punished with a fine as prescribed under the Act.<sup>22</sup>

### ▪ PROHIBITION OF HOLDING BACK EXPULSION

Section 16 provides that no child admitted to a school shall be held back in any class or expelled from school till the completion of elementary education.<sup>23</sup>

Therefore, the RTE Act is one of the major tools for promoting education in the country. Effective implementation of the RTE Act could transform the social environment of India. It would help in the overall development of the nation along with a value laden future working population.

## JUDICIAL PRECEDENTS: LIGHTHOUSE IN THE JOURNEY OF RTE

Education is one of the most powerful tools for the development of a country. The Indian judiciary has acknowledged the importance of education in various instances. Previously, the Right to Education was not recognised as a justiciable right since it fell under the Directive Principles of State Policy.

The Indian judiciary discussed the right to education under the Indian Constitution firstly in the case of *Miss Mohini Jain v. State of Karnataka and Ors*<sup>24</sup>. In this case, the Supreme Court discussed whether the Constitution of India guarantees a right to education to all its citizens. The Court held that while the Right to Education has not been guaranteed explicitly as a Fundamental Right under the Constitution, the Preamble of the Constitution and its Directive Principles specifically, article 14 requires the State to attempt at implementing the right to education within its economic capacity which clearly spells out the framers' intention for the State to provide education for its citizens.

The Court reasoned that this creates a constitutional right to education because education is essential for the fulfilment of the fundamental rights of life and dignity. The Court creates the

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<sup>21</sup> S. 12, The Right to Education Act, 2009.

<sup>22</sup> S. 13, The Right to Education Act, 2009.

<sup>23</sup> S. 16, The Right to Education Act, 2009.

<sup>24</sup> *Miss Mohini Jain v. State of Karnataka and Ors*, 1992 AIR 1858; 1992 SCC (3) 666; 1992 SCR (3) 658.



nexus between the right to education and the right to life, with the reasoning that to sustain life one requires the fulfilment of all the enabling rights which constitute a life of dignity. In doing this, the Court pointed to numerous cases which held that the right to life encompassed not only life and limb, but also dignity and the necessities of life, such as nutrition, clothing shelter, and literacy. The Court explains that without dignity, the right to life is not fulfilled.

The Court opined that one is able to obtain a dignified life in India only through education, which would make education fundamental to the right to life, and therefore, an obligation of the State to fulfil. Consequently, the Right to Education was recognized as a fundamental right in the case of *Unni Krishnan J.P & ors v. State of Andhra Pradesh & Ors.*<sup>25</sup> The hon'ble Supreme Court broadened the scope of article 21 in this case to include the Right to Education.

The Delhi High Court followed this judgement in *University of Delhi & Anr. v. Anand Vardhan Chanda*<sup>26</sup>. In this case, decided by a division bench of the Delhi High Court, the right to education was read to be a part of article 21 read with article 19 (1)(a), (b) and (c) of the Indian Constitution. Hon'ble V.S Deshpande J. observed that the only difference in the nature of the rights under part III and part IV of the constitution is that the former are natural rights, those which men always enjoyed and which do not require certain socio-economic conditions to be created by the state before they can be enforced as is the case with the latter which are man-made rights. Thus, when the facilities for education have been provided by the state, this difference ceases to exist and the right to education becomes a fundamental right.

In 2010, the RTE Act came into force which established the right to education as a fundamental right. However, the Court faced various petitions challenging the constitutional validity of the act. For instance, in the case of *Society for Unaided Private Schools of Rajasthan v. Union of India & Another*<sup>27</sup>, the main issue before the court was whether mandating private schools to meet mandatory quotas violates article 19(g) of the Constitution, which guarantees the right to practice any profession or occupation, and whether requiring minority private schools to meet quotas violates article 30 of the Constitution, which protects the right of minorities to establish and administer educational institutions.

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<sup>25</sup> Unni Krishnan J.P & Ors v. State of Andhra Pradesh & Ors, (1993) 1 SCC 645.

<sup>26</sup> University of Delhi & Anr. v. Anand Vardhan Chanda, (2000)10 SCC 648.

<sup>27</sup> Society for Unaided Private Schools of Rajasthan v. Union of India & Another, Writ Petition (C) No. 95 of 2010 (2012) 6 SCC.



The Court affirmed that the authority of the State to fulfil its obligations under the right to education can be extended to private, non-State actors, as long as the requirements are in public interest. The Supreme Court affirmed the legality of section 12 of the RTE Act, which mandates that all schools, whether public or private, admit a quarter of their students from disadvantaged backgrounds. However, the Court concluded that the RTE Act could not impose a 25% quota on private minority schools, since this would be a breach of minority groups' freedom to establish private schools under the Indian Constitution. Therefore, the 2009 Act was deemed to be constitutional and enforceable against private schools.

In 2014, there was a second constitutional challenge to the RTE Act before a 5-judge bench of the Supreme Court in *Pramati Educational & Cultural Trust & Ors. v. Union of India & Ors*<sup>28</sup> by private schools. The grounds for challenge this time were that article 15(5) and 21A of the Constitution and the RTE Act violated the basic structure of the constitution and the right to equality by making an unreasonable distinction between aided and unaided minority schools.

The constitutional bench of the Supreme Court once again upheld the constitutionality of the RTE Act. The Court held that the objectives of articles 15(5)<sup>29</sup> and 21A<sup>30</sup> were to provide equal opportunities for students from weaker sections of society and would not violate the private schools' rights under article 19(1)(g)<sup>31</sup>. Unfortunately, the Court carved out yet another exception and held that all minority schools, even aided ones would be exempted from coverage of the RTE Act.

Issues also involved regarding the scope of the RTE Act. For example, in the case of *The Daly College v. State of Madhya Pradesh And Ors*<sup>32</sup>, the main issue was whether the provisions of the RTE Act that necessitate schools to allocate 25% of seats to the students of weaker sections of society, would also be applicable to preschool classes. It was held by the court that by virtue of the proviso to section 12, the provision contained in section 12(1)(c) shall apply to all admissions, even to pre-school classes irrespective of the name with which it is called.

It was further observed that though the scheme of the RTE Act is to provide full-time elementary education, the extent of the school's responsibility for free and compulsory education as contemplated under section 12 is equally applicable to pre-school classes defined under section

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<sup>28</sup> *Pramati Educational & Cultural Trust & Ors. v. Union of India & Ors.*, (2014) 8 SCC 1.

<sup>29</sup> Art 15(5), The Constitution of India, 1950.

<sup>30</sup> Art 21A, The Constitution of India, 1950.

<sup>31</sup> Art 19(1)(g), The Constitution of India, 1950.

<sup>32</sup> *The Daly College v. State of Madhya Pradesh And Ors*, 2015 (2) JILJ 26, 2015 (3) MPLJ 280.



2(n) of the RTE Act. It was further held that the implementation of section 12(1)(c) of the RTE Act is not dependent upon the establishment of schools by the State under section 6 of the RTE Act and there is no time limit prescribed up to which the provisions of section 12 of the RTE Act are to operate.

Moreover, in the case of *Sindhi High School and Ors. v. State of Karnataka and Ors*<sup>33</sup>, the main issue was whether the minority educational institutions, which do not possess the minority status certificate, can be made subject to the implementation of the RTE Act, 2009 and provide admission for 25% of their total strength to children recommended by the respective governments.

It was held that if the petitioner institution is in possession of the minority status certificate issued by the concerned authorities, then the said petitioner shall not be insisted on the admission of 25% of students that are recommended by the Government under RTE Act. But in other circumstances, they must comply.

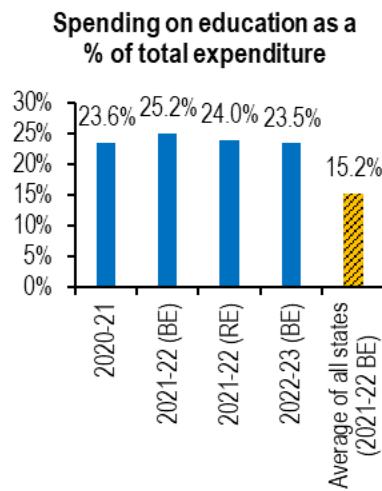
Therefore, the Indian judiciary has tried to strike a balance between the Right to Education and the rights of the minorities to establish and administer educational institutions under article 30 of the Constitution. The Indian judiciary has played a dominant role in the recognition of the Right to Education as a fundamental right. Moreover, it has also ensured the constitutional validity of RTE Act thereby ensuring the effectivity of the Right to Education. It has been at the forefront in furthering the Right to Education in India.

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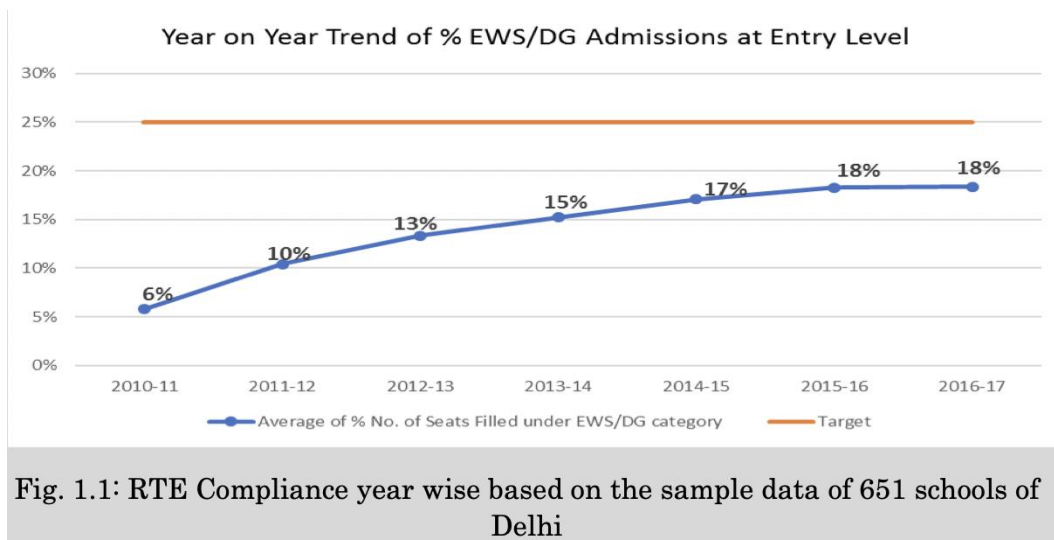
<sup>33</sup> *Sindhi High School and Ors. v. State of Karnataka and Ors.*, MANU/KA/0099/2017.

## CHAPTER II: STUMBLING BLOCKS IN THE SUCCESS OF RTE

With the implementation of RTE Act, India got a legislative framework for achieving its aspiration of ‘education for all’. Significant progress has been achieved on account of machinery envisioned by the RTE across various states. For instance, Delhi has shown a positive increase in its budgetary spending on education institutions. Delhi government has allocated a budget of ₹16,278 crore for the education sector for the year 2022-2023. Therefore, with regard to inadequate fund allocation, Delhi has performed comparatively well to its counterparts.



**Source:** PRS India, Delhi Budget Analysis 2020-21.



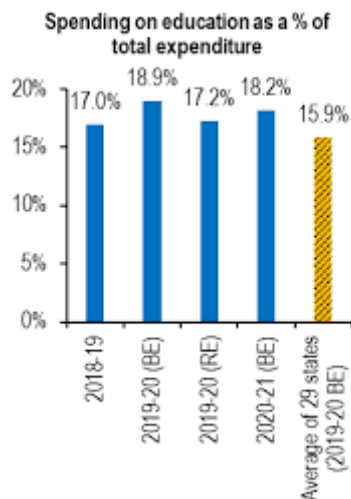
**Fig. 1.1:** RTE Compliance year wise based on the sample data of 651 schools of Delhi

**Source:** Resource requirement for RTE

However, in states such as Maharashtra, the percentage of the budget that the State spends on its education segment has fluctuated over the years. It was Rs. 74,830 crores in the 2021-2022 budget



which was a 9% rise from the budget of the year before<sup>34</sup>, Maharashtra has allocated 17.2% of its total expenditure for education in 2021-22.<sup>35</sup> This is higher than the average allocation 15.8% for education by all states.<sup>36</sup>



**Source:** PRS India, Maharashtra Budget Analysis 2021-2022

In the state of Gujarat, according to a Times of India report dated April 24, 2022, 1.85 lakh forms were filled for a total of 71,154 reserved seats, out of which around 11,000 seats remained vacant after the second round. When contrasted with the data available for the year 2014-15, wherein private schools only managed to fill 6,762 of the 96,870 reserved seats in the state of Gujarat, the number has significantly improved.

However, despite more than a decade of the RTE Act coming into force, more than half of the States/ UTs have not implemented the Act in its true spirit. The following challenges have been witnessed that act as barriers in the implementation of the Act:

### 1. PROVISIONS RELATING TO 25% RESERVATION IN ADMISSION TO PRIVATE SCHOOLS

In Andhra Pradesh, the State rules provide 'reservation within reservation' by further classifying children. The data according to DISE suggests that Andhra Pradesh has a seat fill rate of less than

<sup>34</sup> PRS India, "Maharashtra Budget Analysis 2021-22" <https://prsindia.org/budgets/states/maharashtra-budget-analysis-2021-22>.

<sup>35</sup> Id.

<sup>36</sup> Supra note 34.



5% (SSA: 0.006%).<sup>37</sup> Proportion of students in private unaided schools at elementary level stood at 42% in Andhra Pradesh.<sup>38</sup>

Under the 25% reservation clause in the RTE Act, Uttar Pradesh has one of the lowest enrolment rates for economically weaker section and disadvantaged category children. Even with low enrolment rates, the state has continued to put on regressive notifications which hinders the right to education for children belonging to economically weaker and disadvantaged groups. These notifications not only fail to satisfy the equality principle under the Indian Constitution but are also beyond the jurisdiction of the parent statute. Out of such arbitrary notifications two of them relevant to reservation policy are as follows: –

- The 25% reservation clause shall be applicable only in urban wards and not in rural wards.
- Those wards have to be identified where no government/board/aided schools exist and 25% reservation clause shall be applicable only in private unaided schools of such identified wards.<sup>39</sup> Moreover, the government order also states that the students can be arbitrarily rejected on grounds of age.

A report by Indian Institute of Management, Ahmedabad, Central Square Foundation, Accountability Initiative and Vidhi Centre for Legal Policy (2015) estimates that the 25% reservation clause in UP would cover 6,37,149 seats, out of which 5,65,406 seats are in the rural areas (National University of Educational Planning and Administration 2014).<sup>40</sup> Until June 2015, only 3061 admissions were approved by the Basic Education officers in the state under the 25% reservation clause. Further, according to the data of DISE<sup>41</sup>, Uttar Pradesh have a seat fill rate of less than 1% and according to the report of Sarva Shiksha Abhiyan of 2013-14, it is 0%.<sup>42</sup>

Moreover, in Punjab, parents or guardians are required to apply for admission against 25% seats in private schools if children of such background are unable to get admission in government or aided schools.<sup>43</sup> According to section 7(4) of the state rules, if children from economically weaker

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<sup>37</sup> Education for all in India, “Recent UDISE Data & Analysis” <https://educationforallindia.com/recent-udise-data-analysis/>.

<sup>38</sup> Id.

<sup>39</sup> Supra note 37.

<sup>40</sup> RTE Resource Centre at IIM Ahmedabad, Central Square Foundation, Accountability Initiative (Centre for Policy Research) & Vidhi Centre for Legal Policy, “State of the Nation: RTE Section 12(1)(c) Report (Provisional)” [https://cprindia.org/wp-content/uploads/2021/12/State-of-the-Nation-RTE-Section121c\\_2015-Provisional.pdf](https://cprindia.org/wp-content/uploads/2021/12/State-of-the-Nation-RTE-Section121c_2015-Provisional.pdf).

<sup>41</sup> Supra note 37.

<sup>42</sup> Supra note 37.

<sup>43</sup> Preeti Mehra, The Hindu, “States not following RTE Act provisions: NCPR report” <https://www.thehindu.com/news/national/states-not-following-central-rte-act-provisions-ncpr-report/article5578849.ece>.



and disadvantaged sections are unable to get admission in government-run schools due to non-availability of seats or any other reason, then their parents or guardian may apply to get admission in private schools.

The Director of Public Instructions (elementary education), Dr Inderjeet Singh, accepted that children from EWS and disadvantaged sections had not been admitted in private unaided schools in the state. Citing the state rules, he said that “*the children are entitled to admission in neighbourhood private schools under the EWS quota only if they are not admitted in government schools*”.<sup>44</sup> Moreover, to this the director clarifies it by saying that “*the RTE Act mandated 25% reservation for children from economically weaker families at neighbourhood private schools, but if students were getting free and compulsory education at government neighbourhood schools then “why would they go to private schools?”*”<sup>45</sup>

In Punjab, the report submitted by the district education office (elementary) stated that 9,74,024 students from class I to class VIII enrolled in private unaided schools out of which the number of reserved seats were 74,464, 83,663 and 85,378 (total 2,43,505) in 2012-13, 2013-14 and 2014-15, respectively. But not a single seat was availed by any of the EWS student.<sup>46</sup> As children from the EWS category did not take the 2,43,505 seats, they were filled by other students.<sup>47</sup>

Provisions such as section 7(4) of the state rules, defeats the purpose as it asks the child’s parents to approach the government schools first and only when they do not get a seat there, the window for private schools would open. It further defeats the purpose of neighbourhood school concept<sup>48</sup> as supposedly a child gets a seat in a government school which is far from his area rather than getting a seat in a private school which is within the 3 km radius.

In the State of Karnataka, the number of RTE seats in the state has come down from around 1.5 lakh to 17,718, thus, bringing down admissions by 92.7%.<sup>49</sup> As per the State’s official data, at the end of 2019, 42.93% schools have no playground, 42.64% schools have no ramps to facilitate

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<sup>44</sup> Harmandeep Singh, The Hindustan Times, “*In 10 years of RTE, no child admitted to private schools in Punjab under EWS quota*” <https://www.hindustantimes.com/cities/in-10-years-of-rte-no-child-admitted-to-private-schools-in-punjab-under-ews-quota/story-nRQH1UXmdf4tHrhxj1GthL.html>.

<sup>45</sup> Id.

<sup>46</sup> Deepa Sharma Sood, The Hindustan Times, “*HT Spotlight: EWS student fail to get admission in Ludhiana private schools*” <https://www.hindustantimes.com/punjab/ht-spotlight-ews-students-fail-to-get-admission-in-ludhiana-private-schools/story-rV5vZfwLpLzvEKMNi9Un1O.html>.

<sup>47</sup> Payal Dhawan, Times of India, “*Pvt schools’ scoreboard: RTE seats:2.4L, Taken:0*” <https://timesofindia.indiatimes.com/city/ludhiana/Pvt-schools-scoreboard-RTE-seats-2-4L-Taken-0/articleshow/47597775.cms> (June 9, 2015).

<sup>48</sup> Rule 6, Right of Children to Free and Compulsory Education Rules, 2010 (RTE Rules).

<sup>49</sup> Shailey Tucker & Gayatri Sabgal, “*25% Reservation under the RTE: Unpacking the Rules in PAISA States*” [https://righttoeducation.in/sites/default/files/policy\\_brief\\_on\\_rte\\_reservation.pdf](https://righttoeducation.in/sites/default/files/policy_brief_on_rte_reservation.pdf).



access to children with disabilities, 69.91% schools have no library, and 19.72% schools have no compound wall.<sup>50</sup>

### 2. FEE REIMBURSEMENT ISSUE

According to the RTE Act, up to 25% of the students are to be admitted in every recognised private school with their fees will be reimbursed by the state. The schools are to be reimbursed by the state governments at the rate of ‘per child expenditure’ incurred in government schools or the school fees, whichever is lower. If implemented successfully, the mandate could touch the lives of nearly 20 million children<sup>51</sup> from EWS and disadvantaged categories.

But in many instances, schools and parents are unclear if the fee waiver applies only to the school tuition or includes expenses such as books, stationery, and uniform. On the other hand, private schools also face the problem of delay in receipt of reimbursement from the government.<sup>52</sup> Moreover, analysis of budget documents reveals that there is discrepancy between the notified per student reimbursement costs and actual per student expenditure by government as estimated by the researchers. Sources of this discrepancy are difficult to locate due to lack of clarity on how these notified costs are derived in the first place.

Talking particularly about some states such as Rajasthan, where the state has estimated Rs 350 crore as reimbursement against the RTE admissions to the private schools for 8 lakh students it has admitted since 2012. Till March 2020, they have allocated Rs. 182 crores of the total as part of the first instalment, while the rest amount is pending till date.<sup>53</sup> The chronic delay derails everything like salaries and variable costs on power and maintenance. According to the government, these delays happen due to insufficiency of documentation provided by the schools.

Though Rajasthan has been in the top list of rates of filling seats but due to discrepancies in fee reimbursement the admission process is getting hindered, making a downfall in the rate of filling seats since past year.

Moreover, in actual experience in some states such as Tamil Nadu, complaints have been made that the fee reimbursement process is prone to corruption and delays, without any penalty or

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<sup>50</sup> Id.

<sup>51</sup> Supra note 37.

<sup>52</sup> The Hindu, “Only 1 pc schools implemented RTE Act in A.P.” <https://www.thehindu.com/news/cities/Hyderabad/less-than-one-per-cent-schools-implemented-rte-act-in-combined-ap/article7032130.ece>.

<sup>53</sup> Times of India, “None of 29,800 private schools in state reimbursed under RTE Act” <https://timesofindia.indiatimes.com/city/jaipur/none-of-29800-private-schools-in-state-reimbursed-under-rte-act/articleshow/76863687.cms> (09.07.2020).



compensation. There is also widespread apprehension that by accepting government fees reimbursement for poor children in private schools, the latter will fall within the purview of the Right to Information Act, 2005, requiring private school managements to make financial disclosures leading to extortion and blackmail, especially since most private schools are obliged to circumvent at least some of the plethora of often contradictory government rules and regulations.<sup>54</sup> Hence, it could be seen that the reimbursement process has not taken place from government's side so eventually, private schools are also at a complete loss.

The state government is expected to reimburse schools for books, fees, and uniforms. But every year, the issue of non-reimbursement of RTE funds to private schools (assured under the RTE Act) resurfaces during admissions. Private schools have been demanding the pending RTE reimbursement from the state government and have been denying RTE admissions claiming lack of funds.<sup>55</sup> Therefore, due to lack of timely reimbursements, it has affected the willingness of the unaided schools to admit students and implement this provision.

Furthermore, there are situations where the private schools make bogus entries of students to claim the fees of students who have actually not been admitted to the school. One such case was witnessed in Bhopal, Madhya Pradesh where the Economic Offence Wing has drawn up a list of 83 private schools involving in the fund scam and fraud in RTE scheme. A financial fraud of over Rs.19 crore have been made.<sup>56</sup> Therefore, this process of fee reimbursement which is improper in nature and being misused by the private schools also becomes a hurdle in getting children admitted to the schools.

Thus, the fundamental liberty of seeking primary education of children must be safeguarded in all possible situations by the active role of state.

### 3. PROBLEMS RELEVANT TO THE SCHOOL MANAGEMENT COMMITTEES

Section 21 of the RTE Act envisages the concept of School Management Committee [“SMCs”]. The intent of the state behind introducing these SMCs is that it views parental involvement is a crucial factor in achieving the improved learning of children.<sup>57</sup> SMCs comprises mostly parents which is responsible for planning and managing the operations of government schools. Thus, in

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<sup>54</sup> Dr. Geeta Kingdon, “RTE Act lunacies and lacunae” <http://www.educationworld.in/rte-act-lunacies-and-lacunae/>

<sup>55</sup> Supra note 53.

<sup>56</sup> Times of India, “Grant fraud: EOW zeroes in on 83 schools as suspects” <https://timesofindia.indiatimes.com/city/bhopal/grant-fraud-cow-zeroes-in-on-83-schools-as-suspect/articleshow/62892371.cms> (13.02.2018).

<sup>57</sup> S. 21, The Right to Education Act, 2009.



order to enhance the accountability of government schools, members of SMCs are required to volunteer their time and effort.<sup>58</sup> These The role of SMCs is to formulate the policies of the school and help them in planning for future their endeavours. The envisaged role of SMCs was to act as the backbone of the RTE, however, this scheme has not been realised in its full potential.

The appointment of the members of the SMC's is not particularly specified. The provisions of the Act are silent on the qualification of the members of the SMCs. Moreover, no criteria for appointing or electing such members has been laid down. The criteria differs for each state leading to ambiguity in selection of these members. Consequently, different states are following different patterns. For instance –

- The Andhra Pradesh RTE rules provide that the Sarpanch shall be the chairperson of the SMC in rural areas and the Councillor/Corporator shall be the chairperson of the SMC in Municipal areas.<sup>59</sup>
- The state of Assam has authorised a government official — the District Education Officer — to be involved in the election of the chairperson and vice chairperson. The criteria such as educational qualification and aptitude are the factors to be considered while electing for the said post.<sup>60</sup>
- The RTE rules of state of Gujarat provide another contrary provision of putting a member from the management or the Trust of the school in the SMC.<sup>61</sup>

The concern with the SMCs is the lack of regular meetings. According to the provisions of RTE Act, meetings should be organized bi-monthly but in various reports and surveys<sup>62</sup>, it has been observed that no such meetings are taking place. When the meetings take place, they are held without any agenda. Moreover, some of the members of SMC of the schools were never apprised about their roles and responsibilities. Consequently, the whole purpose of SMCs is being defeated.

The members of the SMC are also required to help and advice the school administrators in the preparation of the School Development Plan (SDP) which is a strategic improvement plan that

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<sup>58</sup>M.M. Roy & Meena Sehrawat, International Journal of Advance Research and Innovative Ideas in Education “A study of school management committee: challenges and solutions” [http://ijariie.com/AdminUploadPdf/A\\_STUDY\\_OF\\_SCHOOL\\_MANAGEMENT\\_COMMITTEE\\_\\_CHALLENGES\\_AND\\_SOLUTIONS\\_ijariie12596.pdf](http://ijariie.com/AdminUploadPdf/A_STUDY_OF_SCHOOL_MANAGEMENT_COMMITTEE__CHALLENGES_AND_SOLUTIONS_ijariie12596.pdf) (2020).

<sup>59</sup> Preeti Mehra, “States not following Central TE Act provisions: NCPR report” <http://www.thehindu.com/news/national/states-not-following-central-rte-act-provisions-ncpr-report/article5578849.ece>

<sup>60</sup> Id.

<sup>61</sup> Supra note 59.

<sup>62</sup> Supra note 58.



forms the basis of the grants and support to be made by the appropriate government or local authorities. However, it has been observed that majority of the members were not even aware of the concept of SDP. Moreover, SMCs have no say in any financial matters when they should have been consulted in monetary matters. Lastly, there exists a lack of cooperation from private schools as they are unwilling to entertain the SMCs and they do not disclose any plans and relevant data with them.

#### 4. LACKADAISICAL APPROACH OF SCHOOL MANAGEMENT COMMITTEES

The 'Right to Free and Compulsory Education Rules, 2010' mandates that there shall be a School Management Committee ["**SMC**"] in every school except unaided school. The SMC is mandated to monitor the functioning of school and utilisation of funds and to make the 'School Development Plan'. Therefore, the SMC holds an indispensable position in terms of making the RTE Act a success.

However, the report of the Auditor and Comptroller General<sup>63</sup>, shows a disheartening reality. The State Advisory Council of 11 did not hold even a single meeting.<sup>64</sup> The CAG report has revealed that the SMCs in Goa and West Bengal have failed to develop the 'School Development Plan', violating the provisions under section 22 of RTE Act and section 14 of the West Bengal RTE Rules in the case of West Bengal. In Assam, the SMCs are mandated by rules to meet once in every month but in 73% schools, the SMC did not meet once in every month. In West Bengal, CAG Report observed that out of 90 schools audited by the CAG in West Bengal, 79 had not constituted the SMC as mandated under section 13 of the West Bengal RTE Rules and section 21 of the RTE Act. In Kerala, around 41% of schools did not even constitute SMCs. This problem of lackadaisical approach of SMC was faced by *West Bengal, Andhra Pradesh and Assam*.

#### 5. ISSUES RELATING TO 'NEIGHBOURHOOD SCHOOL' CONCEPT

Sections 3(1), 6, 8(b), 9(b), 10 and especially 12(1)(c) of the RTE Act refer to the concept of 'Neighbourhood school'. It contemplates that the nearest primary/upper primary school should be within walking distance from the child's residence to ensure that the school is within safe and accessible distance. The RTE Act specifies the territorial limits of neighbourhood schools i.e., 1 km walking distance for a child at the primary level (class 1 to 5) and 3 km walking distance for

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<sup>63</sup>Comptroller and Auditor General of India, "Performance Audit on Implementation of The Right of Children to Free and Compulsory Education Act, 2009" [https://cag.gov.in/uploads/download\\_audit\\_report/2017/Report\\_No.5\\_of\\_2017\\_-\\_Performance\\_Audit\\_on\\_Implementation\\_of\\_the\\_Right\\_of\\_Children\\_to\\_Free\\_and\\_Compulsory\\_Education\\_Act,\\_2009\\_Government\\_of\\_Madhya\\_Pradesh.pdf](https://cag.gov.in/uploads/download_audit_report/2017/Report_No.5_of_2017_-_Performance_Audit_on_Implementation_of_the_Right_of_Children_to_Free_and_Compulsory_Education_Act,_2009_Government_of_Madhya_Pradesh.pdf).

<sup>64</sup> Id.



upper primary level (class 6 to 8)<sup>65</sup>. The original intent was to achieve this objective within 3 years of the implementation of the Act. This would have created a mammoth difference in implementation of RTE.

However, the aforementioned objective has not been achieved. The states have not followed a uniform distance requirement for neighbourhood school concept. For instance, under the Kerala Rules,<sup>66</sup> the limit may be reduced in places with difficult topography, places with risk of landslides, floods, and small hamlets or habitations where no school exists, this limit may be reduced and the state will make adequate arrangements for providing elementary education.<sup>67</sup>

Whereas, some states have also relaxed the requirement diluting the neighbourhood concept. As under the Karnataka rules,<sup>68</sup> the maximum distance for class 8 has been provided as a walking distance of 5 km while it is only 3 km in the Central rules. The states keep on modifying the provision relating to the concept of neighbourhood schools which defeats the purpose of the RTE Act, i.e., accessible education for all.

In some states such as Rajasthan<sup>69</sup> survey shows that many schools have been built in accordance with the neighbourhood clause. However, due to lack of students in such schools it causes unnecessary maintenance expense for the government, burdening the public exchequer. The lack of students in schools also causes irregularity and complacency of faculty members in discharge of their duties. Additionally, when the children are admitted through the lottery system, there have been multiple instances of children being allocated schools which are located too far from their place of residence. This effectively creates an accessibility barrier in the exercise of right to education. Therefore, this provision of neighbourhood schools has failed to achieve its vision.

The legislative intent behind formulating the RTE Act was to promote free and compulsory education for children between 6-14 years of age. However, various impediments, as has been delineated above, have made it difficult for the disadvantaged children to avail the benefits of this progressive legislation Act. Therefore, the gravity of the situation requires an immediate redressal of these problems for the effective implementation of the provisions of the RTE Act.

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<sup>65</sup> Gorav Sharma, The Times of India “*What is Right to Education Act (RTE Act)?*” <https://timesofindia.indiatimes.com/readersblog/igoravsharma/what-is-right-to-education-act-rte-act-32034/> (May 15, 2021).

<sup>66</sup> Kerala Right of Children to Free and Compulsory Education, 2011 [https://www.education.gov.in/hi/sites/upload\\_files/mhrd/files/upload\\_document/Kerala\\_RTE\\_rules\\_1.pdf](https://www.education.gov.in/hi/sites/upload_files/mhrd/files/upload_document/Kerala_RTE_rules_1.pdf).

<sup>67</sup> Id.

<sup>68</sup> Karnataka Right of Children to Free and Compulsory Education, 2012.

<sup>69</sup> LAAC Report



### CHAPTER III: OPERATIVE MECHANICS OF RTE ACROSS STATES

Section 12 (1)(c) of the RTE reserves 25% of the seats at entry level (pre-primary or grade 1) for children from economically Act weaker and disadvantaged sections of the society. The seats are provided in:

- i) private unaided schools (non-minority) and,
- ii) special category schools.

In India, out of 28 States and 8 Union Territories (UTs), only 1 Union Territory and 11 States initiated action as evidenced by them seeking funds from the Central Government for implementation of this mandate, as the rules allow them to. These States include Chhattisgarh, Uttarakhand, Delhi, Jharkhand, Karnataka, Maharashtra, Gujarat, Odisha, Rajasthan, Tamil Nadu, Madhya Pradesh, and Uttar Pradesh.<sup>70</sup> In which a number of states who have implemented this mandate, bring section 12(1)(c) in force through a centralised online admission process.

Most states have framed their own RTE Rules and guidelines providing the eligibility criteria and the admission procedure. The following is the tabular representation of these rules – eligibility criteria, documents required and neighbourhood criteria:

#### 1. ANDHRA PRADESH

	DISADVANTAGED GROUP	WEAKER SECTION GROUP
AGE CRITERIA	No age criteria mentioned	No age criteria mentioned
ELIGIBILITY CRITERIA	Under Section 3(4) Andhra Pradesh RTE Rules, <i>Child belonging to socially disadvantaged group</i> means a child belonging to any of the following categories. <sup>71</sup> <ol style="list-style-type: none"> <li>1. Child belonging to</li> <li>2. Scheduled caste,</li> <li>3. Scheduled tribe;</li> </ol>	Under section 3(5) of Andhra Pradesh RTE rules, Child belonging to Weaker Sections means a child belonging to Backward Classes, Minorities and includes OCs whose parents' income doesn't exceed Rs. 60,000/- Per annum. <sup>72</sup>

<sup>70</sup> Centre for Policy Research, "What is the implementation status of reservation for disadvantaged children in private unaided schools under RTE?" <https://www.cprindia.org/news/what-implementation-status-reservation-disadvantaged-children-private-unaided-schools-under-rte>.

<sup>71</sup> S. 3(4), Andhra Pradesh Right of Children to Free and Compulsory Education Rules, 2010.

<sup>72</sup> S. 3(5), Andhra Pradesh Right of Children to Free and Compulsory Education Rules, 2010.



	<ol style="list-style-type: none"> <li>4. Orphans;</li> <li>5. Migrant and street children;</li> <li>6. Children with special needs;</li> <li>7. HIV affected/infected children.</li> </ol>					
<p><b>DOCUMENTS REQUIRED</b></p>	<p style="text-align: center;"><b>ADDRESS PROOF/ PROOF OF RESIDENCE:</b></p> <p>Under section 9 of the Andhra Pradesh RTE Rules, documents may be taken for proof of Residence to decide whether the child belongs to the neighbourhood or not:<sup>73</sup></p> <ol style="list-style-type: none"> <li>a. Ration Card,</li> <li>b. Pattadar Pass Book,</li> <li>c. Electricity Bill,</li> <li>d. House-Tax Receipt or extract of the House -Tax register maintained by the Gram Panchayat/Municipality/ Corporation</li> <li>e. Telephone Bill if any or</li> <li>f. Any other document as specified by the Government from time to time.</li> </ol> <p><b>PROOF OF AGE:</b> Under section 11 of Andhra Pradesh RTE Rules, the following documents shall be deemed as proof of age of the child for the purpose of admission are:<sup>74</sup></p> <p>ospital/ Auxiliary Nurse and Midwife (ANM) register record  nganwadi record  Self-declaration by the parent or guardian.</p>					
<p><b>NEIGHBOURHOOD CRITERIA</b></p>	<p>Under Section 3(18) of Andhra Pradesh RTE Rules, the 'Neighbourhood area of a school' means the habitations in a safe walking distance of:<sup>75</sup></p> <table border="1" data-bbox="539 1715 1425 1823"> <tr> <td data-bbox="539 1715 948 1771"><b>CLASSES I TO V</b></td> <td data-bbox="951 1715 1425 1771">Within a distance of one kilometre</td> </tr> <tr> <td data-bbox="539 1776 948 1823"><b>CLASSES VI TO VIII</b></td> <td data-bbox="951 1776 1425 1823">Within a distance of three kilometres</td> </tr> </table>		<b>CLASSES I TO V</b>	Within a distance of one kilometre	<b>CLASSES VI TO VIII</b>	Within a distance of three kilometres
<b>CLASSES I TO V</b>	Within a distance of one kilometre					
<b>CLASSES VI TO VIII</b>	Within a distance of three kilometres					

<sup>73</sup> S. 9, Andhra Pradesh Right of Children to Free and Compulsory Education Rules, 2010.

<sup>74</sup> S. 11, Andhra Pradesh Right of Children to Free and Compulsory Education Rules, 2010.

<sup>75</sup> S. 3(11), Andhra Pradesh Right of Children to Free and Compulsory Education Rules, 2010.



2. ARUNACHAL PRADESH

	DISADVANTAGED GROUP	WEAKER SECTION GROUP				
<b>AGE CRITERIA</b>	No age criteria mentioned	No age criteria mentioned				
<b>ELIGIBILITY CRITERIA</b>	<p>Under Section 6(4)(h)<sup>76</sup> of the State RTE Rules, <i>Child belonging to socially disadvantaged group</i> means a child within the meaning of Section 2(d)<sup>77</sup> of the RTE Act, 2009.</p> <p>Child belonging to</p> <ol style="list-style-type: none"> <li>i. Scheduled caste,</li> <li>ii. Scheduled tribe;</li> <li>iii. Children with disability;</li> <li>iv. Other group having disadvantage owing to social, cultural, economic, geographical, linguistic, gender and or such other factor.</li> </ol>	<p>Under section 6(4)(g)<sup>78</sup> of the State RTE rules, Child belonging to Weaker Sections means a child within the meaning of Section 2(e)<sup>79</sup> of the RTE Act, 2009.</p> <ol style="list-style-type: none"> <li>i. Child of a parent or guardian whose annual income is lower than the minimum limit specified by the appropriate Government.</li> </ol>				
<b>NEIGHBOURHOOD CRITERIA</b>	<p>Under Section 4(1)<sup>80</sup> of the State RTE Rules, the ‘Neighbourhood area of a school’ means the habitations in a safe walking distance of:</p> <table border="1" style="width: 100%;"> <tbody> <tr> <td><b>CLASSES I TO V</b></td> <td>Within a distance of one kilometre</td> </tr> <tr> <td><b>CLASSES VI TO VIII</b></td> <td>Within a distance of three kilometres</td> </tr> </tbody> </table>		<b>CLASSES I TO V</b>	Within a distance of one kilometre	<b>CLASSES VI TO VIII</b>	Within a distance of three kilometres
<b>CLASSES I TO V</b>	Within a distance of one kilometre					
<b>CLASSES VI TO VIII</b>	Within a distance of three kilometres					
<b>DOCUMENTS REQUIRED</b>	<p><b>ADDRESS PROOF/ PROOF OF RESIDENCE:</b> The State RTE Rules does not mention about any requirement of Address Proof for the purpose of ascertaining the neighbourhood.</p>					

<sup>76</sup> S. 6(4)(h), Arunachal Pradesh Right of Children to Free and Compulsory Education Rules, 2009.

<sup>77</sup> S. 2(d), The Right to Education Act, 2009.

<sup>78</sup> S. 6(4)(g), Arunachal Pradesh Right of Children to Free and Compulsory Education Rules, 2009.

<sup>79</sup> S. 2(e), The Right to Education Act, 2009.

<sup>80</sup> S. 4(1), Arunachal Pradesh Right of Children to Free and Compulsory Education Rules, 2009.



	<p><b>PROOF OF AGE:</b> Under section 9<sup>81</sup> of the State RTE Rules, the following documents shall be deemed as proof of age of the child for the purpose of admission, in case the birth certificate is not available:</p> <ul style="list-style-type: none"><li>▪ Hospital/ Auxiliary Nurse and Midwife (ANM) register record</li><li>▪ Anganwadi record</li></ul> <p>Self-declaration by the parent or guardian</p>
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<sup>81</sup> S. 9, Arunachal Pradesh Right of Children to Free and Compulsory Education Rules, 2009.



3. ASSAM

	DISADVANTAGED GROUP	WEAKER SECTION GROUP				
<b>AGE CRITERIA</b>	No age criteria mentioned	No age criteria mentioned				
<b>ELIGIBILITY CRITERIA</b>	<p>Under Section 6(4)(h)<sup>82</sup> of the Assam RTE Rules, <i>Child belonging to socially disadvantaged group</i> means a child within the meaning of Section 2(d)<sup>83</sup> of the RTE Act, 2009.</p> <p>Child belonging to</p> <ol style="list-style-type: none"> <li>i. Scheduled caste,</li> <li>ii. Scheduled tribe;</li> <li>iii. Children with disability;</li> <li>iv. Other group having disadvantage owing to social, cultural, economic, geographical, linguistic, gender and or such other factor.</li> </ol>	<p>Under section 6(4)(g)<sup>84</sup> of the Assam RTE rules, Child belonging to Weaker Sections means a child within the meaning of Section 2(e)<sup>85</sup> of the RTE Act, 2009.</p> <ol style="list-style-type: none"> <li>i. Child of a parent or guardian whose annual income is lower than the minimum limit specified by the appropriate Government.</li> </ol>				
<b>NEIGHBOURHOOD CRITERIA:</b>	<p>Under Section 4(1)<sup>86</sup> of the Assam RTE Rules, the 'Neighbourhood area of a school' means the habitations in a safe walking distance of:</p> <table border="1" style="width: 100%;"> <tr> <td style="width: 50%;"><b>CLASSES I TO V</b></td> <td>Within a distance of one kilometre</td> </tr> <tr> <td><b>CLASSES VI TO VIII</b></td> <td>Within a distance of three kilometres</td> </tr> </table>		<b>CLASSES I TO V</b>	Within a distance of one kilometre	<b>CLASSES VI TO VIII</b>	Within a distance of three kilometres
<b>CLASSES I TO V</b>	Within a distance of one kilometre					
<b>CLASSES VI TO VIII</b>	Within a distance of three kilometres					
<b>DOCUMENTS REQUIRED</b>	<p><b>ADDRESS PROOF/ PROOF OF RESIDENCE:</b> The Assam RTE Rules does not mention about any requirement of Address Proof for the purpose of ascertaining the neighbourhood.</p>					

<sup>82</sup> S. 6(4)(h), The Assam Right of Children to Free and Compulsory Education Rules, 2011 <https://righttoeducation.in/sites/default/files/THE%20ASSAM%20RIGHT%20OF%20CHILDREN%20TO%20FREE%20AND%20COMPULSORY%20EDUCATION%20RULES,%202011.pdf>.

<sup>83</sup> S. 2(d), The Right to Education Act, 2009.

<sup>84</sup> S. 6(4)(g), The Assam Right of Children to Free and Compulsory Education Rules, 2011 <https://righttoeducation.in/sites/default/files/THE%20ASSAM%20RIGHT%20OF%20CHILDREN%20TO%20FREE%20AND%20COMPULSORY%20EDUCATION%20RULES,%202011.pdf>.

<sup>85</sup> S. 2(e), The Right to Education Act, 2009.

<sup>86</sup> S. 4(1), The Assam Right of Children to Free and Compulsory Education Rules, 2011 <https://righttoeducation.in/sites/default/files/THE%20ASSAM%20RIGHT%20OF%20CHILDREN%20TO%20FREE%20AND%20COMPULSORY%20EDUCATION%20RULES,%202011.pdf>.



**PROOF OF AGE:** Under section 9<sup>87</sup> of the State RTE Rules, the following documents shall be deemed as proof of age of the child for the purpose of admission are, in case birth certificate is not available:

- Anganwadi record register
- Horoscope
- Certificate issued by official village Headman (Gaon–Burha) of the village record register
- Affidavit by the Parent/Guardian declaring the age of the child.

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<sup>87</sup> S. 9, The Assam Right of Children to Free and Compulsory Education Rules, 2011 <https://righttoeducation.in/sites/default/files/THE%20ASSAM%20RIGHT%20OF%20CHILDREN%20TO%20FREE%20AND%20COMPULSORY%20EDUCATION%20RULES,%202011.pdf>.



4. BIHAR

	DISADVANTAGED GROUP	WEAKER SECTION GROUP			
<b>AGE CRITERIA</b>	The state has neither specified any appropriate age criteria, whether minimum or maximum for admission on entry level nor on the subsequent class levels.				
<b>ELIGIBILITY CRITERIA</b>	Disadvantaged Group defined as children of SC/ST families, backward section and extremely backward section families, minority groups whose parents or guardians have an annual income of Rs. 1 lakh.	Economically Weaker Section is defined as children of all castes and communities whose parents or guardians have an annual income of less than Rs. 2 lakhs.			
<b>NEIGHBOURHOOD CRITERIA</b>	Under section 4(1) <sup>88</sup> of the Bihar RTE Rules, the area of neighbourhood within which a school has to be established by the State Government is:				
	<table border="1"> <tr> <td><b>PRIMARY SCHOOL</b> (between class 1 and class 5)</td> <td>within a limit of 1 (one) km. of all habitations where the number of children between the ages of 6-14 years is at least 40 (forty)</td> </tr> <tr> <td><b>ELEMENTARY SCHOOL</b> (between class 1 and class 8)</td> <td>within a limit of 3 (three) km. of any habitation further, wherever required, the State Government shall upgrade a primary school to elementary school [Section 4(2)].<sup>89</sup></td> </tr> </table>	<b>PRIMARY SCHOOL</b> (between class 1 and class 5)	within a limit of 1 (one) km. of all habitations where the number of children between the ages of 6-14 years is at least 40 (forty)	<b>ELEMENTARY SCHOOL</b> (between class 1 and class 8)	within a limit of 3 (three) km. of any habitation further, wherever required, the State Government shall upgrade a primary school to elementary school [Section 4(2)]. <sup>89</sup>
<b>PRIMARY SCHOOL</b> (between class 1 and class 5)	within a limit of 1 (one) km. of all habitations where the number of children between the ages of 6-14 years is at least 40 (forty)				
<b>ELEMENTARY SCHOOL</b> (between class 1 and class 8)	within a limit of 3 (three) km. of any habitation further, wherever required, the State Government shall upgrade a primary school to elementary school [Section 4(2)]. <sup>89</sup>				
<b>DOCUMENTS REQUIRED</b>	Under section 9(1) <sup>90</sup> of Bihar RTE Rules, the documents required for proof of age of the child for the purpose of admission are:  i. Birth certificate issued under the Registration of Births, Deaths, and marriages Act, 1886; or				

<sup>88</sup> S. 4(1), The Bihar State Free and Compulsory Education of Children Rules, 2011 [https://www.education.gov.in/sites/upload\\_files/mhrd/files/upload\\_document/bihar-rte-rules\\_english%20\(1\).pdf](https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/bihar-rte-rules_english%20(1).pdf).

<sup>89</sup> S. 4(2), The Bihar State Free and Compulsory Education of Children Rules, 2011 [https://www.education.gov.in/sites/upload\\_files/mhrd/files/upload\\_document/bihar-rte-rules\\_english%20\(1\).pdf](https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/bihar-rte-rules_english%20(1).pdf).

<sup>90</sup> S. 9(1), The Bihar State Free and Compulsory Education of Children Rules, 2011 [https://www.education.gov.in/sites/upload\\_files/mhrd/files/upload\\_document/bihar-rte-rules\\_english%20\(1\).pdf](https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/bihar-rte-rules_english%20(1).pdf).



- |  |   |
|--|---|
|  | <ul style="list-style-type: none"><li>ii. Hospital/Auxiliary Nurse or Midwife (ANM) register/record; or</li><li>iii. Anganwadi record; or</li><li>iv. Declaration of the age of the child by the parent or guardian.</li></ul> <p>No other list detailing which documents are required by different categories for admission.</p> |
|--|---|



5. GOA

	DISADVANTAGED GROUP	WEAKER SECTION GROUP
<b>AGE CRITERIA</b>	The rules do not mention any appropriate age limit or criteria but Section 17 <sup>91</sup> of the Goa RTE rules is specifically dedicated to Special training for the purposes of first proviso to section 4 <sup>92</sup> of the RTE Act, 2009. This section talks about the mode of imparting special training and even after such training the child should receive special attention.	
<b>ELIGIBILITY CRITERIA</b>	<p>Under Section 5(4)(g)<sup>93</sup> of the Goa RTE Rules, Child belonging to socially disadvantaged group means a child within the meaning of Section 2(d)<sup>94</sup> of the RTE Act, 2009.</p> <p>Child belonging to</p> <ol style="list-style-type: none"> <li>i. scheduled caste,</li> <li>ii. scheduled tribe;</li> <li>iii. Children with disability;</li> <li>iv. Other group having disadvantage owing to social, cultural, economic, geographical, linguistic, gender and or such other factor.</li> </ol>	<p>Under section 5(4)(h)<sup>95</sup> of the Goa RTE rules, Child belonging to Weaker Sections means a child within the meaning of Section 2(e)<sup>96</sup> of the RTE Act, 2009.</p> <ol style="list-style-type: none"> <li>i. Child of a parent or guardian whose annual income is lower than the minimum limit specified by the appropriate Government.</li> </ol>
<b>NEIGHBOURHOOD CRITERIA</b>	Under Section 3(1) <sup>97</sup> of the Goa RTE Rules, the 'Neighbourhood area of a school' means the habitations in a safe walking distance of:	
	<b>CLASSES I TO IV</b>	Within a distance of one kilometre

<sup>91</sup> S. 17, The Goa Right of Children to Free and Compulsory Education Rules, 2012 [https://www.education.gov.in/en/sites/upload\\_files/mhrd/files/upload\\_document/goa\\_rte-rules-2012.pdf](https://www.education.gov.in/en/sites/upload_files/mhrd/files/upload_document/goa_rte-rules-2012.pdf).

<sup>92</sup> S. 4, The Right to Education Act, 2009.

<sup>93</sup> S. 5(4)(g), The Goa Right of Children to Free and Compulsory Education Rules, 2012 [https://www.education.gov.in/en/sites/upload\\_files/mhrd/files/upload\\_document/goa\\_rte-rules-2012.pdf](https://www.education.gov.in/en/sites/upload_files/mhrd/files/upload_document/goa_rte-rules-2012.pdf).

<sup>94</sup> S. 2(d), The Right to Education Act, 2009.

<sup>95</sup> S. 5(4)(h), The Goa Right of Children to Free and Compulsory Education Rules, 2012 [https://www.education.gov.in/en/sites/upload\\_files/mhrd/files/upload\\_document/goa\\_rte-rules-2012.pdf](https://www.education.gov.in/en/sites/upload_files/mhrd/files/upload_document/goa_rte-rules-2012.pdf).

<sup>96</sup> S. 2(e), The Right to Education Act, 2009.

<sup>97</sup> S. 3(1), The Goa Right of Children to Free and Compulsory Education Rules, 2012 [https://www.education.gov.in/en/sites/upload\\_files/mhrd/files/upload\\_document/goa\\_rte-rules-2012.pdf](https://www.education.gov.in/en/sites/upload_files/mhrd/files/upload_document/goa_rte-rules-2012.pdf).



	<b>CLASSES V TO VIII</b>	Within a distance of three kilometres
<b>DOCUMENTS REQUIRED</b>	<p><b>ADDRESS PROOF/ PROOF OF RESIDENCE:</b> The Goa RTE Rules does not mention about any requirement of Address Proof for the purpose of ascertaining the neighbourhood.</p> <p><b>PROOF OF AGE:</b> Under section 8<sup>98</sup> of the Goa RTE Rules, the following documents shall be deemed as proof of age of the child for the purpose of admission are, in case birth certificate is not available:</p> <ul style="list-style-type: none"><li>▪ record of birth from register maintained by Hospital or Auxiliary Nurse and Midwife (ANM);</li><li>▪ record of birth maintained by Anganwadi;</li><li>▪ an affidavit by the parent or the guardian declaring the age of child.</li></ul>	

<sup>98</sup> S. 8, The Goa Right of Children to Free and Compulsory Education Rules, 2012 [https://www.education.gov.in/en/sites/upload\\_files/mhrd/files/upload\\_document/goa\\_rte-rules-2012.pdf](https://www.education.gov.in/en/sites/upload_files/mhrd/files/upload_document/goa_rte-rules-2012.pdf).



## 6. GUJARAT

The RTE Act grants each state the right to come up with its own sets of rules and regulation regarding the admission process, and Gujarat has done a good job in the aspect of establishing proper rules pertaining to the provision of 25% reservation of RTE Act.

	DISADVANTAGED GROUP	WEAKER SECTION GROUPS
<b>AGE CRITERIA</b>	Children must be between 5 and not more than 7 years of age at the time of application. Admission only in class I and primary classes. <sup>99</sup>	
<b>ELIGIBILITY CRITERIA</b>	Child must belong to one of the categories – 1. Children of war widows 2. Disabled	1. BPL card-holders, 2. non-BPL households having incomes falling under Rs. 68,000 for forward caste categories, 3. Rs. 1 lakh for other backward classes (OBC), and 4. Rs. 2 lakhs for scheduled castes and schedules tribes (SC/ ST). <sup>100</sup>
<b>DOCUMENTS REQUIRED</b>	<b>ADDRESS PROOF (Any one)</b> i. Voter ID/Aadhar Card ii. Rural Area Job Card iii. Passport/Driving Licence/ Electricity Bill/Water Bill iv. Any other official document	
	<b>SELF-ATTESTED DOCUMENT</b> Caste Certificate/ Pension Passbook/ Disability Certificate. (Any one)	BPL Card/ Receipt of BPL Card Application/ Income Proof
	<b>STUDENT'S AGE PROOF:</b> Birth Certificate of the Child	

<sup>99</sup> Nisha Vernekar, Karan Singhal, "RTE: Field Experiences from Gujarat", <http://spontaneousorder.in/rte-field-experiences-from-gujarat/>.

<sup>100</sup> Id.



7. HARYANA

	DISADVANTAGED GROUP	WEAKER SECTION GROUP
<b>AGE CRITERIA</b>	Under section 2(e) <sup>101</sup> of Haryana RTE Rules, <i>appropriate age for appropriate class</i> has been laid down as:	
	Class One	five years to six years
	Class Two	six years to seven years
	Class Three	seven years to eight years
	Class Four	eight years to nine years
	Class Five	nine years to ten years
	Class Six	ten years to eleven years
	Class Seven	eleven years to twelve years
	Class Eight	twelve years to thirteen years
<b>ELIGIBILITY CRITERIA</b>	Under section 2(f) <sup>102</sup> of Haryana RTE Rules, <i>Child belonging to weaker sections and disadvantaged group</i> means a child belonging to any of the following categories.	
	<ul style="list-style-type: none"> <li>i. A child of a family covered under the latest list of Below Poverty Line of both rural and urban areas issued and approved by the Government,</li> <li>ii. An orphan;</li> <li>iii. HIV affected child;</li> <li>iv. Child with special needs.</li> <li>v. Child of war widow:</li> </ul>	
<b>NEIGHBOURHOOD CRITERIA</b>	Under section 2(n) <sup>103</sup> of Haryana RTE Rules, “Neighbourhood Area” is specified as - a ward declared as such under the Haryana Municipal Act. 1973, Haryana Municipal Corporation Act, 1994 in urban areas and Gram Panchayat under the Haryana Panchayati Raj Act. 1994, as the case may be.	

<sup>101</sup> S. 2(e), Haryana Right of Children to Free and Compulsory Education Rules, 2011 [https://www.education.gov.in/hi/sites/upload\\_files/mhrd/files/upload\\_document/RTE\\_Rules\\_Haryana-English.pdf](https://www.education.gov.in/hi/sites/upload_files/mhrd/files/upload_document/RTE_Rules_Haryana-English.pdf).

<sup>102</sup> S. 2(f), Haryana Right of Children to Free and Compulsory Education Rules, 2011 [https://www.education.gov.in/hi/sites/upload\\_files/mhrd/files/upload\\_document/RTE\\_Rules\\_Haryana-English.pdf](https://www.education.gov.in/hi/sites/upload_files/mhrd/files/upload_document/RTE_Rules_Haryana-English.pdf).

<sup>103</sup> S. 2(n), Haryana Right of Children to Free and Compulsory Education Rules, 2011 [https://www.education.gov.in/hi/sites/upload\\_files/mhrd/files/upload\\_document/RTE\\_Rules\\_Haryana-English.pdf](https://www.education.gov.in/hi/sites/upload_files/mhrd/files/upload_document/RTE_Rules_Haryana-English.pdf).



	Further, under section 4(1) <sup>104</sup> of Haryana RTE Rules, the area or limits of neighbourhood within which a school is to be established by the Government is set as:			
	<table border="1"><tr><td><b>CLASSES I TO V</b></td><td>within a distance of <b>one kilometre</b> (Provided that there are at least thirty children within the age group of five to six years)</td></tr><tr><td><b>CLASSES VI TO VIII</b></td><td>within a distance of <b>three kilometres</b> (Provided that there are at least one hundred and fifty children in the primary school and minimum thirty children in class V)</td></tr></table>	<b>CLASSES I TO V</b>	within a distance of <b>one kilometre</b> (Provided that there are at least thirty children within the age group of five to six years)	<b>CLASSES VI TO VIII</b>
<b>CLASSES I TO V</b>	within a distance of <b>one kilometre</b> (Provided that there are at least thirty children within the age group of five to six years)			
<b>CLASSES VI TO VIII</b>	within a distance of <b>three kilometres</b> (Provided that there are at least one hundred and fifty children in the primary school and minimum thirty children in class V)			
<b>DOCUMENTS REQUIRED</b>	<p>Under section 9(1)<sup>105</sup> of Haryana RTE Rules, the documents required for proof of age of the child for the purpose of admission are:</p> <ol style="list-style-type: none"><li>i. Birth certificate under the Births, Deaths, and Marriages Registration Act. 1886; or</li><li>ii. Hospital/ auxiliary nurse and midwife register record; or</li><li>iii. Anganwadi record, or</li><li>iv. Affidavit of the age of the child by the parent or guardian.</li></ol> <p>No other list of documents is provided which must be followed to seek admission under the Haryana RTE rules.</p>			

<sup>104</sup> S. 4(1), Haryana Right of Children to Free and Compulsory Education Rules, 2011 [https://www.education.gov.in/hi/sites/upload\\_files/mhrd/files/upload\\_document/RTE\\_Rules\\_Haryana-English.pdf](https://www.education.gov.in/hi/sites/upload_files/mhrd/files/upload_document/RTE_Rules_Haryana-English.pdf).

<sup>105</sup> S. 9(1), Haryana Right of Children to Free and Compulsory Education Rules, 2011 [https://www.education.gov.in/hi/sites/upload\\_files/mhrd/files/upload\\_document/RTE\\_Rules\\_Haryana-English.pdf](https://www.education.gov.in/hi/sites/upload_files/mhrd/files/upload_document/RTE_Rules_Haryana-English.pdf).



## 8. JHARKHAND

The RTE Act grants each state the right to come up with its own set of rules and regulation regarding the admission process, but many states like Jharkhand have not come up with proper rules pertaining to the provision of 25% reservation of the RTE Act.

	DISADVANTAGED GROUP	WEAKER SECTION GROUPS
<b>AGE CRITERIA</b>	For Admission the child must be of age 6-14 years	
<b>ELIGIBILITY CRITERIA</b>	Child must belong to one of the categories – <ol style="list-style-type: none"> <li>1. Scheduled Caste</li> <li>2. Scheduled Tribe</li> <li>3. Disabled</li> <li>4. Mother is a Widow Pensioner.</li> <li>5. Do not have a guardian</li> <li>6. Orphan</li> </ol>	Divided into 3 Categories – <ol style="list-style-type: none"> <li>1. Children from families having BPL cards,</li> <li>2. Children whose family has been enlisted in BPL list but have not received the BPL cards.</li> <li>3. Children from Non-BPL card holder families having an income of Rs 36,000 per month or below.</li> </ol>
<b>DOCUMENTS REQUIRED</b>	<b>ADDRESS PROOF</b> Voter Id/ Driving License/ Any other document proof of address. ( <b>Any one</b> )	
	<b>SELF-ATTESTED DOCUMENT</b> Caste Certificate/ Pension Passbook/ Certificate of Disability. ( <b>Any one</b> )	BPL Card/ Receipt of BPL Card Application/ Income Proof
	<b>STUDENT'S AGE PROOF:</b> Birth Certificate of the Child	
<b>NEIGHBOURHOOD CRITERIA</b>	<b>(a)</b> Within a walking distance of one kilometre for children in <b>classes 1 to 5</b> <b>(b)</b> Within a walking distance of two kilometres for children in <b>classes 6 to 8.</b>	



9. KARNATAKA

	DISADVANTAGED GROUP	WEAKER SECTION GROUPS
<b>AGE CRITERIA</b>	1. For Admission to LKG Age (Date of birth) range should be between 3 years 5 months to 5 years) 2. For Admission to 1 <sup>st</sup> Std./ Grade-I children Date of birth should be between 5 years 5 months to 7 years.	
<b>ELIGIBILITY CRITERIA</b>	A child belonging to: 1. The Schedule Caste, the Schedule Tribe, 2. Priority is given to children who belong to a disadvantaged group of society like Orphans, HIV affected/Infected Child, Transgender, Child with special needs, Migrant and street child, Farmers Child who committed suicide.	A child belonging to such parent or guardian whose annual income is equal to or less 3.5 lakhs from all the sources.
<b>DOCUMENTS REQUIRED</b>	<b>PARENT'S/CHILD'S ADDRESS PROOF</b> Voter Id/ Driving License/ Any other document proof of address. ( <b>Any one</b> )	
	<b>SELF-ATTESTED DOCUMENT</b> Caste Certificate/ Death Certificate of Father/ Income Certificate.	
	<b>STUDENT'S AGE PROOF</b> For the purpose of admission to elementary school, the age of the child shall be determined on the basis of the birth certificate issued in accordance with the provisions of the Births, Death and Marriage Registration Act, 1886 (6 of 1886) or on the basis of any of the following documents- (a) Hospital/ANM register record; (b) Anganwadi record; (c) Village/Gram register/Parivar Register; (d) Declaration of the age of the child by the parent or guardian if a birth Certificate is not available, provided that the age declared once shall be final.	



<b>NEIGHBOURHOOD CRITERIA</b>	-Not Specified-
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10. KERALA

	DISADVANTAGED GROUP	WEAKER SECTION GROUP
AGE CRITERIA	No Age Criteria is given	No Age Criteria is given
ELIGIBILITY	<p>The Kerala RTE Rules doesn't specify a separate definition for economically weaker and disadvantaged group. However, under Section 2(q)(4)<sup>106</sup>, it is provided that any word or expression used and not defined shall have the same meaning given to it by the RTE Act.</p> <p>Under Section 2(d)<sup>107</sup> of the RTE Act, a child belong to a disadvantaged group is a child belonging to-</p> <ul style="list-style-type: none"><li>i. Scheduled Caste;</li><li>ii. Scheduled Tribe;</li><li>iii. The Socially and educationally backward class</li><li>iv. Other group having disadvantage owing to social, cultural, economic, geographical, linguistic, gender and or such other factor, as may be specified by the appropriate government, by notification.</li></ul>	<p>Under Section 2(e)<sup>108</sup> of the RTE Act, a child belonging to weaker section means a child belonging to a parent/guardian who has an annual income lower than the minimum limit specified by the appropriate Government, by notification.</p>

<sup>106</sup> S. 2(q)(4), Kerala Right of Children to Free and Compulsory Education Rules, 2011 [https://www.education.gov.in/hi/sites/upload\\_files/mhrd/files/upload\\_document/Kerala\\_RTE\\_rules\\_1.pdf](https://www.education.gov.in/hi/sites/upload_files/mhrd/files/upload_document/Kerala_RTE_rules_1.pdf).

<sup>107</sup> S. 2(d), The Right to Education Act, 2009.

<sup>108</sup> S. 2(e), The Right to Education Act, 2009.



<b>NEIGHBOURHOOD CRITERIA</b>	Under Section 2(m) <sup>109</sup> of the Kerala RTE Rules, “Neighbourhood” means the area near or within a walking distance of elementary school. Under Section 2(q) <sup>110</sup> , walking distance means the maximum distance permissible under the Rules which is-	
	<b>CLASSES I TO V</b>	Within a walking distance of One Km.
	<b>CLASSES VI TO VIII</b>	Within a walking distance of Three Kms.
<b>DOCUMENTS REQUIRED</b>	Under Section 13 <sup>111</sup> of the Kerala RTE Rules, the documents required for proof of age of the child for the purpose of admission is the birth certificate under the Births, Deaths and Marriage Certification Act, 1886 (6 of 1886). In case of non-availability of birth certificate, the following documents shall be accepted as proof of age of child for the purpose of admission of schools- <ol style="list-style-type: none"><li>1. Hospital or Auxiliary Nurse and Midwife (ANM) register record;</li><li>2. Anganwadi record;</li></ol> Affidavit by the parent or guardian in the prescribed format.	

<sup>109</sup> S. 2(m), Kerala Right of Children to Free and Compulsory Education Rules, 2011 [https://www.education.gov.in/hi/sites/upload\\_files/mhrd/files/upload\\_document/Kerala\\_RTE\\_rules\\_1.pdf](https://www.education.gov.in/hi/sites/upload_files/mhrd/files/upload_document/Kerala_RTE_rules_1.pdf).

<sup>110</sup> S. 2(q), Kerala Right of Children to Free and Compulsory Education Rules, 2011 [https://www.education.gov.in/hi/sites/upload\\_files/mhrd/files/upload\\_document/Kerala\\_RTE\\_rules\\_1.pdf](https://www.education.gov.in/hi/sites/upload_files/mhrd/files/upload_document/Kerala_RTE_rules_1.pdf).

<sup>111</sup> S. 13, Kerala Right of Children to Free and Compulsory Education Rules, 2011 [https://www.education.gov.in/hi/sites/upload\\_files/mhrd/files/upload\\_document/Kerala\\_RTE\\_rules\\_1.pdf](https://www.education.gov.in/hi/sites/upload_files/mhrd/files/upload_document/Kerala_RTE_rules_1.pdf).



## 11. MADHYA PRADESH

The RTE Act grants each state the right to come up with the own sets of rules and regulation regarding the admission process, but many states like MP have not come up with proper rules pertaining to the provision of 25% reservation of RTE Act.

	DISADVANTAGED GROUP	WEAKER SECTION GROUPS
<b>AGE CRITERIA</b>	There was no minimum or maximum age limit specified for any class. Section 12 <sup>112</sup> applicable to class I as well as pre-primary.	
<b>ELIGIBILITY CRITERIA</b>	Child must belong to one of the categories – <ol style="list-style-type: none"> <li>1. Scheduled Caste</li> <li>2. Scheduled Tribe</li> <li>3. De-notified Tribes</li> <li>4. Homestead families of forest village/entitled families</li> <li>5. Disabled</li> </ol>	Divided into 3 Categories – <ol style="list-style-type: none"> <li>1. Children from families having BPL cards</li> <li>2. Children whose family has been enlisted in BPL list but have not received the BPL cards.</li> <li>3. Children from Non-BPL card holder families having an income of Rs 36,000 per month or below</li> </ol>
<b>DOCUMENTS REQUIRED</b>	<b>ADDRESS PROOF (Any one)</b> <ol style="list-style-type: none"> <li>i. Voter ID/Aadhar Card</li> <li>ii. Rural Area Job Card</li> <li>iii. Passport/Driving Licence/ Electricity Bill/Water Bill</li> <li>iv. Any other official document</li> </ol>	
	<b>SELF-ATTESTED DOCUMENT</b> Caste Certificate/ Pension Passbook/ Certificate of Disability. (Any one)	BPL Card/ Receipt of BPL Card Application/ Income Proof
	<b>STUDENT'S AGE PROOF:</b> Birth Certificate of the Child	

<sup>112</sup> S. 12, The Right to Education Act, 2009.



12. MAHARASHTRA

	DISADVANTAGED GROUP	WEAKER SECTION GROUPS
<b>AGE CRITERIA</b>	Any person of the age of 6-14 years	Upper age limit shall be 18 years for children with disabilities or with learning disabilities.
<b>ELIGIBILITY CRITERIA</b>	Child must belong to one of the categories – 1. Scheduled Caste 2. Scheduled Tribe 3. SEBC	1. A child with “ <i>disability</i> ” as defined in clause (i) of section 2 <sup>113</sup> of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996); 2. A child, being a person with disability as defined in clause (j) of section 2 <sup>114</sup> of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999); 3. A child with “severe disability” as defined in clause (o) of section 2 <sup>115</sup> of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999).
<b>DOCUMENTS REQUIRED</b>	<b>PARENT’S/CHILD’S ADDRESS PROOF</b> Voter Id/ Driving License/ Any other document proof of address. ( <b>Any one</b> )	
	<b>SELF-ATTESTED DOCUMENT</b> Caste Certificate/ SEBC Certificate.	
	<b>STUDENT’S AGE PROOF</b>	

<sup>113</sup> S. 2(i), Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

<sup>114</sup> S. 2(j), The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

<sup>115</sup> S. 2(o), The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.



	<p>Wherever a birth certificate under the Registration of Births and Deaths Act, 1969<sup>116</sup> (18 of 1969) is not available, any one of the following documents shall be deemed to be the proof of age of the child for the purposes of admission in schools, namely: -</p> <p>(a) Register or record maintained by the Hospital/Auxiliary Nurse and Midwife (ANM) in respect of the birth place of the child;</p> <p>(b) Anganwadi record;</p> <p>(c) In case the record is not available, a declaration by either the father or mother of the child stating the date of birth in case of a child belonging to disadvantaged group or weaker section, declaration of the age of the of the child by the parent or guardian certified by the Sarpanch of the village or Head Master of the local school, or in case of urban or semi-urban area, by an officer notified by the Government in that behalf.</p>
<p><b>NEIGHBOURHOOD CRITERIA</b></p>	<p>Under Section 4 of the Nagaland RTE Rules, the area, or limits of neighbourhood within which a school has to be established shall be as under<sup>117</sup>-</p> <ol style="list-style-type: none"><li>i. More primary school(s) shall be established as per the consideration of the State Government on need basis, taking into consideration the RTE Act, 2009</li><li>ii. Wherever required, the existing schools with class I to V will be upgraded to include classes VI to VIII. In respect of schools which start from class VI, endeavour will be made to add classes I to V wherever required.</li><li>iii. For children from small hamlets, as identified by the State Government, where no schools exist within the Area or limits of neighbourhood, adequate arrangements such as residential facilities/ transportations shall be made, for providing elementary education in a school.</li><li>iv. Local Authority shall be responsible to relocate the school if school happens to be on the disaster-prone area such as landslides, flood, difficult terrain etc. which may endanger the life of the children.</li></ol>

<sup>116</sup> The Registration of Births and Deaths Act, 1969.

<sup>117</sup> S. 4, The Nagaland Right of Children to Free and Compulsory Education Rules, 2010 <http://righttoeducation.in/sites/default/files/Nagaland%20RTE%20Rules%2C%202010.pdf#overlay-context=>



	<p>v. In areas with high population density, establishment of more than one neighbourhood school may be considered, with regard to the number of children in the age group of 6-14 years in such areas.</p> <p>vi. Local Authority shall be responsible for providing free land for establishment of schools.</p>
<p><b>DOCUMENTS REQUIRED</b></p>	<p>Under Section 8 of the Nagaland RTE Rules, a birth certificate under the Births, Deaths and Marriages Certification Act, 1886 (6 of 1886) is the document required for age proof.<sup>118</sup> In case of non-availability of birth certificate, the following documents shall be deemed as proof of age for the purposes of admission in schools-<sup>119</sup></p> <p>i. Hospital/Auxiliary Nurse and Midwife (ANM) register record;</p> <p>ii. Anganwadi record;</p> <p>iii. Village/Ward/Churches register record duly signed by the head of the organisation.</p> <p>iv. Declaration of the age of the child by the parent or guardian.</p>

<sup>118</sup> S. 8, The Nagaland Right of Children to Free and Compulsory Education Rules, 2010 [http://righttoeducation.in/sites/default/files/Nagaland%20RTE%20Rules%2C%202010.pdf#overlay-context=\\_](http://righttoeducation.in/sites/default/files/Nagaland%20RTE%20Rules%2C%202010.pdf#overlay-context=_)

<sup>119</sup> Id.



13. NEW DELHI

	DISADVANTAGED GROUP	WEAKER SECTION GROUPS
AGE CRITERIA	<p>3+ Nursery</p> <p>4+ KG</p> <p>5+ Class – I</p>	
ELIGIBILITY CRITERIA	<p>Child must belong to one of the categories –</p> <ol style="list-style-type: none"> <li>1. Scheduled Caste</li> <li>2. Scheduled Tribe</li> <li>3. SEBC</li> </ol>	<p>Annual Income of less than <b>1 lakh rupees</b> from all sources and who have been staying in Delhi for the last three years.</p>
DOCUMENTS REQUIRED	<p><b>PARENT'S/CHILD'S ADDRESS PROOF</b></p> <p>Ration Card/ domicile Certificate/ Voter Id/ Driving License/ Any other document proof of address. (<b>Any one</b>)</p>	
	<ol style="list-style-type: none"> <li>1. <b>Proof of Income:</b> Income Certificate issued by revenue officer not below the rank of Tehsildar or other competent authority.</li> <li>2. State-specific residential proof</li> <li>3. Age proof of the candidate.</li> <li>4. Caste certificate of SC/ST candidates.</li> </ol>	<ol style="list-style-type: none"> <li>1. <b>Proof of Income:</b> Income Certificate issued by revenue officer not below the rank of Tehsildar or BPL Ration Card or AAY Ration Card (pink coloured)</li> <li>2. <b>Self-Declaration of Annual Income:</b> every year an affidavit on income.</li> </ol>
	<p><b>Birth certificate</b> under the Births, Deaths, and Marriages Certification Act, 1886. If Birth certificate is unavailable: –</p>	



	<p>(a) Hospital/Auxiliary Nurse and Midwife (ANM) register record,</p> <p>(b) Anganwadi record,</p> <p>(c) Declaration of the age of the child by the parent or guardian.</p>
<p><b>NEIGHBOURHOOD CRITERIA</b></p>	<p>(a) In respect of children in classes I to V, a school shall be established as far as possible within a radial distance of one km. from the residence of the child;<sup>120</sup></p> <p>(b) In respect of children in classes VI to VIII, a school shall be established, as far as possible, within a radial distance of three km. from the residence of the child.<sup>121</sup></p>

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<sup>120</sup> S. 6, Guidelines under section 35(1) of the Right of Children to Free and Compulsory Education Act, 2009 regarding free and compulsory education in a neighbourhood school, [https://www.education.gov.in/hi/sites/upload\\_files/mhrd/files/upload\\_document/24.pdf](https://www.education.gov.in/hi/sites/upload_files/mhrd/files/upload_document/24.pdf).

<sup>121</sup> Id.



## 14. ODISHA

1. Appropriate Govt. will issue circular/notification on the procedure of admission under 25% quota.
2. The process is online through the RTE *Paradarshi* portal, the applicants are advised to upload all the asked documents after which the lottery number will be issued on the registered mobile number.
3. After filing out the form the Parent will visit the office of Block Education Officer [“**BEO**”] with all the necessary hard copies of original documents.<sup>122</sup>
4. After the Verification the respective BEO will validate the student for online lottery at state level.<sup>123</sup>

	DISADVANTAGED GROUP	WEAKER SECTION GROUPS
AGE CRITERIA	A child <b>above six years of age</b> has not been admitted in any school or though admitted, could not complete his or her elementary education, then, he or she shall be admitted in <b>a class appropriate to his or her age</b> . (Only for Admission in Class – I)	
ELIGIBILITY CRITERIA	Child must belong to one of the categories –  1. Scheduled Caste 2. Scheduled Tribe 3. SEBC  (10% of total seats)	1. Parent is a BPL Card holder. (10% of total seats). 2. Children without home, settled place, ostensible means of subsistence, found Begging, Child labour, Street child. (5% of total seats)
DOCUMENTS REQUIRED	<b>PARENT’S/CHILD’S ADDRESS PROOF</b>  Voter Id/ Driving License/ Any other document proof of address. ( <b>Any one</b> )	

<sup>122</sup> RTE Paradarshi Portal, “*Frequently Asked Questions*” <https://www.rteparadarshi.odisha.gov.in/odisha/faq/school-faq>.

<sup>123</sup> Id.



	<p><b>SELF-ATTESTED DOCUMENT</b></p> <p>Caste Certificate/ SEBC Certificate.</p>	<p><b>Any Poverty alleviation card issued by Govt e.g., MGNREGA Beneficiaries, BKKK, RSBY, Certificate of Income issued by Tehsildar or any other Competent Authority.</b></p> <p><b>-or-</b></p> <p><b>Document not Mandatory in case of Street Child/ Child found begging.</b></p> <p><b>-or-</b></p> <p><b>Death Certificate in case the child of Martyr/War Widow.</b></p> <p><b>-or-</b></p> <p><b>Medical Document (disability/ HIV infected child)</b></p>
	<p><b>STUDENT'S AGE PROOF:</b> Birth Certificate of the Child</p>	



15. PUNJAB

	DISADVANTAGED GROUP	WEAKER SECTION GROUP		
<b>AGE CRITERIA</b>	<p>Under section 2(b) of Punjab RTE Rules, appropriate age means any child above the age of five as on 1<sup>st</sup> of April of each academic year shall also be treated as of 6 years and shall be eligible to be admitted in class one. <sup>124</sup>Rest of the children shall be admitted as per the provisions of the RTE Act.</p> <p>However, under the rules, there is no minimum or maximum age limit set for any class.</p>			
<b>ELIGIBILITY CRITERIA</b>	<p>Child with disability or a child belonging to the Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class or such other group having disadvantage owing to social, cultural, economic, geographical, linguistic, gender or such other factor.<sup>125</sup></p>	<p>Child belonging to such parent or guardian whose annual income is lower than the minimum limit specified by the appropriate Government.<sup>126</sup></p>		
<b>NEIGHBOURHOOD CRITERIA</b>	<p>Under section 4 of Punjab RTE Rules, the limits of neighbourhood within which a school has to be established on the recommendation of a local authority by the State Government are as follows:<sup>127</sup></p> <table border="1" style="width: 100%;"> <tr> <td style="width: 30%;"><b>CLASSES I TO V</b></td> <td>within a walking distance of <b>one kilometre</b> of the habitation</td> </tr> </table>		<b>CLASSES I TO V</b>	within a walking distance of <b>one kilometre</b> of the habitation
<b>CLASSES I TO V</b>	within a walking distance of <b>one kilometre</b> of the habitation			

<sup>124</sup> S. 2(b), Right of Children to Free and Compulsory Education Rules, 2011 [http://righttoeducation.in/sites/default/files/Punjab%20RTE\\_Rules%20Final%20draft%20,2011.pdf](http://righttoeducation.in/sites/default/files/Punjab%20RTE_Rules%20Final%20draft%20,2011.pdf).

<sup>125</sup> Id.

<sup>126</sup> Right of Children to Free and Compulsory Education Rules, 2011 [http://righttoeducation.in/sites/default/files/Punjab%20RTE\\_Rules%20Final%20draft%20,2011.pdf](http://righttoeducation.in/sites/default/files/Punjab%20RTE_Rules%20Final%20draft%20,2011.pdf).

<sup>127</sup> S. 4, Right of Children to Free and Compulsory Education Rules, 2011 [http://righttoeducation.in/sites/default/files/Punjab%20RTE\\_Rules%20Final%20draft%20,2011.pdf](http://righttoeducation.in/sites/default/files/Punjab%20RTE_Rules%20Final%20draft%20,2011.pdf).



	<table border="1"> <tr> <td data-bbox="552 293 794 465"><b>CLASSES VI TO VIII</b></td> <td data-bbox="794 293 1481 465">within a walking distance of <b>three kilometres</b> of the habitation</td> </tr> </table> <p>The state government, through a notification on August 9, 2017, has however, changed the definition of neighbourhood or habitation, extending the area from three kilometres, as provided earlier, to jurisdiction of Gram Panchayat in case of villages and jurisdiction of the ward concerned of Nagar Panchayat or Municipal bodies in case of towns.<sup>128</sup> Thus, Section 4 explanation now provides that for the Municipal Committee/Corporation, neighbourhood shall be the 1 km for class I to V or the ward of Municipal Committee or Corporation whichever is more and for class VI to VIII it shall be 3 km or the ward of Municipal Committee or Corporation whichever is more.<sup>129</sup> Similarly for the rural areas, the neighbour limits shall be the Geographical limits of concerned Gram Panchayat.</p>	<b>CLASSES VI TO VIII</b>	within a walking distance of <b>three kilometres</b> of the habitation
<b>CLASSES VI TO VIII</b>	within a walking distance of <b>three kilometres</b> of the habitation		
<b>DOCUMENTS REQUIRED</b>	<p>Under section 9 of Punjab RTE Rules, the documents required for proof of age of the child for the purpose of admission are:<sup>130</sup></p> <ol style="list-style-type: none"> <li>i. Birth certificate under the Births, Deaths and Marriages Registration Act. 1886; or</li> <li>ii. Hospital/ auxiliary nurse and midwife register record/ Village Chowkidar Register record; or</li> <li>iii. Anganwadi record, or</li> <li>iv. Declaration either through undertaking of the age of the child by the parent or guardian.</li> <li>v. No other list of documents is provided which must be followed to seek admission under the Punjab RTE rules</li> </ol>		

<sup>128</sup> Harmandeep Singh, Hindustan Times, “In 10 years of RTE, no child admitted to private schools in Punjab under EWS quota” <https://www.hindustantimes.com/cities/in-10-years-of-rte-no-child-admitted-to-private-schools-in-punjab-under-ews-quota/story-nRQH1UXmdf4tHrhxj1GthL.html> (Jan 8, 2020).

<sup>129</sup> S. 4, Right of Children to Free and Compulsory Education Rules, 2011 [http://righttoeducation.in/sites/default/files/Punjab%20RTE\\_Rules%20Final%20draft%20,2011.pdf](http://righttoeducation.in/sites/default/files/Punjab%20RTE_Rules%20Final%20draft%20,2011.pdf).

<sup>130</sup> S. 9, Right of Children to Free and Compulsory Education Rules, 2011 [http://righttoeducation.in/sites/default/files/Punjab%20RTE\\_Rules%20Final%20draft%20,2011.pdf](http://righttoeducation.in/sites/default/files/Punjab%20RTE_Rules%20Final%20draft%20,2011.pdf).



## 16. RAJASTHAN

The RTE Act grants each state the right to come up with the own sets of rules and regulation regarding the admission process, and Rajasthan has done a good job in the aspect of establishing proper rules pertaining to the provision of 25% reservation of RTE Act.

	DISADVANTAGED GROUP	WEAKER SECTION GROUPS
<b>AGE CRITERIA</b>	Child should be 5-7 years of age. Admission only in class I.	
<b>ELIGIBILITY CRITERIA</b>	Child must belong to one of the categories – <ol style="list-style-type: none"> <li>1. Scheduled Caste</li> <li>2. Scheduled Tribe</li> <li>3. OBC and SBC</li> <li>4. Parents of the child suffering from aids or cancer</li> <li>5. Children of war widows</li> <li>6. Parents' annual income does not exceed Rs. 2.5 lakhs</li> <li>7. Disabled</li> </ol>	A child whose parents' annual income does not exceed Rs. 1 lakh and has a certificate of same.
<b>DOCUMENTS REQUIRED</b>	<b>ADDRESS PROOF (Any one)</b>	
	<ol style="list-style-type: none"> <li>i. Voter ID/Aadhar Card</li> <li>ii. Rural Area Job Card</li> <li>iii. Passport/Driving Licence/ Electricity Bill/Water Bill</li> <li>iv. Any other official document</li> </ol>	
	<b>SELF-ATTESTED DOCUMENT</b>	BPL Card/ Receipt of BPL Card Application/ Income Proof



## BREAKING BARRIERS TO EDUCATION

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	Caste Certificate/ Pension Passbook/ Disability Certificate. (Any one)	
	<b>STUDENT'S AGE PROOF:</b> Birth Certificate of the Child	



17. SIKKIM

	DISADVANTAGED GROUP	WEAKER SECTION GROUP
<b>AGE CRITERIA</b>	No age criteria mentioned	No age criteria mentioned
<b>ELIGIBILITY CRITERIA</b>	Though under Section 6(4)(h) of the Sikkim RTE Rules, there is a mention of Child belonging to socially disadvantaged group but there is no specification as to the meaning and scope of such category of children. <sup>131</sup>	Though under Section 6(4)(g) of the Sikkim RTE Rules, there is a mention of Child belonging to weaker section group but there is no specification as to the meaning and scope of such category of children. <sup>132</sup>
<b>NEIGHBOURHOOD CRITERIA:</b>	Under Section 4(1) of the Sikkim RTE Rules, the “ <i>Neighbourhood area of a school</i> ” means the habitations in a safe walking distance of: <sup>133</sup>	
	<b>CLASSES I TO V</b>	Within a distance of one kilometre
	<b>CLASSES VI TO VIII</b>	Within a distance of three kilometres
<b>DOCUMENTS REQUIRED</b>	<p><b>ADDRESS PROOF/ PROOF OF RESIDENCE</b></p> <p>The Sikkim RTE Rules does not mention about any requirement of Address Proof for the purpose of ascertaining the neighbourhood.</p> <p><b>PROOF OF AGE</b></p>	

<sup>131</sup> S. 6(4)(h), Right of Children to Free and Compulsory Education Rules, 2010 [https://www.education.gov.in/en/sites/upload\\_files/mhrd/files/upload\\_document/rte\\_rules\\_sikkim.pdf](https://www.education.gov.in/en/sites/upload_files/mhrd/files/upload_document/rte_rules_sikkim.pdf).

<sup>132</sup> S. 6(4)(g), Right of Children to Free and Compulsory Education Rules, 2010 [https://www.education.gov.in/en/sites/upload\\_files/mhrd/files/upload\\_document/rte\\_rules\\_sikkim.pdf](https://www.education.gov.in/en/sites/upload_files/mhrd/files/upload_document/rte_rules_sikkim.pdf).

<sup>133</sup> S. 4(1), Right of Children to Free and Compulsory Education Rules, 2010 [https://www.education.gov.in/en/sites/upload\\_files/mhrd/files/upload\\_document/rte\\_rules\\_sikkim.pdf](https://www.education.gov.in/en/sites/upload_files/mhrd/files/upload_document/rte_rules_sikkim.pdf).



Under section 9 of the Sikkim RTE Rules, the following documents shall be deemed as proof of age of the child for the purpose of admission, in case birth certificate is not available:<sup>134</sup>

- Hospital/Auxiliary Nurse and Midwife (ANM) register record;
- Anganwadi record;
- Declaration through an affidavit of the age of the child by the parent or guardian;
- Certificate issued by the Local Authority.

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<sup>134</sup> S 9, Right of Children to Free and Compulsory Education Rules, 2010  
[https://www.education.gov.in/en/sites/upload\\_files/mhrd/files/upload\\_document/rte\\_rules\\_sikkim.pdf](https://www.education.gov.in/en/sites/upload_files/mhrd/files/upload_document/rte_rules_sikkim.pdf).



18. TAMIL NADU

<b>AGE CRITERIA</b>	For Admission in LKG	For Admission in Class 1
	4 to 5 years	6 to 7 years
<b>ELIGIBILITY</b> <sup>135</sup>	<ol style="list-style-type: none"><li>1. Applicant must be a permanent resident of Tamil Nadu.</li><li>2. All the children of parents falling under the economic weaker section, disadvantage group, disadvantage group special category can apply under this scheme.</li><li>3. Preference will be given to disabled children, wards of scavengers and HIV infected.</li></ol>	
	<b>Weaker section</b> <ol style="list-style-type: none"><li>1. The annual income of the family must not exceed Rs 2 lakh.</li></ol>	<b>Disadvantaged sections</b> <ol style="list-style-type: none"><li>1. Applicants from BC-others, MBC, ST, SC-others, SC-Arunthathiyar, OC, DNC (Denotified communities- a social category not disclosed) are eligible to apply.</li></ol>
<b>DOCUMENTS REQUIRED</b> <sup>136</sup>	<ol style="list-style-type: none"><li>1. Photograph of applicant</li><li>2. Aadhar card or ration card of the parent or guardian</li><li>3. Income certificate for weaker section candidates</li><li>4. Community certificate for disadvantaged group candidates</li><li>5. Disadvantaged Group Special Category Certificate</li><li>6. Disability Certificate (if applicable).</li><li>7. Certificate to prove wards of scavengers (if applicable).</li><li>8. Certificate of Children of HIV-infected parents (if applicable).</li></ol>	
	<b>Documents as proof of age for admission</b> - In cases where the parent or guardian of the child is unable to produce the birth certificate of the child issued under the Births, Deaths and Marriages Act, 1886 (Central Act VI of 1886), any one of the	

<sup>135</sup> CSC Portal, "RTE Tamilnadu Admission 2023 Online Registration, School List" <https://cscportal.in/rte-admission-tamilnadu/>.

<sup>136</sup> Id.



	<p>following documents shall be deemed to be proof of age of the child for the purpose of admission in a school: -<sup>137</sup></p> <p>(a) Hospital or Auxiliary Nurse and Midwife (ANM) register record;</p> <p>(b) Anganwadi record;</p> <p>(c) Declaration of the age of the child by the parent or guardian.</p>
<b>NEIGHBOURHOOD CRITERIA</b>	<p>(1) The area or limits of neighbourhood within which a school shall be established by the State Government is<sup>138</sup></p> <p>a) A distance of one kilometre in respect of children in classes I to V.</p> <p>b) A distance of three kilometres in respect of children in classes VI to VIII.</p>

<sup>137</sup> CSC Portal, "RTE Tamilnadu Admission 2023 Online Registration, School List" <https://cscportal.in/rte-admission-tamilnadu/>.

<sup>138</sup> CSC Portal, "RTE Tamilnadu Admission 2023 Online Registration, School List" <https://cscportal.in/rte-admission-tamilnadu/>.



19. TELANGANA

	DISADVANTAGED GROUP	WEAKER SECTION GROUP
AGE CRITERIA	No Age Criteria is given	No Age Criteria is given
ELIGIBILITY	<p>Under Section 2(d) of the RTE Act, a child belong to a disadvantaged group is a child belonging to-<sup>139</sup></p> <ul style="list-style-type: none"><li>i. Scheduled Caste;</li><li>ii. Scheduled Tribe;</li><li>iii. The Socially and educationally backward class</li><li>iv. Other group having disadvantage owing to social, cultural, economic, geographical, linguistic, gender and or such other factor, as may be specified by the appropriate government, by notification.</li></ul>	<p>Under Section 2(e) of the RTE Act, a child belonging to weaker section means a child belonging to a parent/guardian who has an annual income lower than the minimum limit specified by the appropriate Government, by notification.<sup>140</sup></p>
NEIGHBOURHOOD CRITERIA	<p>Under Section 38 (2)(b), the Appropriate government may make rules, by notification the area or limits for established of a neighbourhood school. <sup>141</sup>Since the Telangana government is yet to formulate rules for implementation there is no clarity regarding the limits of neighbourhood.</p>	

<sup>139</sup> S. 2(d), The Right to Education Act, 2009.

<sup>140</sup> S. 2(e), The Right to Education Act, 2009.

<sup>141</sup> S. 38 (2)(b), The Right to Education Act, 2009.



**DOCUMENTS REQUIRED**

Under Section 14 of the RTE act, the document required for proof of age for admission is the birth certificate issued in accordance with the provisions of the Births, Deaths and Marriages Registration Act, 1886 or any other document as may be prescribed.<sup>142</sup>

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<sup>142</sup> S. 14, The Right to Education Act, 2009.



20. TRIPURA

	DISADVANTAGED GROUP	WEAKER SECTION GROUP
AGE CRITERIA	No Age Criteria is given	No Age Criteria is given
ELIGIBILITY	<p>Under Section 12(a)(5) of the Tripura RTE Rules, a child shall be deemed to belong to a 'Disadvantaged group' if:<sup>143</sup></p> <ul style="list-style-type: none"><li>(a) the child belongs to the Schedule Caste;</li><li>(b) the child belongs to the Schedule Tribe;</li><li>(c) the child belongs to the Other Backward Classes</li></ul>	<p>Under Section 12(a)(6) of the Tripura RTE Rules, a child shall be deemed to belong to a 'weaker section' if either of the parents of the child have been duly recorded as a member belonging to Below Poverty Line (BPL) family duly listed by the appropriate Panchayat / Village Committee authorities in the rural areas and in the appropriate authorities in Municipal or Nagar Panchayat area.<sup>144</sup></p> <p>Under Section 12(a)(7) under the Tripura RTE Rules, a child considered once to belong to weaker section and disadvantaged group, shall not cease to be considered till he /she completes his/her elementary education even his/her family income goes above the BPL criteria.<sup>145</sup></p>
NEIGHBOURHOOD CRITERIA	Under Section 2 (j) of the Tripura RTE Rules, neighbourhood is subject to part IV of the rules and shall mean a ward for an area under the Agartala Municipal Council or any Nagar Panchayat, or any Gram Panchayat or village of TTAADC or part thereof in a	

<sup>143</sup> S. 12(a)(5), The Right of Children to Free and Compulsory Education Rules, 2011 <http://righttoeducation.in/sites/default/files/Tripura%20RTE%20Rules%2C%202011.pdf#overlay-context=>.

<sup>144</sup> S. 12(a)(6), The Right of Children to Free and Compulsory Education Rules, 2011 <http://righttoeducation.in/sites/default/files/Tripura%20RTE%20Rules%2C%202011.pdf#overlay-context=>.

<sup>145</sup> S. 12(a)(7), The Right of Children to Free and Compulsory Education Rules, 2011 <http://righttoeducation.in/sites/default/files/Tripura%20RTE%20Rules%2C%202011.pdf#overlay-context=>.



	<p>rural area as may be notified by the State Government from time to time under Section 6 of the RTE Act. <sup>146</sup></p> <p>Part IV of the Tripura RTE Act provides the following specifications-</p>				
	<table border="1"><tr><td><b>CLASS I-V</b></td><td>Within walking distance of 1 km</td></tr><tr><td><b>CLASS VI-VIII</b></td><td>Within walking distance of 3 kms.</td></tr></table>	<b>CLASS I-V</b>	Within walking distance of 1 km	<b>CLASS VI-VIII</b>	Within walking distance of 3 kms.
	<b>CLASS I-V</b>	Within walking distance of 1 km			
<b>CLASS VI-VIII</b>	Within walking distance of 3 kms.				
<p><b>DOCUMENTS REQUIRED</b></p>	<p>Under Section 13(1) of the Tripura RTE Rules, a birth certificate under the Births, Deaths and Marriages Registration Act, 1886 is considered as proof of age. <sup>147</sup>In case of non-availability of birth certificate, any one of the following documents shall be deemed to be proof of age of the child for the purposes of admission in schools</p> <ul style="list-style-type: none"><li>a) Hospital/Auxiliary Nurse and Midwife (ANM) Register Record</li><li>b) Anganwadi Centre Record</li><li>c) Declaration of the age of the child by the parent or guardian.</li></ul> <p>Under Section 13(2) of the Tripura RTE Rules, during admission of 'hard-to-reach' child (like unaccompanied children, children who have no parents, etc.), the school at its own expense shall cause a medical examination of the child by a qualified Govt. doctor and make entry of the date of birth as certified by the doctor.</p>				

<sup>146</sup> S. 2(j), The Right of Children to Free and Compulsory Education Rules, 2011 <http://righttoeducation.in/sites/default/files/Tripura%20RTE%20Rules%2C%202011.pdf#overlay-context=>.

<sup>147</sup> S. 13(1), The Right of Children to Free and Compulsory Education Rules, 2011 <http://righttoeducation.in/sites/default/files/Tripura%20RTE%20Rules%2C%202011.pdf#overlay-context=>.



## 21. UTTAR PRADESH

1. The admission process is carried out in several phases.
2. Form Submission Mode - Either online (through the RTE25 UP Portal) or offline (form downloaded from the official website should be submitted at a school or BRC Office).
3. Details of the Student and list of preference of schools must be filled in stipulated time.
4. The admissions will be done through an online lottery system, which will randomly allot the lottery numbers to the student. And according to his/her lottery number a student can take admission in school of his/her preference

A Student can be admitted through either of the two categories as per his/her eligibility -

	DISADVANTAGED GROUP	WEAKER SECTION GROUPS
AGE CRITERIA	For Admission in Pre-Primary: 3< and >6 For Admission in Class I: 6< and >7 <b>(If the academic year starts from April 1)</b>	
ELIGIBILITY CRITERIA	Child must belong to one of the categories –  1. Scheduled Caste 2. Scheduled Tribe 3. Disabled 4. Mother is a Widow Pensioner. 5. Do not have a guardian 6. Orphan child	Less than 1 Lakh Annual Income.
DOCUMENTS REQUIRED	<b>ADDRESS PROOF</b>  Voter Id/ Driving License/ Any other document proof of address. <b>(Any one)</b>	
	<b>SELF-ATTESTED DOCUMENT</b>	Income Proof



## BREAKING BARRIERS TO EDUCATION

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	Caste Certificate/ Pension Passbook/ Certificate of Disability. ( <b>Any one</b> )	
	<b>STUDENT'S AGE PROOF:</b> Birth Certificate of the Child	
<b>NEIGHBOURHOOD CRITERIA</b>	a. For Urban Area, the school must be under the 'Ward' of the candidate b. For Rural Area, the school must be under the 'Gram Panchayat' of the candidate	



22. UTTARAKHAND

	DISADVANTAGED GROUP	WEAKER SECTION GROUPS
AGE CRITERIA	Any person of the age of 6-14 years.	Children With Special Needs, a male or female child of the age of 6 to 18 years.
ELIGIBILITY CRITERIA	<p>A child belonging to:</p> <ol style="list-style-type: none"><li>1. The Schedule Caste, the Schedule Tribe,</li><li>2. Other Backward Classes as notified by the State Government (except creamy layer),</li><li>3. An Orphan child, Child suffering from disability as defined in Persons with Disabilities (Equal Opportunities, Protection and Full Participation Act, 1995) (Act 1 of 1996),</li><li>4. A child depending on widow or divorcee mother, whose annual income is less than Rs. 80,000</li><li>5. HIV+ child or child of HIV+ parents and a child belonging to parents with disabilities (including leprosy effected persons) defined in Persons with Disabilities (Equal Opportunities, Protection and Full Participation Act, 1995) (Act. 1 of 1996) whose annual income is less than Rs. 4.5 Lakhs.</li></ol>	<p>A child belonging to such parent or guardian whose annual income is equal to or less than Rs. 55,000/-, and includes such children as defined by the State Government from time to time.</p>



	6. Includes such disadvantaged children as defined by the State Government from time to time.	
<b>DOCUMENTS REQUIRED</b>	<b>PARENT'S/CHILD'S ADDRESS PROOF</b>  Voter Id/ Driving License/ Any other document proof of address. ( <b>Any one</b> )	
	<b>SELF-ATTESTED DOCUMENT</b>  Caste Certificate/ Death Certificate of Father/ Income Certificate.	
	<b>STUDENT'S AGE PROOF</b>  For the purpose of admission to elementary school, the age of the child shall be determined on the basis of the birth certificate issued in accordance with the provisions of the Births, Death and Marriage Registration Act, 1886 or on the basis of any of the following documents-  (a) Hospital/ANM register record;  (b) Anganwadi record;  (c) Village/Gram register/Parivar Register;  (d) Declaration of the age of the child by the parent or guardian if a birth Certificate is not available, provided that the age declared once shall be final.	
<b>NEIGHBOURHOOD CRITERIA</b>	“Neighbourhood School” for the purpose of Government schools under these rules means a school which is within a walking distance of:  1. 01 KM in case of primary classes (I to V), and 2. 03 Km in the case of Upper Primary classes (VI to VIII).	



23. WEST BENGAL

	DISADVANTAGED GROUP	WEAKER SECTION GROUP
<b>AGE CRITERIA</b>	Appropriate age for class I is six years and above but less than seven years of age. No age criteria for pre-primary are necessary.	
<b>ELIGIBILITY CRITERIA</b>	Child with disability or a child belonging to the Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class or such other group having disadvantage owing to social, cultural, economic, geographical, linguistic, gender or such other factor	Child belonging to such parent or guardian whose annual income is lower than the minimum limit specified by the appropriate Government.
<b>NEIGHBOURHOOD CRITERIA</b>	Under section 4(1) of the West Bengal RTE Rules, the area of neighbourhood within which a school has to be established by the State Government is <sup>148</sup> :	
	<b>PRIMARY LEVEL</b> (between class 1 and class 4)	within a limit of 1 (one) km. for rural area within a limit of 1/2 (half) km. for urban area
	<b>UPPER PRIMARY LEVEL</b> (between class 5 and class 8)	within a limit of 2 (two) km. for rural area within a limit of 1 (one) km. for urban area

<sup>148</sup> S. 4(1), West Bengal Right of Children to Free and Compulsory Education Rules, 2012, <https://wbxpress.com/files/2012/07/RTE-Rules-2012.pdf>.



	<p>Further the rules provide that the student strength shall not exceed 300 for a primary school and 500 for an upper primary school.</p>
<p><b>DOCUMENTS REQUIRED</b></p>	<p>Under section 7(1) of West Bengal RTE Rules, the documents required for proof of age of the child for the purpose of admission are:<sup>149</sup></p> <ul style="list-style-type: none"><li>i. Birth certificate issued under the Registration of Births, Deaths and marriages Act, 1886; or</li><li>ii. Record of the Hospital or sub-centre; or</li><li>iii. ICDS Centre Certificate of a registered Medical Practitioner; or</li><li>iv. Written declaration of the age of the child by the parent or guardian.</li></ul> <p>Furthermore, the list of documents required for the application for RTE is as follows</p> <ol style="list-style-type: none"><li>1. <b>Parents' Government ID:</b> This can be in the form of a Driving license, voter ID, Aadhar card, Ration card, Passport, or a birth certificate.</li><li>2. <b>Student ID:</b> A Government ID of the student which can be Aadhar Card or a Birth certificate.</li><li>3. <b>Caste certificate:</b> To claim admission under the reservation category, caste certificate is mandatorily required.</li><li>4. <b>Income certificate:</b> This document is required as a proof the income of the parents.</li><li>5. <b>Disability certificate or SNC (Special Needs Certificate):</b> This certificate, issued by the Department of Health, has to be submitted if the admissions are applied through a specific quota.</li><li>6. <b>Passport-sized photographs</b> of the student.</li><li>7. <b>Death Certificate of Parents:</b> If the student is an orphan, then this document has to be submitted.</li></ol>

<sup>149</sup> S. 7, West Bengal Right of Children to Free and Compulsory Education Rules, 2012, <https://wbxpress.com/files/2012/07/RTE-Rules-2012.pdf>.



A pursual of the above requirements highlights the discrepancy in the rules pertaining to non-uniformity of income and age criteria and the inconsistent requirements of documents from candidates across different states. Further, majority of these requirements are at times very technical which causes hindrance for most of the target groups with less accessibility to technology. Thus, the benefit of the schemes does not trickle down to the actual target group who stand to gain from this welfare legislation. There is an urgent need to bring about an amendment in the Act in order to address these in-built challenges.



## CHAPTER IV: FORMULATING THE IMPLEMENTATION

### EXPERIENCE: RTE AT WORK

Since the inception of RTE Act, various states have framed rules and regulations to make to implement the Act. In furtherance of the same, some of the states have put in place a mechanism to streamline the RTE admission process and to address the upcoming hurdles in the admission process. However, the same is riddled with inconsistencies and challenges. While admission facilitation mechanism of some of the states are not well-structured and accessible to children and their parents. Unfortunately, most states do not even have any formal mechanism for the same. Following are some of the concerns pertaining to the working of RTE.

#### 1. THERE IS A STARK DIGITAL DIVIDE ACROSS STATES

RTE Act aims at providing universal access to education. However, with the technological and digital progress, the RTE admission process has substantially shifted to online platforms. This includes the process of admissions, notices, forms for admissions and the uploading of necessary documents. This poses a significant challenge in terms inclusivity as excludes a majority of vulnerable population which either do not have access to internet facilities or are not digitally well equipped to fill the forms online. Further, it creates an unnecessary psychological and economic hindrance on the weaker sections as they suffer financially to avail internet facilities or cyber-café.

Furthermore, internet penetration is disproportionate across states. In states such as Jharkhand, internet penetration becomes a problem as there is less internet penetration in rural areas as compared to the urban areas and rural people cannot even easily access the internet cafés as people living in the urban areas can. In Jharkhand, with a mere 26% internet penetration comes second last among states in terms of internet penetration. This is observed in *all states* broadly but special emphasis may be given to *Jharkhand, Orissa, Rajasthan and Uttar Pradesh*.

The states of Orrisa have an internet penetration of 29.54%<sup>150</sup>, followed by the states of West Bengal and Bihar having a lower internet penetration of 22.38%<sup>151</sup> and 20.6%<sup>152</sup> respectively. In the North Eastern state of Assam nearly 6.57 million rural and approximately 6.46 million urban population is using the internet, but inn context of the percentage a mere 38.66% of the population

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<sup>150</sup> Telecom Regulatory Authority of India, The Indian Telecom Services Performance Indicators July – September, 2019 “*The Eastern Regions, The Indian Telecom Services Performance Indicators July-September 2019*” [https://traai.gov.in/sites/default/files/PIR\\_08012020\\_0.pdf](https://traai.gov.in/sites/default/files/PIR_08012020_0.pdf).

<sup>151</sup> Id.

<sup>152</sup> Supra note 34.



has access to internet services.<sup>153</sup> Though Delhi has a penetration of 98.35% in the urban areas, other states such as Uttar Pradesh and Madhya Pradesh have a much lower penetration of 20.9% and 21.85%.<sup>154</sup>

### 2. NON-COMPLIANCE BY PRIVATE SCHOOLS

Private schools have also been found to be in violation of the RTE Act. The reasons behind the same range from the uncorroborated fear of dilution of the reputation of their school on admitting students from lower socio-economic background. Concerns have also been raised that parents are hesitant to send their children to schools when they get the company of children coming from slum areas for the fear of getting in 'bad company'. Furthermore, the disadvantaged children may develop inferiority complex from the advantaged students.

In addition, schools often refuse to implement the provisions due to the delay of non-reimbursement of fees by the government. Due to this the schools have to struggle financially and, in some cases, have had to increase fees of other students to maintain the financial stability of the school.

In contrast to the Act, many schools do not participate in the RTE process as evident from the data collected from certain states. In the year 2013- 14, out of 10,578 private schools, only 1,392 took admissions.<sup>155</sup> The compliance issue was largely prevalent in *Tamil Nadu, Uttarakhand, Madhya Pradesh and Karnataka*.

### 3. LACK OF AWARENESS

It has been observed that the eligible beneficiaries are unaware of rights under the RTE Act. There also exists a misconception that they will have to pay fees to the school even if their children are admitted under the provisions of the Act. There is a dearth of awareness programmes to educate the people from lower socio-economic groups about their rights under the RTE Act and the related enforcement mechanism. Moreover, in the state of Rajasthan, lack of involvement of parents is seen in the academic development of students due to various reasons like illiteracy, supposed triviality of matter, lack of time or awareness, occupational commitments, etc. This

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<sup>153</sup> Telecom Regulatory Authority of India, Annual report 2020-2021, "*The North Eastern Region, TRAI, 2020*." [https://www.trai.gov.in/sites/default/files/Annual\\_Report\\_06042022\\_0.pdf](https://www.trai.gov.in/sites/default/files/Annual_Report_06042022_0.pdf).

<sup>154</sup> Telecom Regulatory Authority of India, Annual report 2020-2021 "*The Central Region, TRAI, 2020*" [https://www.trai.gov.in/sites/default/files/Annual\\_Report\\_06042022\\_0.pdf](https://www.trai.gov.in/sites/default/files/Annual_Report_06042022_0.pdf).

<sup>155</sup> RTE Resource Centre at IIM Ahmedabad, Central Square Foundation, Accountability Initiative (Centre for Policy Research) & Vidhi Centre for Legal Policy, "*State of the Nation: RTE Section 12(1)(c) Report (Provisional)*" [https://cprindia.org/wp-content/uploads/2021/12/State-of-the-Nation-RTE-Section121c\\_2015-Provisional.pdf](https://cprindia.org/wp-content/uploads/2021/12/State-of-the-Nation-RTE-Section121c_2015-Provisional.pdf).



challenge intensifies on account of the stigma against girl child education which can be clearly showcased by the fact that only 65% of the girls above 7 years of age in the rural area are literate as shown below in the table.

State	rural			urban			rural+urban		
	male	female	person	male	female	person	male	female	person
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
Andhra Pradesh	67.5	53.4	60.4	86.3	73.1	79.6	73.4	59.5	66.4
Assam	89.4	79.9	84.9	96.1	91.4	93.8	90.1	81.2	85.9
Bihar	78.6	58.7	69.5	89.3	75.9	83.1	79.7	60.5	70.9
Chhattisgarh	84.0	65.6	75.0	91.8	82.3	87.2	85.4	68.7	77.3
Delhi				94.1	83.4	89.4	93.7	82.4	88.7
Gujarat	85.7	68.0	77.0	95.2	86.3	91.1	89.5	74.8	82.4
Haryana	85.8	66.4	77.0	92.5	81.2	87.3	88.0	71.3	80.4
Himachal Pradesh	92.3	79.2	85.6	97.8	93.0	95.5	92.9	80.5	86.6
Jammu & Kashmir	84.9	66.0	75.8	88.5	75.7	82.6	85.7	68.0	77.3
Jharkhand	80.6	61.4	71.4	92.6	78.6	86.1	83.0	64.7	74.3
Karnataka	78.2	63.1	71.0	92.5	83.7	88.3	83.4	70.5	77.2
Kerala	96.7	94.1	95.4	98.2	96.4	97.3	97.4	95.2	96.2
Madhya Pradesh	77.9	61.0	69.8	91.4	79.5	85.8	81.2	65.5	73.7
Maharashtra	87.0	71.4	79.4	95.3	87.6	91.7	90.7	78.4	84.8
Odisha	82.0	67.3	74.9	94.4	85.9	90.2	84.0	70.3	77.3
Punjab	85.5	74.0	80.0	93.8	86.7	90.5	88.5	78.5	83.7
Rajasthan	77.6	52.6	65.5	91.1	74.6	83.5	80.8	57.6	69.7
Tamil Nadu	84.2	70.8	77.5	92.3	85.9	89.0	87.9	77.9	82.9
Telangana	70.6	53.7	62.1	91.7	79.0	85.5	80.5	65.1	72.8
Uttarakhand	93.1	79.0	86.1	97.4	85.9	92.0	94.3	80.7	87.6
Uttar Pradesh	80.5	60.4	70.8	86.8	74.9	81.2	81.8	63.4	73.0
West Bengal	82.0	72.6	77.4	91.4	84.7	88.1	84.8	76.1	80.5
<b>all India</b>	<b>81.5</b>	<b>65.0</b>	<b>73.5</b>	<b>92.2</b>	<b>82.8</b>	<b>87.7</b>	<b>84.7</b>	<b>70.3</b>	<b>77.7</b>

Note: Figures for rural Delhi is not presented separately. However, 'rural + urban' for Delhi includes, 'rural' also.

**Table 1:** Literacy rate (in %) among persons of age 7 years and above for different States.<sup>156</sup>

Another indicator through which the level of awareness regarding the RTE provision can be gauged is through the following ratio:

Total number of available seats for admission

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Total number of seats filled

For Rajasthan this ratio is 1.43, which is below average when compared to the ratios of other states.<sup>157</sup> Out of 2.26 lakh seats available under RTE Act, only 1.57 lakh seats were filled in 2013-14 with a seat fill rate of 69.38%.<sup>158</sup> Even for Gujarat, this ratio is 1.43 and out of 2.26 lakh seats available under RTE Act, only 1.57 lakh were filled in 2013-14 with a seat fill rate of 69.38%.<sup>159</sup> For Jharkhand the ratio comes out to be 6.53, and it has been observed that in comparison to the other states the ratio is quite low.<sup>160</sup> In the state, out of 17,371 seats were available under this section, and only 2,660 were filled in 2013-14 with a seat fill rate of 15.31%.<sup>161</sup> The trend continues

<sup>156</sup> Press Information Bureau, “Key Indicators of Household Social Consumption on Education In India NSS 75TH Round (JULY 2017- JUNE 2018)” <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1593251> (Nov 23, 2019).

<sup>157</sup> Id.

<sup>158</sup> Ambrish Dongre, Ankur Sarin & Shrikant Wad, “State of the Nation: RTE Section 12(1)(c) 2017” [https://www.researchgate.net/publication/319464374\\_State\\_of\\_the\\_Nation\\_RTE\\_Section\\_121c\\_2017](https://www.researchgate.net/publication/319464374_State_of_the_Nation_RTE_Section_121c_2017).

<sup>159</sup> Id.

<sup>160</sup> Ambrish Dongre, Ankur Sarin & Shrikant Wad, “State of the Nation: RTE Section 12(1)(c) 2017” [https://www.researchgate.net/publication/319464374\\_State\\_of\\_the\\_Nation\\_RTE\\_Section\\_121c\\_2017](https://www.researchgate.net/publication/319464374_State_of_the_Nation_RTE_Section_121c_2017).

<sup>161</sup> Id.



even today. As per the report on RTI filed by an NGO,<sup>162</sup> in the academic year 2019-2020 around 60% of the seats reserved under the RTE in 7 districts (including Ranchi) were left un-filled. There were 3,541 seats in 184 schools across the seven districts. Only 1,471 of the 3,548 applications submitted by families of disadvantaged children were approved under Section 12 (1)(c) of the RTE Act. The data also showed that Ranchi is the district with the worst performance, with 89% of applications being turned down.

Similar even the states of Madhya Pradesh, Maharashtra, and Gujarat are not immune from the challenge of lack of awareness about the RTE framework.

#### 4. ISSUES WITH FILING OF DOCUMENTATION

The admission procedure under RTE Act is contingent on an immaculate filing of the requisite documents. In Delhi, it has been observed that several candidates who take admission under the RTE Act have to later drop out because of the submission of fake certificates.<sup>163</sup> Additionally, it has been observed that some of the candidates are deprived from taking admissions as they do not have their documents.<sup>164</sup> The situation becomes more grave in cases concerning children of migrant workers because they find it difficult to prove their residence near the school in which they wish to take the admission due to lack of a permanent residence.<sup>165</sup> In furtherance, in some categories the certificates of parents are admissible but in certain categories only the document of child is admissible and this creates confusion among parents and some of them submit wrong documents leading to their disqualification from the process.

In Delhi, the Department of Education denied to give admission to candidates belonging to Economically Weaker Sections (EWS) even though they were given letters confirming their admission. In the petition against this decision, the Delhi High Court reprimanded the government and held that the admissions cannot be denied merely on the basis of disqualification of the

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<sup>162</sup> The Telegraph, “Over 60 per cent seats, meant for the poor in private schools, go abegging”, <https://www.telegraphindia.com/jharkhand/over-60-per-cent-seats-meant-for-the-poor-in-private-schools-go-abegging/cid/1799636> (Dec 05, 2020).

<sup>163</sup> NCPCR, “A Study on Implementation of Section 12(1) (c) of RTE Act, 2009 in Delhi pertaining to Admission of Children from Disadvantaged Sections in Private Schools” [https://ncpcr.gov.in/uploads/165650379062bc3dee60c54\\_A%20Study%20on%20Implementation%20of%20Section%2012\(1\)%20\(c\)%20of%20RTE%20Act,%202009%20in%20Delhi%20pertaining%20to%20admission%20of%20Children%20from%20disadvantaged%20sections%20in%20private%20Schools.pdf](https://ncpcr.gov.in/uploads/165650379062bc3dee60c54_A%20Study%20on%20Implementation%20of%20Section%2012(1)%20(c)%20of%20RTE%20Act,%202009%20in%20Delhi%20pertaining%20to%20admission%20of%20Children%20from%20disadvantaged%20sections%20in%20private%20Schools.pdf).

<sup>164</sup> Kritika Sharma Sebastian, The Hindu, Govt, “Schools Refuse Admissions Over Lack of Documents” <https://www.thehindu.com/news/cities/Delhi/government-schools-still-refusing-admissions-over-lack-of-documents/article7189464.ece> (May 10, 2015).

<sup>165</sup> Preeti Mehra, “States not following Central TE Act provisions: NCPR report” <http://www.thehindu.com/news/national/states-not-following-central-rte-act-provisions-ncpr-report/article5578849.ece>.



documents by the schools itself.<sup>166</sup> Such documentation issues were observed to be grave in *Delhi and Uttar Pradesh*.

### 5. PROBLEMS WITH THE LOTTERY SYSTEM

The seats are allocated on the basis of a lottery system to maintain transparency and confidence among the stakeholders. However, on multiple occasions, the parents are not informed about the timings of release of the lottery. This leads to a problem when seats are allocated without intimating the parents. This shows a major communication gap between the stakeholders. In the state of Delhi, many allocated seats go vacant as the selected students are not informed about their allotment to seats and thus, they are unable to avail the benefits of the RTE Act.<sup>167</sup> For instance, in 2018, more than 44,000 students in Indore district of Madhya Pradesh were unable to get admission due to unawareness with regards to the schedule of the admission process.<sup>168</sup> The states at the brunt of the lottery system and dropouts are Delhi and Tamil Nadu.

### 6. ISSUE OF ACCESSIBILITY TO SCHOOLS AND THE RELUCTANCE TO TAKE ADMISSION

The accessibility to the schools continues to remain a challenge as often students are allocated seats to schools which are very far from their place of residence. For instance, in Gujarat, GPS is used to determine the applicant's and the preferred school's location and this results in students being allocated either schools very far away from their residence or in a remote location which eventually results in students dropping out of the school.<sup>169</sup> In Tamil Nadu, the students are required to pay for the school bus and the exam fees creating the issue of affordability.<sup>170</sup> The problem arises due to the lack of comprehensive definition of the term 'free education' in the RTE Rules of Tamil Nadu.

In certain extreme cases in state of Delhi, students drop out of their schools as parents prefers schools in their vicinity and are reluctant to send their kids in schools which are far-away from their residence.<sup>171</sup> This creates vacant seats, creating a vacuum in the implementation of RTE Act.

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<sup>166</sup> Rameshwar Jha v. The Principal Richmond Global School & Ors, 2022 SCC OnLine Del 4438.

<sup>167</sup> Sanchayan Bhattacharjee, Observer Research Foundation "Ten Years of RTE Act: Revisiting Achievements and Examining Gaps" <https://www.orfonline.org/research/ten-years-of-rte-act-revisiting-achievements-and-examining-gaps-54066/> (Aug 5, 2019).

<sup>168</sup> Id.

<sup>169</sup> Government of India Ministry of Human Resource Development Bureau of Planning, Monitoring & Statistics New Delhi, "Related Indicators for School Drop Out Rate: Gujarat: 6-11 Years Old, Ministry of Education, 2001-2011" [https://www.education.gov.in/sites/upload\\_files/mhrd/files/statistics/SSE1112.pdf](https://www.education.gov.in/sites/upload_files/mhrd/files/statistics/SSE1112.pdf).

<sup>170</sup> UDISE+, Ministry of Education, "Unified District Information System for Education Plus 2019-20 Report" [https://udiseplus.gov.in/assets/img/DCF2021/UDISE+2019\\_20\\_Booklet\\_English.pdf](https://udiseplus.gov.in/assets/img/DCF2021/UDISE+2019_20_Booklet_English.pdf) (2021).

<sup>171</sup> Department of Human Development and Childhood Studies, Lady Irwin College "Reasons for drop out amongst Children Living in Slum Areas of Delhi" [http://www.prathamdelhi.org/pdf/out\\_of\\_school.pdf](http://www.prathamdelhi.org/pdf/out_of_school.pdf).

For instance, in Delhi there is around a 30% drop-off after lottery allotment,<sup>172</sup> and 21% of these had dropped off either because they had not received the information of allotment or were allotted a school that was too far away from home. The reasons for the drop-outs are the rejection of applicants during admission process in private schools because of the school’s age norms, mandated documents requirement, the submission of fake certificates, wrong allotments due to incorrect mapping of schools, and non-monitoring of admission notification by the parents. The graphical representation of this issue in Delhi is presented below:

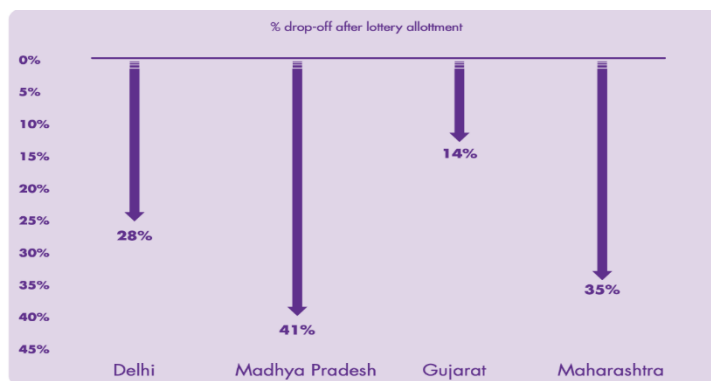


Figure 4: Percentage drop-off during admission stage after lottery allotment of seats in key states in 2018-19 academic year<sup>2</sup> (See Table 2)

**Source:** Directorate of Education, Govt. of NCT of Delhi.

In Madhya Pradesh, most students admitted in schools drop out due to lack of government support in terms of uniform and textbooks. Nearly a fourth of the children enrolled in primary level have reported to have dropped out.<sup>173</sup> During the years 2011-16, the total number of children who dropped out from elementary education classes in the state was nearly 42.86 lakhs — including drop out of 28.81 lakh children from state government schools and 14.05 lakh from private sector and other management schools. The private unaided schools saw the enrolment of.<sup>174</sup> 2.60 lakh students during 2011-16 and the percentage of schools providing admission was 83 to 88%.<sup>175</sup> Out of 61,307 students admitted in 2011-16 in four test-checked districts, 58,744

<sup>172</sup> Indus Action, “The Bright Spots Report, Dec 5, 2018”. [https://www.indusaction.org/wp-content/uploads/2019/08/Indus-Action\\_-\\_Bright-Spots-Report-2018-1\\_compressed.pdf](https://www.indusaction.org/wp-content/uploads/2019/08/Indus-Action_-_Bright-Spots-Report-2018-1_compressed.pdf).

<sup>173</sup> Comptroller and Auditor General of India, “Performance Audit on Implementation of The Right of Children to Free and Compulsory Education Act, 2009” [https://cag.gov.in/uploads/download\\_audit\\_report/2017/Report\\_No.5\\_of\\_2017\\_-\\_Performance\\_Audit\\_on\\_Implementation\\_of\\_the\\_Right\\_of\\_Children\\_to\\_Free\\_and\\_Compulsory\\_Education\\_Act,\\_2009\\_Government\\_of\\_Madhya\\_Pradesh.pdf](https://cag.gov.in/uploads/download_audit_report/2017/Report_No.5_of_2017_-_Performance_Audit_on_Implementation_of_the_Right_of_Children_to_Free_and_Compulsory_Education_Act,_2009_Government_of_Madhya_Pradesh.pdf).

<sup>174</sup> Id.

<sup>175</sup> Comptroller and Auditor General of India, “Performance Audit on Implementation of The Right of Children to Free and Compulsory Education Act, 2009” [https://cag.gov.in/uploads/download\\_audit\\_report/2017/Report\\_No.5\\_of\\_2017\\_-\\_Performance\\_Audit\\_on\\_Implementation\\_of\\_the\\_Right\\_of\\_Children\\_to\\_Free\\_and\\_Compulsory\\_Education\\_Act,\\_2009\\_Government\\_of\\_Madhya\\_Pradesh.pdf](https://cag.gov.in/uploads/download_audit_report/2017/Report_No.5_of_2017_-_Performance_Audit_on_Implementation_of_the_Right_of_Children_to_Free_and_Compulsory_Education_Act,_2009_Government_of_Madhya_Pradesh.pdf).



students continued their studies till 2015-16.<sup>176</sup> Out of these three test-checked districts, during 2011-15, 61,594 students admitted. Only 58,782 were found studying in 2014-15. Children that were enrolled in the private schools under the RTE Act dropped out majorly due to the lack of government support on uniform and textbooks.

While in Karnataka, some of the admitted students dropped out due to the complex subjects introduced when there is a gap in basic understanding of the same subjects. The daunting task of studying complex concepts lead to poor performances and they eventually dropout from the school. Such issues also resurfaced in states such as *Gujarat, Uttar Pradesh Delhi, Karnataka and Madhya Pradesh*.

### 7. ISSUE OF NON-REIMBURSEMENT TO PRIVATE SCHOOLS BY THE GOVERNMENT

Schools across India are facing the issue of non-reimbursement of the school fees by the government. Under the RTE Act, a certain fee is stipulated which the government will have to provide as a reimbursement to the school for teaching the students admitted under the RTE Act.

Providing admission to additional students leads to additional costs for schools and when they are not reimbursed, they have to pay for these students by increasing the fees of other remaining students or in certain cases even demand charges from the students admitted under the Act. In certain instances, when the government allocates funds for reimbursement, due to various administrative reasons the entire sum is not reimbursed to the schools. The most recent examples of states having not properly reimbursed the private schools is of Maharashtra. Till December 2022, the state was yet to reimburse Rs. 1200 Cr to the private schools.<sup>177</sup> In the same year in August, Tamil Nadu reduced the fees amount reimbursed to schools under RTE Act.<sup>178</sup> The issue of timely reimbursement is universally prevalent in all states.

### 8. NO SPECIAL TRAINING FOR IDENTIFIED CHILDREN

The RTE Act mandates that the special children (out of school children) shall be provided special training according to their age and class and then only admitted into schools.<sup>179</sup> This provision has

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<sup>176</sup> Id.

<sup>177</sup> Niraj Pandit, Hindustan Times, "State owes private schools INR 1,200 crore towards RTE fees" <https://www.hindustantimes.com/cities/mumbai-news/state-owes-private-schools-1-200-crore-towards-rte-fees-101672256060502.html> (Dec 29, 2022).

<sup>178</sup> Binita Jaiswal, The Indian Express, "TN govt reduces RTE fees reimbursed to private schools" <https://www.newindianexpress.com/states/tamil-nadu/2022/aug/30/tn-govt-reduces-rte-fees-reimbursed-to-private-schools-2492877.html> (Aug 30, 2022).

<sup>179</sup> S.4, The Right of Children to free and Compulsory Education Act, 2009.



been included in the RTE Acts of different states for instance, section 4 of the Andhra Pradesh RTE Act provides for special training for out of school children. The training shall be age appropriate and the children requiring special training shall be identified. However, the special training is not imparted properly as revealed in the CAG Report of Andhra Pradesh.<sup>180</sup>

Similarly, section 3 of the Assam RTE Rules provides that special training shall be provided for out of school children. The training shall be age appropriate and the children requiring special training shall be identified. However, the CAG Report noted that in 95 (79%) out of 120 selected schools, SMCs neither identified any children for special training, nor organized such training.

### 9. UNDERUTILIZATION OF THE ALLOCATED FUNDS

The government in every budget allocates dedicated funds to the schools for the successful implementation of the RTE Act. With wide population and considering the miniscule requirements of students, teachers and other stakeholders, even the expanded amount of funds proves to be inadequate. Therefore, it requires per capital centralised allocation to have adequate amount for fulfilling the goals of effective utilisation of funds.

The problem of inadequacy is supplemented with the underutilisation of funds which reveals the paradoxical nature of the challenge. For example, in Andhra Pradesh, the CAG report found that there was an unutilised balance of Rs. 507.95 Cr in the year 2015-16.<sup>181</sup> The report, further highlighted that the Kerala state government in the year 2015-16 had an unutilised balance of Rs. 121.78 Cr.<sup>182</sup> In West Bengal, there are large unutilised funds amounting to more than crores and the state did not submit a proposal for reimbursement against implementation of 12(1)(c) in 2016-17. This reveals that there is a poor fiscal planning, and lack of cost-efficient budgetary allocation. This showcases the need for developing utilisation plans to achieve the aims both fiscally and attainably in terms of access of education.

### 10. PROBLEMS FACED BY THE TEACHERS

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<sup>180</sup> Comptroller and Auditor General of India, “Performance Audit on Implementation of The Right of Children to Free and Compulsory Education Act, 2009” [https://cag.gov.in/uploads/download\\_audit\\_report/2017/Report\\_No.5\\_of\\_2017\\_-\\_Performance\\_Audit\\_on\\_Implementation\\_of\\_the\\_Right\\_of\\_Children\\_to\\_Free\\_and\\_Compulsory\\_Education\\_Act,\\_2009\\_Government\\_of\\_Madhya\\_Pradesh.pdf](https://cag.gov.in/uploads/download_audit_report/2017/Report_No.5_of_2017_-_Performance_Audit_on_Implementation_of_the_Right_of_Children_to_Free_and_Compulsory_Education_Act,_2009_Government_of_Madhya_Pradesh.pdf).

<sup>181</sup> Comptroller and Auditor General of India, “Performance Audit on Implementation of The Right of Children to Free and Compulsory Education Act, 2009” [https://cag.gov.in/uploads/download\\_audit\\_report/2017/Report\\_No.5\\_of\\_2017\\_-\\_Performance\\_Audit\\_on\\_Implementation\\_of\\_the\\_Right\\_of\\_Children\\_to\\_Free\\_and\\_Compulsory\\_Education\\_Act,\\_2009\\_Government\\_of\\_Madhya\\_Pradesh.pdf](https://cag.gov.in/uploads/download_audit_report/2017/Report_No.5_of_2017_-_Performance_Audit_on_Implementation_of_the_Right_of_Children_to_Free_and_Compulsory_Education_Act,_2009_Government_of_Madhya_Pradesh.pdf).

<sup>182</sup> Id.



The teachers play a significant role in the success of any educational institution. Therefore, their presence forms an indispensable role. However, there are certain issues which demotivates teachers from fulfilling their teaching duties. The teachers are deployed for non-teaching task that should be ideally done by someone else.

In Andhra Pradesh, the CAG report found that teachers are deployed for non-teaching work, including handling the duties of census and election duty. In Kerala, the CAG report found that in 12 Panchayats of Thrissur and Idukki, teachers were deployed for non-educational purposes such as Gram Sabha Co-ordinators and Implementing Officers. In rural areas of Arunachal Pradesh, absenteeism of the teachers is a rampant issue because the teachers prefer schools located in the urban areas as due to better connectivity. It has been recorded in more than 3500 government schools that the teachers are being absent and this results in student absenteeism.<sup>183</sup> In Assam due to absenteeism of teachers the classrooms have become multigrade, i.e., one teacher teaching students of multiple grades together.<sup>184</sup> As observed in Arunachal Pradesh, the teachers also prefer to be appointed in urban areas rather than rural areas leaving the students of rural areas at more disadvantage because of lack of teachers.<sup>185</sup> This problem has weakened the successful implementation of RTE in *all states* but it has adversely affected the states of *Arunachal Pradesh, Andhra Pradesh and Kerala*.

### 11. SUBSTANDARD QUALITY OF EDUCATION

It is important to understand if the quality of education is according to the norms and standards for a school as per section 19 and 25 of the RTE Act, 2009. Item no. 2 under the schedule provides for a kitchen where the mid-day meal is cooked, a playground, boundary walls, at least one classroom for every teacher, and separate toilets for girls and boys. However, as per the data, in Andhra Pradesh there has been a decrease in the percentage of schools providing these.<sup>186</sup> Further only a few states have facilities of computers and libraries present in the schools.<sup>187</sup> Despite mid-day meals being widely sanctioned, only 93% of the schools provided them with only

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<sup>183</sup>Runumi Gogoi, Times of India, “RTE is Not Properly Implemented in Assam” <https://timesofindia.indiatimes.com/education/news/rte-is-not-properly-implemented-in-assam/articleshow/46899442.cms> (Apr 13, 2015).

<sup>184</sup> Id.

<sup>185</sup>UDISE+, Ministry of Education, “Unified District Information System For Education Plus 2019-20 Report” [https://udiseplus.gov.in/assets/img/dcf2021/UDISE+2019\\_20\\_Booklet\\_English.pdf](https://udiseplus.gov.in/assets/img/dcf2021/UDISE+2019_20_Booklet_English.pdf) (2021).

<sup>186</sup> Id.

<sup>187</sup> UDISE+, Ministry of Education, “Unified District Information System For Education Plus 2019-20 Report” [https://udiseplus.gov.in/assets/img/dcf2021/UDISE+2019\\_20\\_Booklet\\_English.pdf](https://udiseplus.gov.in/assets/img/dcf2021/UDISE+2019_20_Booklet_English.pdf) (2021).



approximately 61% of the government schools having a kitchen shed to cook them. Only 30.7% of the children have an access to computers.<sup>188</sup>

In Telangana, while approx. 96% of the schools have mid-day meals provision, only approx. 59% of the government schools have a kitchen shed where the meals can be cooked.<sup>189</sup> In Bihar 36.6% teachers at both elementary and secondary levels remain unqualified as per the provisions of the RTE Act.<sup>190</sup> Furthermore, there is massive shortage of teachers in Bihar. On March 31, 2016, Bihar had more than 200,000 vacancies for teachers in the elementary level alone. In West Bengal there has been poor state of learning. From 2013 to 2015, through an evaluation programme called 'Utkarsha Abhijan', it was revealed that there was lack of reading and mathematical skills especially in 7 to 10 districts of the State. Results of evaluation indicated that 17.97% of the Sishu Shiksha Kendra students and 54.58% of the Mahila Shakti Kendra students scored C grade, scoring below 45%. This problem has been plaguing the states of **West Bengal, Bihar, Andhra Pradesh and Telangana.**

A perusal of the above discussed data highlights the lack of basic subsistence infrastructure in schools. Schools in several states lack proper lighting, desks, school walls, blackboards and mid-day meal provisions. These facilities form the foundational path to securing universal education, however the present state of affairs is far from realising this dream. In addition to this, there also exist state specific lacunae and concerns; while the state of Bihar suffers from shortage of teaching facility, the state of West Bengal faces issues on the quality and skill development among students. It is of essential importance that gap filling is done for these challenges if the RTE Act is to fulfil its objective of accessible education.

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<sup>188</sup> The Annual Status of Education Report, "*Annual Status of Education Report (Rural) 2021*" [https://img.asercentre.org/docs/aser2021finalreport\\_16.116.54pm1.pdf](https://img.asercentre.org/docs/aser2021finalreport_16.116.54pm1.pdf) (Nov 17, 2021).

<sup>189</sup> UDISE+, Ministry of Education, "*Unified District Information System For Education Plus 2019-20 Report*" [https://udiseplus.gov.in/assets/img/dcf2021/UDISE+2019\\_20\\_Booklet\\_English.pdf](https://udiseplus.gov.in/assets/img/dcf2021/UDISE+2019_20_Booklet_English.pdf) (2021).

<sup>190</sup> National University of Educational Planning and Administration, "*Secondary Education in India Progress towards Universalisation*" [http://udise.in/Downloads/Publications/Documents/Secondary\\_Flash\\_Statistics-2015-16.pdf](http://udise.in/Downloads/Publications/Documents/Secondary_Flash_Statistics-2015-16.pdf).





poor connectivity and lack of access to mobile phones.<sup>196</sup> While 42%<sup>197</sup> of the urban households had access to internet connections, the number was less than 15%<sup>198</sup> in the rural areas with many students facing issues of not have personal devices, poor or no internet connection and lack of access to study materials.<sup>199</sup>

### *Increase in the number of dropouts*

Owing to the closure of schools and the effects of digital divide, there had been a surge in the number of dropouts.<sup>200</sup> The financially distressed families in the rural areas chose not to send their children after the schools reopened so as to help the families financially.<sup>201</sup> The financial strain also led to an increase in child marriages, especially of women due to their education being discontinued.<sup>202</sup>

### *Affecting Nutrition- Inaccessibility to the Mid-day Meal Scheme*

The Mid-day meal scheme is targeted at providing students with hot cooked meals which plays a vital role in the nutritional requirements of 120 million children across 1.2 million schools.<sup>203</sup> Due to the closure of schools during the pandemic, these children have been affected and running a high risk of severe malnutrition.<sup>204</sup> Moreover, closure of Anganwadi centres which are learning and nutritional centres for younger children has also significantly affected the nutritional status of younger children.<sup>205</sup>

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<sup>196</sup> Indian Express, “Repeated school closures due to Covid leading to learning loss in South Asia: UNICEF” <https://indianexpress.com/article/education/repeated-school-closures-due-to-covid-19-leading-to-learning-loss-and-widening-inequities-in-south-asia-unicef-7499111/> (Sep 10, 2021).

<sup>197</sup> Praveen Sudevan, The Hindu, “Why e-learning isn’t a sustainable solution to the Covid-19 education crisis in India” <https://www.thehindu.com/sci-tech/technology/why-elearning-is-not-a-sustainable-solution-to-the-covid19-education-crisis-in-india/article31560007.ece> (May 11, 2020).

<sup>198</sup> Id.

<sup>199</sup> Krishna N. Das, “Reopen schools or disaster looms, experts tell Indian authorities” <https://www.reuters.com/world/india/india-reports-31222-new-covid-19-cases-deaths-rise-by-290-2021-09-07/> (Sep 27, 2021).

<sup>200</sup> Dheeraj Sharma & Poonam Joshi, Journal of Tropical Pediatrics, “Reopening Schools in India During the Covid-19 Pandemic” <https://academic.oup.com/tropej/article/67/2/fmab033/6290305> (May 31, 2021).

<sup>201</sup> Id.

<sup>202</sup> UNICEF, “COVID-19: A threat to progress against child marriage” <https://data.unicef.org/resources/covid-19-a-threat-to-progress-against-child-marriage/> (Mar, 2021).

<sup>203</sup> Sneha Mordani, India Today, “School closure have disrupted learning, widened gaps, affected children’s nutrition and health: India task force on Covid-19” <https://www.indiatoday.in/education-today/news/story/school-closure-have-disrupted-learning-widened-gaps-affected-children-s-nutrition-and-health-india-task-force-on-covid-19-1792095-2021-04-17> (Apr 17, 2021).

<sup>204</sup> Id.

<sup>205</sup> Divya Murali & Diego Maiorano, Institute of South Asian Studies, “Nutritional Consequence of the Lockdown in India: Indications from the World Bank’s Rural Shock Survey” (Apr 6, 2021).



### WORSENING CONDITIONS OF THE ACCESSIBILITY OF EDUCATION TO THE MARGINALISED COMMUNITIES

The RTE Act has laid excessive emphasis on ensuring schooling, however, the lack of efforts taken to ensure education was tested profoundly during the COVID-19 pandemic. The ill-effects of the pandemic will be witnessed in the very near future. Education is about quality, which would only reflect itself with the passage of time. The skills that an education is supposed to impart were lost at the inception of the pandemic, the baggage of which would be carried on for a long time with those who lost contact with school. This might lead to a complete disconnect with education altogether, finding it difficult to get back on track.

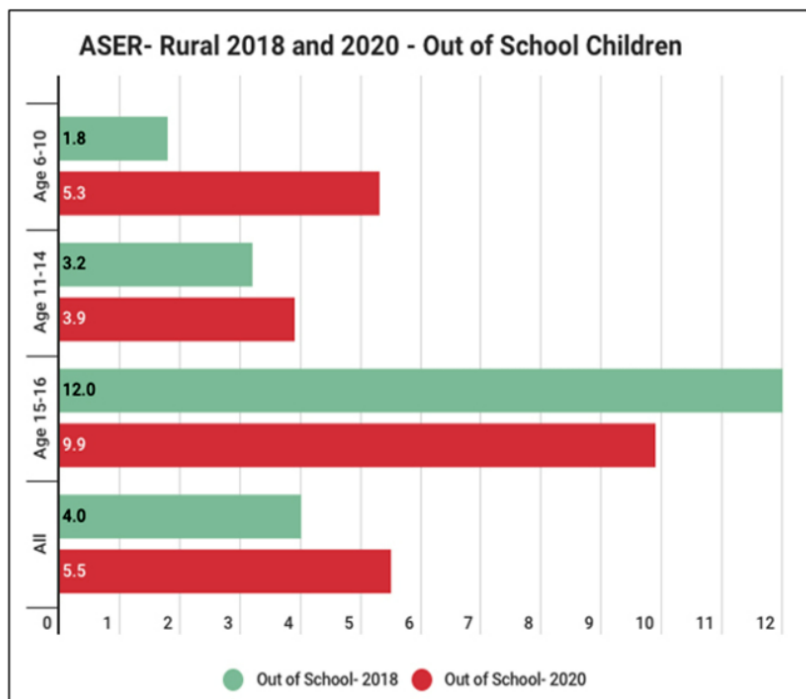
On the onset of the COVID crisis, when due to government mandated lockdowns, public places shut down, schools closed down as well, with which came a reliance on technology to carry forward with the education of millions of school goers. However, this also exposed India's glaring shortcomings when it comes to being prepared for this tectonic shift to a digital mode of education – only increased with the addition of the socioeconomic variables in analysing the same. While a lack of high-speed internet or digital devices sometimes hindered remote learning, the pandemic showed that even when these tools were available, digital technology did not necessarily enhance learning<sup>206</sup>. Only 60% of children had utilised distance-learning resources in the preceding 6 months<sup>207</sup>.

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<sup>206</sup> Mehr Kalra & Shivakumar Jolad, “Regression in Learning: The High Cost of COVID-19 for India's Children” [https://www.orfonline.org/research/regression-in-learning/#\\_ednref21](https://www.orfonline.org/research/regression-in-learning/#_ednref21) (Aug 2, 2021).

<sup>207</sup> Id.

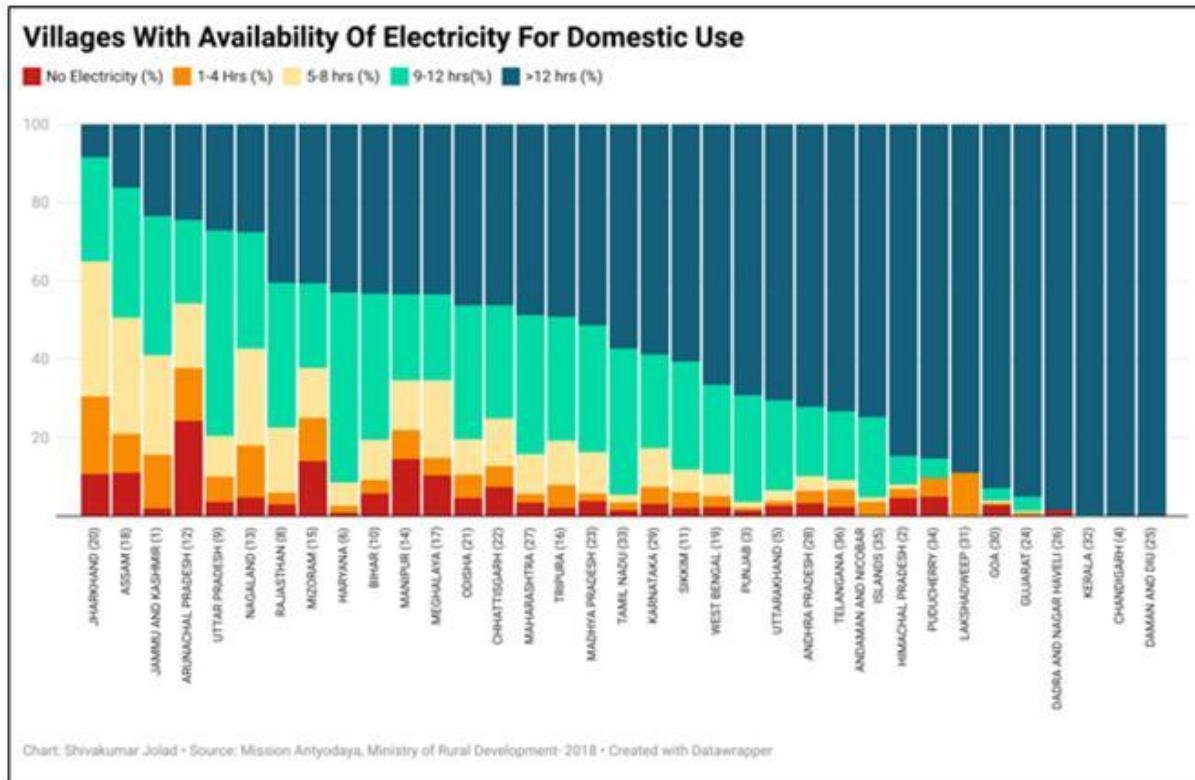
Figure 1. Out-of-School Children (in %, 2018 and 2020)



In the lower socioeconomic strata, three factors largely played a role in the deterioration of the quality of education: i) Physical infrastructure (unreliable electricity supply, study space, and overall home environment); (ii) Electronic devices (access to smartphones, computers, TV, among others); and (iii) the Internet (3G, 4G, or Broadband).

Without initiatives to overcome the pandemic’s knowledge gaps, socioeconomic disparities would endure or grow over time. Sending students who experienced the pandemic into the workforce without the appropriate skills may aggravate social unrest and undermine poor nations’ efforts to improve their lives. Adding on to this divide, intersectionalities of rural-urban gaps, differences across class, caste, and gender also start coming to play.

Access disparities to electricity and the internet has worsened India’s digital divide; many Indian children come from households where these two are unavailable, making online education impossible for them. Despite the fact that India has officially achieved 100% electrification in its rural districts, only 47% of households have access to power for more than 12 hours per day in 2017-18. Figure 1 shows that electrification varies greatly between states: only around a quarter of villages in Jharkhand, Assam, and the former Jammu and Kashmir had more than 12 hours of residential electricity. This share is higher in prosperous states such as Goa, Gujarat, and Kerala.



According to Wave-1 of the ASER (2020) research<sup>208</sup>, just 18.3% of rural youth enrolled in government schools have watched video recordings, and 8.1% have participated in live online lectures. In addition, the policy emphasised the necessity of public digital infrastructure, online teaching platforms and tools, content creation, a digital repository, and e-content dissemination, as well as teacher incentives to teach online and blended learning. Additionally, it was found that around 92% of children between grades 2-6 have lost the ability of at least one language, while 82% have lost at least one math ability from the previous year.

According to ASER Rural 2020 Wave 1, rural smartphone ownership has increased significantly from 36.5% in 2018 to 61.8% in 2020<sup>209</sup>. Despite job losses and decreased income caused by COVID-19's economic impact, the pandemic prompted families to buy smartphones for their children's education. Ownership, however, does not necessarily convert into usage, which is hampered by low digital literacy and access disparities within households.

According to a study published in February 2021 by Leadership for Equity ["LFE"] on School Closures and Education<sup>210</sup>, tribal parents were much worse off than their rural and urban

<sup>208</sup> ASER Centre, "Annual Status of Education Report 2020 Wave 1" <https://www.asercentre.org/Keywords/p/371.html>.

<sup>209</sup> Id.

<sup>210</sup> Pranjali Hardikar, Ritika Sebastian & Siddesh Sarma, "School Closure and Education: Experiences of Teachers and Parents from Maharashtra" [https://39f3fb78-adea-49cb-a650-8c969a7d8089.filesusr.com/ugd/a1b6a8\\_e265f45bcde04713bd3e0993f6473ea4.pdf](https://39f3fb78-adea-49cb-a650-8c969a7d8089.filesusr.com/ugd/a1b6a8_e265f45bcde04713bd3e0993f6473ea4.pdf) (Feb, 2021).



counterparts in six districts of Maharashtra. A smartphone, television, or computer is owned by less than half of them. The poll found that the availability of resources does not indicate access to those resources. Almost 85% of smartphone-owning parents have problems with competitive use. In addition to that, the bulk of high-quality instructional content, including interactive tools, is available in English. Children who are uneducated in English generally struggle to use internet learning tools.

Due to the same reasons of not being technologically at par with the rest of society, those from a lower economic or social background have found themselves in a difficult position to gain the benefits of the RTE Act. Children of the age of 6, on the cusp of 7, missed out on a place in schools due to COVID, which will have years long and rather immediate consequences on their lives. They would miss out on education which is their fundamental right, many might find it demotivating due to the lack of incentives in schooling beyond the RTE Act, and the sheer expenditure that comes with spending money for a private school education without any incentives.

### **THE RESTRICTIONS ON ACCESS TO EDUCATION IS A DENIAL OF A HUMAN RIGHT**

The inevitable exclusion of children from schools, risks at exacerbating their vulnerabilities including a lack of access to vital nutrition provided by school nutrition programs, exposure to violence at home, early marriages and pregnancies for girl children and deepening of inequalities for those without access to internet.<sup>211</sup>

A denial of education is therefore, a denial of a basic human rights to the millions of students who are put out of school due to the pandemic. Governments throughout the world have ratified human rights treaties which enshrine right to education along with rights to equality, life, and justice.<sup>212</sup> This obligation of fulfilment of right to education comes with a duty to do so without any discrimination and inequality which is salient during the pandemic when pre-existing inequalities have magnified.<sup>213</sup> Hence, this problem must be looked at from a rights-based approach and attention must be paid to the magnanimity of this issue.

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<sup>211</sup> Seble Tadesse & Worku Muluye, Open Journal of Social Sciences, “*The Impact of COVID-19 Pandemic on Education System in Developing Countries: A Review*” (2020).

<sup>212</sup> Professor Sandra Fredman, Society for Research in Child Development, “*A human rights approach: The right to education in the time of COVID-19*” <https://srcd.onlinelibrary.wiley.com/doi/10.1111/cdev.13654> (Aug 24, 2021).

<sup>213</sup> Id.





government's "Education at your doorstep initiative". However, the Vidyagama Programme has to be stopped since many teachers and students were found COVID positive.

The State of Madhya Pradesh launched "Radio School" to impart education to rural kids during the pandemic. Therefore, the pandemic led to the emergence of innovative ideas to impart education to children. The National Education Policy was launched during the pandemic in the year 2020.<sup>219</sup> However, the policy did not deal substantively with the emerging gap between access to education and student amongst the pandemic. Furthermore, there is not much data available to examine the effectiveness of the measures implemented by the government to bridge this gap.

### RESOLVING THE DIGITAL DIVIDE

The Report has found various issues linked to the implementation of RTE owing to the pandemic. Post the reopening of schools, certain measures must be taken to cover up the 1.5 years lost to the pandemic. It is therefore pertinent that there should be personalised attention given to each child to understand its need of the hour. According to the Azim Premji University, "90% students have lost at least one linguistic ability and 80% have lost at least one mathematical ability".<sup>220</sup> It thus becomes critical to examine the learning loss suffered by each child and take necessary action to cover the loss.

Moreover, it is likewise important that financial incentives are provided to parents to send their children to schools to curb the increasing drop out. Furthermore, children have been impacted both mentally and physically by the pandemic. Thus, it becomes necessary to provide a safe space to children in educational institutions before racing to cover up the academic loss suffered.

The Giga initiative model developed by UNICEF and the International Telecommunication Union provides a viable solution to tackle the present problem. The Giga initiative uses "*big data to track the connectivity of schools worldwide and then raises funds to help address the gaps*".<sup>221</sup> This model could be used to monitor the progress made by schools. This would be useful in case of future disruptions of schools.

It is likewise suggested that adequate financial incentive is provided to teachers since they would provide quality education to students so that they acquire basic academic skills. To avert future

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<sup>219</sup> Ministry of Human Resource and Development, "National Education Policy 2020" [https://www.education.gov.in/sites/upload\\_files/mhrd/files/NEP\\_Final\\_English\\_0.pdf](https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English_0.pdf).

<sup>220</sup>Research Group, Azim Premji Foundation, "Loss of Learning during the Pandemic" [http://publications.azimpremjifoundation.org/2490/1/Loss\\_of\\_Learning\\_during\\_the\\_Pandemic.pdf](http://publications.azimpremjifoundation.org/2490/1/Loss_of_Learning_during_the_Pandemic.pdf) (Feb, 2021).

<sup>221</sup> UNICEF, "About GIGA" <https://giga.global/about-us/>.



disruptions, adequate volunteers must be engaged apart from keeping learning areas in the local community active. Therefore, the community should be engaged as co-educators for the holistic development of children. The government should also provide financial assistance to educational institutions so that they could provide facilities to students to improve and hone their skills. This would likewise help in bridging the digital divide.

Children are the future possessing immense capabilities and potential. Education is the means to transform this potential into something fruitful and productive for the society. It will transform them into responsible citizens of the future. This is pertinent given the future challenges such as climate change, ecological sustainability, and global peace.

If the learning gaps created by the pandemic is not remedied soon, these would grow over time. Children would lack the appropriate skills when they grow up which would lead to social and economic repercussions for the society. Therefore, we need to reimagine education. Significant investments and policies are to be made for the betterment of children's education. It is important to incorporate the suggestions made since returning to the before pandemic situation is not feasible.



## CHAPTER VI: THE WAY FORWARD: WHAT THE FUTURE HOLDS?

Over the years of working of the RTE scheme has proved the efficacy of the RTE Act in uplifting the socio-economic conditions of the marginalised strata of the society. It has proved to be an effective channel to integrate the social cohesion among people hailing from different backgrounds. However, the roadblocks in the functioning and implementation of the RTE Act must be removed. On the basis of the assessment of the conditions of RTE implementation across different states of the country, the committee has come forward with the following recommendations to further streamline the entire RTE mechanism.

### 1. IMPROVE THE ROLE OF SCHOOL MANAGEMENT COMMITTEES

The RTE Act gives community members a variety of ways to get involved. SMC is a form of community interaction and involvement in school functioning. SMC was created with the goal of involving communities in the conception, implementation, and monitoring of school improvement programmes.<sup>222</sup> It creates a feeling of ownership among the primary stakeholders (parents) and helps in building the partnership and networking between the school and community. SMC plays a critical role in achieving the RTE Act's objectives. It assists in raising public awareness and fostering a strong sense of ownership over government policies and programmes. The SMC's main goal is to provide community members a greater say in how the school operates.

SMCs are however excluded from Section 2(n)(iv), which pertains to specific schools, i.e., private unaided schools. The RTE act should be amended to allow for the formation of SMCs. Several current 'admissions' and 'maintenance of students' related issues that private schools are facing can be resolved by schools having such committees wherein the views of parents are respected and considered to create better mechanisms to deal with the lacunae within the current process.

This would be applicable broadly for – *Rajasthan, Maharashtra, and West Bengal*.

### 2. TIME-BOUND REIMBURSEMENT MODEL FOR PRIVATE SCHOOLS

In order to encourage admissions through RTE and fix all the problems relating to reimbursement, there must be a time-bound reimbursement model in place. In this regard, a comparative analysis

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<sup>222</sup> Charu Sethi & Alka Muddgal, New Delhi Publishers, "A study of role of SMC as mentioned in Right to Education Act, 2009 among Municipal Corporation Primary Schools of Delhi" (2017).



can be done with the states of Rajasthan and Madhya Pradesh. Both these states have set up an online reimbursement model. It conducts reimbursements in 2 cycles. Students have the option of tracking and checking the status by way of the online portal. These portals can serve the purpose of not only reimbursements but can also include features for updating attendance and grades of students. This would help in identifying dropouts as well. To crosscheck the accuracy of the same, physical checks can also be conducted by way of social audits. An online model of fee reimbursement such as this one can help to expedite the process, whilst also keeping students and parents in the loop. In case of any discrepancies, the usage of the grievance redressal mechanism can be employed.

Furthermore, to do this, a committee can be set up under either the Commission for Protection of Child Rights or the Ministry of Education or any other relevant ministry of the concerned states. The committee must include members of private school management committees as well in order to have a more insightful idea of the impact of the lack of remunerations and what procedure would be suitable for the schools and the government to start reimbursements in the quickest manner possible.

This would be applicable broadly for – *Uttarakhand, Maharashtra and Tamil Nadu*. However, setting up a committee under the Commission for Protection of Child Rights or the Ministry of Education is general recommendation meant for all the states.

### **3. POLICIES CONCERNING THE DIGITAL DIVIDE WITHIN THE STATE**

The aim of the RTE Act 2009 is not only to ensure admission of the eligible students but also to provide children with basic facilities so that they can avail the education to its fullest. We have already mentioned that the pandemic has further deepened the digital divide. States can consider coming forward with schemes to provide digital devices to students, who are admitted under the RTE provision either free or on an affordable price, so that they can continue their education and may avail the benefits of the online education.

To address the issue of digital divide, the system of Common Service Centres, which is an initiative of the Ministry of Electronics and Information Technology can be utilised. Common Service Centres enable access to the internet in places where there is a major lack of accessibility and availability, especially in distant areas like Chamoli, Almora and Nainital in the state of Uttarakhand.



Furthermore, the government can work with organisations to train the youth. Tutorials can be prepared in Hindi, for students and parents. A strategy which has worked is sharing these videos through WhatsApp as there is quicker dissemination of information.

This would be applicable broadly for – *Odisha, Jharkhand, Uttar Pradesh, and Uttarakhand.*

#### 4. OUTREACH AND AWARENESS BUILDING

Outreach programs must be undertaken by the government in order to ensure that the benefits of the act percolate to the grassroots of the society. Greater awareness must be created for several issues such as entry level ages for RTE admissions. Flyers can be put in government schools and offices and in localities, where underprivileged students reside including but not limited to slums.

The RTE admission process in states, like Maharashtra more often than not takes place in multiple rounds with people being aware of mostly the first round only. The issue of lack of awareness can be addressed through physical camps by government agencies in slum areas or identified areas where there are several potential RTE applicants. The camps must be held in the local language and must also provide written material in the local language for attendees. This material should include all the requirements, eligibility criteria, and the process of application. Separate seminars should also be held for the girl child, since there should be additional efforts to ensure that girls can also avail benefits under Section 12(1)(c). These camps should be hosted during government holidays and during such times, when working parents can also attend them.

The entire admission process happens online and since most of the individuals do not have access to the internet, they miss out on the vital information. Schools are instructed to prominently display the information pertaining to the number of available seats on campus, as well as at district education offices. The establishment and maintenance of the aforementioned database will help, though it will not be sufficient. Along with this, the prospective beneficiaries of the scheme need to be sought out by the government.

This would be applicable to *all states.*

#### 5. GRIEVANCE REDRESSAL MECHANISM

State governments should set up a Grievance Redressal Cell, which would deal with the grievance pertaining to the admission process and other provision of RTE. The Grievance Redressal Cell should also provide a separate toll-free telephone number specially for the students who are



enrolled in schools under the RTE Act so that their grievance after the admission pertaining to education, school, health (mental and physical) should be recorded and resolved.

Along with this, an Admission Assisting System should be developed, which would assist the parents and students in the admission process with working contact numbers on the RTE Portal as well. A dedicated helpline number should be set up to address the queries of the students and the parents of the students, who are being enrolled in schools under the RTE Act. Moreover, planning should be done in a detailed manner, so that non-inclusion of vulnerable people due to trivial matters like communication in just one language does not occur. They should ensure that there are no inconsistencies and problems with the circular and the notifications. This would also ensure that the admission process is not stretched unnecessarily and students do not miss out on their academic session. Addressing Grievances and assisting the parents in the admission process should be ensured in order to do proper justice to the provision of the RTE.

This would be applicable to broadly for – *Odisha, Jharkhand, Gujarat, Odisha, Uttar Pradesh and Tamil Nadu.*

### 6. RELAXATION ON DOCUMENTS –

With regards to documents, clear specifications must be laid down. Apart from that, a relaxation for documents can be done in the interest of children of migrant workers. If not, rent agreements should also be accepted as legal address proofs. A relaxation should be preferred since very often, migrants reside in illegal occupations. The mandate of submission of Aadhaar card should be removed. In this regard, a parallel can be drawn to the Maharashtra state government. For instance, the form issued in Maharashtra does not require uploading the documents but rather, only asks for the document ID to be shared. The documents can be verified later in a physical set-up. Minimum number of documents should be required and admission of students fulfilling the criteria for 25% seats should not be refused due to lack of documents. Relevant verification of the details of the student can be made through using volunteers for income and address verification.

This would be applicable to broadly for – *Karnataka, Uttarakhand, and Tamil Nadu.*

### 7. CONDUCT OF AUDITS

There is a need for State Governments to have a proper record of the no. of seats available in various private schools under the 25% reservation scheme of the RTE and the same should be uploaded by the authorities on the RTE Admission portal and managed by the respective schools



as well. For this purpose, regular audits should be carried out by state governments to check whether the RTE provisions are being properly implemented or not. Frequent audits must also be conducted to ascertain which schools participate in the RTE process and which do not. In order to ensure compliance, strict punitive action must be imposed on the schools which are not complying. This could also be done by way of policy changes. Apart from that, petitions can be filed in courts and legal action can also be taken. This would be applicable to broadly for – *Karnataka, Odisha, Jharkhand, Uttarakhand, and Tamil Nadu.*

### 8. INCLUSION OF DIFFERENTLY-ABLED CHILDREN

In August 2016, the Delhi High Court gave a favourable ruling for the admission of a differently-abled child in a neighbourhood school under Section 12(1)(c), wherein the court waved aside several technicalities while directing the admission owing to the circumstances of the child's disadvantage, such as the fact that candidate resided in Ghaziabad and not Delhi, and that there was some discrepancy in his date of birth.

SMC plays a critical role in achieving the RTE Act's objectives. It assists in raising public awareness and fostering a strong sense of ownership over government policies and programmes. The SMC's main goal is to provide community members a greater say in how the school operates. This assertion of the Court reiterates the spirit of the RTE Act as envisaged at the time the legislation was enacted. Previously, the Delhi High Court had issued decisions favouring not only the admission of differently-abled children into the DG category, but also the provision of adequate facilities and special educators for such students in schools. This is a significant case in which judicial intervention broadened the scope of the provision and filled in gaps in executive policy.

It should be noted that the Supreme Court, in response to a petition highlighting discrimination faced by children affected by HIV, has asked States to consider including such children in the DG category under the RTE Act. Inclusion in this category and the ensuing benefits under Section 12(1)(c) can serve as an important vehicle for bringing marginalised children into the mainstream education system.

Proactive measures must be taken to ensure that disabled students are given the facilities they deserve. Sensitisation drives must be conducted. It must be ensured that the schools comply to the accessibility standards laid down by the government. Extra classes must also be conducted for these students. Social audits must be conducted in order to check the implementation of schemes



on the ground level. This would be applicable broadly to *all the states* but special emphasis may be given to *Delhi and Uttarakhand*.

#### 9. MAINTENANCE OF RECORDS AND DATA

There is no state level compiled data regarding the RTE admissions available with the state authorities in several states. In an RTE filed by our members for the state of Jharkhand, the state authority provided that no state level district wise admission data is available with them and suggested to correspond individually with all the District Education Officers (DSO) of the state. For effective implementation of the RTE Provisions, it is recommended that a district wise data regarding the Admission under RTE should be compiled by the state authorities at the state level.

Furthermore, there is a need to establish a mechanism of maintenance of records of children up to 14 years of age within the local jurisdiction. This will ensure that the schools in the state are more proactive when it comes to notification of dates. If they fail to inform the parents despite having access to records and contact details, punitive measures can be put into place. Furthermore, states should develop a mechanism through which private schools' records could be accessed at the district and state level. This would be applicable to broadly for – *Tamil Nadu, Madhya Pradesh and Jharkhand*.

#### 10. REVISED RULES AND GUIDELINES FOR THE ADMISSION PROCESS

The RTE Act provides that the state can formulate rules and guidelines for the admission process according to its needs. Thus, the states should immediately formulate unambiguous and comprehensive guidelines regarding reservation of 25% of the seats in private schools if the same has not been hitherto formulated. It is further recommended to clearly define:

- a) The age criteria for entry level, stating the minimum and maximum age of admission. For reference, in Uttar Pradesh, the eligibility pertaining to the age of the candidate has been clearly defined.
- b) The Entry level Class, mentioning whether the admissions are being done for Class I or Pre-Primary & along with that the appropriate class to which he/ she is eligible for admission in accordance to his or her age. For reference, the entry level eligibility appropriate to the age of candidate has been clearly laid out in Uttar Pradesh.



- c) The admission cycle and dates of admission process through a notification, mentioning the whole admission process, documents required, address and contact of the authorities. For reference, the notification released by the Uttar Pradesh government has clearly laid out all the important dates for admission under the RTE and divided the whole admission process in 3 phases for the convenience of the children and their parents, and explained the process in brief.

It is recommended to make a proper break down of the 25% seat reservation granted by the RTE Act. For reference, the seats breakdown in Odisha can be referred, where under the eligibility criteria, it is defined that out of the 25 per cent seats, 10 per cent should be reserved for children, belonging to SC/STs and SEBCs. Besides, 5%seats are to be reserved for those children who do not have any home or settled place or those children who belong to disadvantaged sections. Similarly, 10% seats are reserved for the children whose parents belong to BPL category or listed in any poverty alleviation programme of the government.

It is further recommended that proper consideration should be given to those children who were found begging or are street children and a separate provision must be inserted for them within the rules to waive the requirement of submission of documents in case of street child/ child found begging.

This would be applicable to *all states* that do not presently contain RTE rules.

The Report has highlighted multiple challenges that act as roadblocks in the better implementation of the RTE Act. While the achievements of the Act have fallen short of expectations and the data across states reveal the failure of implementation, the damage is not beyond repair. The major concern for all governments is to combine the goals of quality and equity to make education in India inclusive and accessible for all. The other significant development in the field has been the introduction of National Education Policy in 2020, with governments implementing policies such as NIPUN Bharat Mission (National Initiative for Proficiency in Reading with Understanding and Numeracy). The latest ASER 2022 data is evidence of the efforts that the governments have been making in this direction. These measures are much needed in context of the learning losses encountered on account of the Pandemic.

Amidst the numerous challenges in implementation of RTE Act highlighted in the Report, one challenge that remains uniform across the states and had to be battled with even for preparation of this Report, is the lack of publicly available data on the state of implementation of RTE Act.



The data available is full of inconsistency. This problem becomes more acute with an overburdened bureaucratic machinery and vague RTI responses. This Report in an attempt to compile the data across states to provide an integrated, comprehensive and holistic view of state of implementation of RTE.

A rights-based legislation has no teeth without dedicated implementation agencies. It is important that states with inadequate RTE framework emulate the initiatives taken by other states that have met success. The states need to adopt for proactive and integrative policies with accountability and transparency as the foundational values of good governance. This can be achieved with integrated efforts of governments, private schools, civil societies, legal aid clinics. The continuing task of implementation of RTE requires constant identification of the enforcement loopholes, the will to devise problem specific individual solutions and a mechanism to execute the same. The RTE Act is a progressive legislation for the integration of socio-economic right which was left out of Part III of the Constitution during Constitution making. While like every other social welfare legislation, the RTE Act is a work in progress, if the stakeholders continue to invest their time, effort and energy, the future ahead is not a story of despair and failure but of recovery and hope.



## CHAPTER VII: ROLE OF THE LEGAL AID CLINICS

The Implementation of RTE has been fraught with challenges and obstacles, which is where legal aid cells/committees in law schools can play an important role. Legal aid cells, consisting of groups of students and faculty members within law schools, can help to ensure that the RTE Act is effectively enforced and that all children have access to quality education.

They can help by assisting individuals and families with the documentation and filing process for the RTE Act. This can include helping them to understand their rights and obligations under the RTE Act, as well as guiding them through the application process and assisting with the preparation of necessary documents such as proof of income, residence, and other required information. Legal aid cells may also be able to provide representation and advocacy in case of any issues or disputes that may arise during the RTE application process. It is important to note that the documentation and filing process may vary depending on the state or district and it is always recommended to check with the state RTE website or contact the local education department for more information.

**CASE STUDY 1:** With the goal of fulfilling the Right to Education in mind, LAAC organised the “*Mil Kar Karein RTE ko Sarthak*” Competition. The aim of the competition was to increase the number of admissions made under **Section 12(1)(c)** of the **RTE** Act. The Competition involves students from various colleges in Jodhpur working diligently to secure admissions for children in different schools in the city. The participants are informed about the procedure required to be followed for ensuring the admission of underprivileged children under the RTE Act by the Committee. The participants then visit the households of such children and help facilitate their admission. Participants who secure the maximum number of admissions in the specified time period are recognized by the Committee. So far, since 2018 three editions of the competition have been conducted successfully, with 107, 158, and over 100 applications secured in the first, second and third edition respectively. The fourth edition is currently ongoing.

**CASE STUDY 2:** LAAC filed a letter petition before the Rajasthan High Court, highlighting deficiencies found in the implementation of the RTE, 2009 in the district of Jodhpur. These deficiencies were identified through an empirical study conducted by the Committee in the district of Jodhpur. The Committee created a survey questionnaire to evaluate the conditions of government schools based on the standards outlined in Schedule I of the RTE Act. The Committee, with the support of 40 volunteers, travelled around 3000 kilometres in 15 days and



visited 107 government schools in the Jodhpur district. The Rajasthan High Court admitted the petition and acknowledged that the government schools have not been following several compliances under the RTE Act and therefore ordered the state to improve the condition.

Legal aid cells/committees can also help to raise awareness about the RTE Act and educate the public on their rights and obligations under the law. This is especially important for communities that may not have access to legal representation or resources, as legal aid cells can help to bridge this gap. Furthermore, legal aid cells can work to identify and address any barriers or challenges that may arise in the implementation of the RTE Act. They can do this by conducting research and investigations, monitoring compliance with the act, and advocating for necessary changes. For example, legal aid cells can work to ensure that schools in disadvantaged areas are adequately funded and equipped to provide quality education. They can also advocate for the inclusion of marginalised groups, such as children with disabilities, in mainstream education. Additionally, legal aid cells can work to ensure that teachers are adequately trained and qualified to provide quality education to children.

In addition, Legal aid cells can also work to promote the education for girls and children from the economically and socially disadvantaged sections of the society which are often left behind in the education system. They can work with NGOs and other organisations to provide scholarships and other forms of support to these children, in order to ensure that they have equal access to education.