

PRESERVING THE RIGHT TO SAFE, INCLUSIVE, QUALITY EDUCATION FOR CHILDREN IN INDIA

A COMPENDIUM OF COURT RULINGS IN 2023



The report is compiled by Pacta to present judgements that inform and catalyze fair and equitable education especially for the marginalized in India.

About Pacta

Pacta is a Bengaluru (India) based boutique law and policy think tank dedicated to supporting civil society organizations, universities, and non-profit initiatives. It has an unflinching commitment to provide legal and policy consulting support for public service delivery. Acknowledging the crucial role of research and scholarship for social development, Pacta engages in law and policy research through self-driven and collaborative projects. Focus areas are – Education, Philanthropy, Disability, Gender and Information Technology.

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Published in India, February 2024.

Suggested Citation: Preserving the Right to Safe, Inclusive, Quality Education for Children in India: A Compendium of Court Rulings in 2023, Pacta, Bengaluru, 2024.

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Introduction

Education is a fundamental right of every citizen in India and is enshrined in the Constitution of India (Article 29-30). The Indian judiciary plays a vital role in shaping and enforcing policies related to education. The judiciary also plays a crucial role in ensuring that educational institutions are held accountable for providing quality education to students.

Over the years, the courts in India have passed several landmark judgements related to education, ranging from admission policies to curriculum and infrastructure requirements. The courts have intervened in cases with allegations of malpractices in admissions or discrimination against specific communities.

2023 witnessed the Supreme Court and various High Courts of the country ruling on crucial questions on private school autonomy, rights under the RTE and essential qualifications for teaching in primary school. The Indian judiciary system will continue to play a crucial role in ensuring that education policies are in line with constitutional principles and are accessible to all citizens, regardless of their socio-economic status or background.

In this report, we cover important judgements related to education in the year 2023.

Autonomy Asserted: Court Rejects State Intervention in Private School Fee Regulation

Case Title: Rashmi Education Trust Vidyaniketan School & Others v. State of Karnataka & Others.

Simplified: Private unaided schools in Karnataka challenged certain provisions of the Karnataka Education Act and rules, on the ground of unconstitutionality. The Court held that the state cannot regulate fees for private unaided schools, emphasising the importance of considering quality education and personal development while setting fees. The Court declared that Sections 2(11-A), 124-A, section 5-A, and 112-A are in contravention to Article 14 of the Constitution, deeming any notifications under these provisions unconstitutional for private unaided educational institutions.

Summary: The Private unaided schools in Karnataka challenged the constitutionality of Section 48 of the Karnataka Education Act and associated rules, which allowed the State Government to set a cap on fees for all schools in the state. The Court held in favour of the petitioners, ruling that the Government cannot dictate fees, charges, or donations for private unaided schools. However, the Court acknowledged the importance of considering the need for quality education and students' personal development when determining fees for private unaided educational institutions, stressing a fair and just approach to prevent depriving any child of elementary education.

The Court found the state's intervention in fee fixation for private unaided educational institutions to violate Article 14 of the Constitution of India. Specifically, the Court declared Sections 2(11-A) establishing the District Education Regulatory Authority, 124-A related to penalties for contravention of Section 48, and provisions like Section 5-A on safety and security of students and 112-A on penalties, to be contrary to Article 14. Any notifications issued by the state government under these provisions were deemed unconstitutional and not applicable to private unaided educational institutions.

Court: Karnataka High Court

Citation: Writ Petition No. 6313 of 2017

Date of Judgement: 5th January, 2023

Issue: Constitutional Validity of State's intervention in school fee regulation

Act: Right to Education Act, 2009

Key Phrases: State Intervention / Private School Fee Regulation.

Pandemic-era School Fee Regulation: Balancing Parents' Concerns and Preventing Profiteering in Education

Case Title: Adarsh Bhushan v. State of UP

Simplified: In response to a petition addressing school fees during Covid-19, the Allahabad High Court, in alignment with a Supreme Court judgement, ruled that private schools, having offered only online tuition in 2020-21, should refrain from charging for unrendered services. Citing the SC precedent, petitioners argued against profiteering and commercialization. Chief Justice Rajesh Bindal and Justice J.J. Munir directed UP's private schools to adjust 15% of 2020-21 fees in the next session, extending the refund provision to departed students within a mandated two-month processing period.

Summary: A petition was filed on behalf of the parents of school students regarding the regulation of school fees being charged during Covid-19. The parents contended that the private schools only provided online tuition and did not provide certain other facilities for which they were charged in the 2020-21 academic year. On this ground, they argued that they are not liable to pay the same school fee as was paid in 2019-20.

The petitioners cited the judgement given by the Hon'ble Supreme Court in Indian School, Jodhpur v. State of Rajasthan in support of their contention, where it was held that the private schools demanding fees without providing any service amounts to profiteering of education. Drawing on the Supreme Court judgement, the two judge bench of the Allahabad High Court directed the private schools in UP to adjust 15 percent of the entire fees charged in the session 2020-21 to the next session. The Court also ruled that students who had left the schools must be refunded.

Court: High Court of Judicature at Allahabad

Citation: Public Interest Litigation (PIL) No. - 576 of 2020

Date of Judgement: 6th January, 2023

Issue: Regulation of school fees during Covid-19, addressing concerns raised by parents of school students

Key Phrases: Pandemic-Era Fee Regulation / Profiteering, Commercialisation / 15% Adjustment / Refund

Balancing Rights: Children's Education vs. Private School Authority in Fee Dispute

Case Title: Master Prabhnoor Singh Viridi (Minor Son) through Father Karamjeet Singh Viridi (Father) v. The Indian School & anr.

Simplified: In this case, a Class 10 student, facing exclusion from board exams due to unpaid fees, filed an urgent petition in the Delhi High Court through his father. The Court, invoking Article 21, recognized the fundamental right to education, stating a child shouldn't suffer mid-term due to fee non-payment. While acknowledging the school's right to not retain financially constrained students, it emphasised maintaining a balance with a child's right to education. Considering the student's academic status and nearing board exams, the court directed the Petitioner to pay a sum of Rs. 30,000 within four weeks, upholding the right to education and setting a crucial precedent.

Summary: A private school struck off the name of a Class 10 student from its rolls due to non-payment of fees by the student. The father of the student appealed to the court to permit him to attend classes in view of the approaching board exams. The court considered the matter in light of Article 21 of the Constitution, guaranteeing fundamental rights to education, life, and liberty. It referred to the Supreme Court judgement in TMA Pai Foundation v. State of Karnataka, where education was held to be an activity that is charitable in nature. The Delhi High Court allowed the petition, asserting that a child should not suffer amidst an academic term due to fee non-payment, stressing that education is an essential right falling under the Right to Life. Recognizing the pivotal role of Class 10 and Class 12 board exams in Indian society, the court highlighted their decisive impact on a student's future.

At the same time, the Court also stated that a private, unaided school cannot be compelled to retain a student unable to pay, particularly if not accepted under the Economically Weaker Section (EWS) or Disadvantaged Group (DG) quotas. It emphasized that while Rule 35 of Delhi School Education Rules 1973 ["DSER"], which authorises the Head of the school to strike off the name of a student from the rolls of the school on account of non-payment of fees is still valid, a balance must be maintained between a child's right to education and the school's rights under DSER.

Considering the student's current academic status and the proximity of board exams, the court directed the petitioner to pay Rs. 30,000 within four weeks. Upholding the petitioner's plea, the court instructed the school to allow the student to continue, safeguarding the fundamental right to education. This case sets a significant precedent, reinforcing the importance of the right to education in India.

Court: Delhi High Court

Citation: W.P.(C) 584/2023

Date of Judgement: 17th January, 2023

Issue: Whether a student facing exclusion from board exams due to unpaid fees is deprived of the Fundamental Right to Education?

Act and Rules: Delhi School Education Rules 1973, the Delhi School Education Act 1973, The Constitution of India, the Right to Education Act 2009, Juvenile Justice Care and Protection Act 2015

Key Phrases: Board Examination / Non-payment of fees / Private- Unaided schools / Right to Education / Balance the equities

State's Obligations to Provide Free Textbooks and Uniforms Limited to RTE Section 12(1)(c) Admissions

Case Title: U.P. Sr.Basic Shiksha Mahasha. U.P. Officer Shri N.P.M.Vidy. Raebareli Thru. President Ankur Chaudhari vs. State Of U.P. Thru. Addl. Chief/Prin. Secy. Basic Education U.P. Civil Sectr. Lko. And Others.

Simplified: The Allahabad High Court dismissed a PIL by the Uttar Pradesh Senior Basic Shiksha Mahasabha, clarifying that the state isn't obliged to provide free textbooks and uniforms to all students in private unaided junior high schools. According to Section 12(1)(c) of the RTE Act, 2009, the obligation for free textbooks and uniforms applies to students admitted under this section, reserving 25% of Class I seats for children from disadvantaged groups. Therefore, the court rejected the petition, stating it was misconceived in seeking the benefits under Section 12(1)(c) for all students in classes 6 to 8 in recognized non-aided junior high schools.

Summary: The Allahabad High Court has stated that the state is not obligated to provide free textbooks and uniforms to all students studying in unaided junior high schools managed by private institutions. However, the court clarified that the state and local authorities are responsible for providing free textbooks and uniforms each year to students admitted under Section 12(1)(c) of the Right of Children to Free and Compulsory Education (RTE) Act, 2009. This provision mandates that 25% of seats in Class I of private unaided schools following the ICSE/CBSE/State syllabus should be reserved for children from disadvantaged groups and weaker sections.

The court made these observations while considering a Public Interest Litigation (PIL) filed by the Uttar Pradesh Senior Basic Shiksha Mahasabha. The association sought a direction from the court to ensure the provision of free textbooks and uniforms to all students in classes 6 to 8 in non-aided recognized junior high schools recognized by the Basic Education Board, Prayagraj, Uttar Pradesh.

After examining the relevant provisions of the 2011 Rules and the RTE Act, the court concluded that the duty to provide free textbooks and uniforms applies only to students admitted under Section 12(1)(c) of the Act, which refers to students from weaker and disadvantaged sections occupying up to 25% of the total seats. Consequently, the court dismissed the writ petition, considering it to be misconceived.

Court: Allahabad High Court

Citation: Public Interest Litigation (PIL) No. - 178 of 2023

Date of Judgement: 3rd March, 2023

Issue: Whether the State must provide free textbooks and uniforms to all students in unaided junior high schools

Act and Rules: Right to Education Act, 2009, Uttar Pradesh Right of Children to Free and Compulsory Education Rules

Key Phrases: Free textbooks and Uniforms / Private unaided schools / Weaker and Disadvantaged sections

The Right of Private Schools to Admit Students of their Choice Must be Based on Reasonable and Transparent Criteria

Case Title: *Ayab Jorwal (Minor) Through Father Dinesh Kumar Meena v. Govt. of NCT of Delhi & Ors.*

Simplified: The case involved a Class 1 boy who was denied admission under the sibling criteria because he didn't submit his sibling's tuition fee receipt. The school argued that the sibling criteria is meant for applicants whose siblings are studying in the General Category in the school. The Court found this requirement unreasonable and discriminatory. It directed the school to award 'sibling points' to the petitioner and grant him admission, stating that schools cannot insist on only one document for sibling proof. It also held that while schools can establish additional admission parameters, they must be equitable, non-discriminatory, and unambiguous.

Summary: In this case, a minor child sought admission to Class I in a school, claiming sibling points as his elder brother was studying in the same school under the Disadvantaged Group (DG) quota. The school rejected his application due to the absence of the latest tuition fee receipt, required as proof of sibling criteria. The petitioner argued that he couldn't provide the receipt as his brother, being under the DG quota, didn't pay any fee. He presented a certificate from the school principal as proof and cited an order from the Directorate of Education (DoE) advising schools not to insist on the fee receipt.

The school contended that sibling points were only for applicants whose siblings were studying in the General Category. They argued that they had the autonomy to define their criteria and that the petitioner was trying to blur the lines between the General and Reserved categories. They also stated that the petitioner had no right to claim sibling points as the Right to Education Act, 2009 (RTE) didn't recognize such a right.

The court ruled in favor of the petitioner, directing the school to award him sibling points and grant him admission. The court deemed the school's action of not awarding sibling points to the petitioner, because his brother was studying under the DG category, as arbitrary and discriminatory. The court noted that the school couldn't insist on a particular document for proof of a sibling studying in the school when there

was no dispute over the fact. The court also stated that granting sibling points to the petitioner wouldn't infringe on the school's autonomy or convert a General seat into a Reserved seat. The court concluded that the school's discrimination violated the petitioner's fundamental right to equality and equal treatment.

Court: Delhi High Court.

Citation: W.P.(C) 348/2023 and CM APPL. 1358/2023

Date of Judgement: 17th April, 2023

Issue: Whether a school's refusal to award sibling points for admission, based on fee payment distinctions within the Disadvantaged Group (DG) quota, violates the fundamental right to equality under the Right to Education Act, 2009

Act: The Constitution of India, Right to Education Act, 2009

Key Phrases: Private Schools / Denial of Admission / Admission parameters / Siblings Category Points / Disadvantaged group and General Category / Right to Equality

Students Admitted under the RTE Act's DG/EWS Quota Need Not Pay Even a Penny, State Must Pay All Fees

Case Title: M. Suveathan vs. The State Commission for Protection of Child Rights and Ors.

Simplified: The Madras High Court ruled that the State must bear all the costs of education, including uniforms, books, and study materials, for children admitted under the 25% quota of the Right to Education Act. The Court rejected the State's argument that only tuition fees are reimbursed and directed the school to provide the required materials to the petitioner without any payment.

Summary: The Madras High Court ruled that the State Government is responsible for bearing all expenses, including costs for books and study materials, incurred by economically weaker section (EWS) and disadvantaged group (DG) children admitted to schools under the Right of Children to Free and Compulsory Education (RTE) Act.

The court emphasized that it is the duty of the State to provide free and compulsory education to these children without them having to pay any fees. The judgment came in response to a petition filed by a minor and his father, who were asked to pay additional fees by a private unaided school in Vellore district for uniforms, study materials, and other items. The Court rejected the state's argument that only tuition fees are reimbursed and held that all necessary items for education, including uniforms and books, should be provided by the school without any payment from the students. The Court directed the school to provide the required materials to the petitioner and instructed the school education secretary to issue instructions to all schools not to demand any amount from students but to claim reimbursement from the state for such expenses.

Court: Madras High Court

Citation: W.P. NO. 4615 OF 2022.

Date of Judgement: 18th April, 2023

Issue: State's liability to reimburse the fees charged by the school for uniforms, notebooks, and study materials, which are essential for the education of the Child

Act: Right to Education Act, 2009

Key Phrases: Private Unaided Schools / Disadvantaged Group / EWS Category / Duty of State / Free and Compulsory Education

Educational Institutions Advised to Flexibly Apply ‘Neighbourhood Criteria’ for Admissions Under EWS or DG Category

Case Title: Tarun Kumar & Anr. v. The Principal Happy Hours School & Ors.

Simplified: The Delhi High Court ruled that schools can't strictly enforce "neighbourhood criteria" for EWS/DG admissions. If seats are available, DOE must allocate them, even if applicants don't strictly meet neighbourhood criteria. This prevents unused seats, ensuring the reservation purpose. The court acknowledged proximity but prioritised equal opportunities for weaker section children. Responding to denied applicants, the court directed admission under EWS/DG, prioritizing equal access for economically weaker and disadvan-

Summary: The Delhi High Court ruled that schools in the National Capital cannot strictly insist on the "neighbourhood criteria" for admission under the Economically Weaker Section (EWS) or Disadvantaged Group (DG) category. The court stated that if seats are available in a particular school under the EWS/DG category, the Directorate of Education (DOE) should allot those seats to applicants who have applied for admission under that category, even if they do not strictly meet the neighbourhood criteria. It emphasized that the purpose of reservation of seats under the EWS/DG category should not be defeated by allowing seats to go unused due to strict adherence to the neighbourhood criteria. It also clarified that while the DOE needs to make efforts to allocate schools nearest to the students' residences, equal opportunities for education should be provided to children from weaker sections of society.

The ruling came in response to a plea filed by two applicants who were allotted seats in a school under the EWS/DG category but were denied admission based on the school's claim that they did not fulfil the neighbourhood criteria.

The court directed the school to grant admission to the petitioners under the EWS/DG category and clarified that the petitioners should make their own travel arrangements if transportation is not provided by the school.

Court: Delhi High Court

Citation: W.P.(C) 7953/2023 & CM AP-PLs. 30622-30623/2023

Date of Judgement: 31st May, 2023

Issue: School's authority to strictly enforce "neighbourhood criteria" for admissions under EWS/DG categories.

Act: Right to Education Act, 2009

Key Phrases: Private Unaided Schools / Disadvantaged Group / EWS Category / Duty of State / Free and Compulsory Education

High Court Mandates Admissions for RTE Applicants in Assam, Issues Warning to Ensure Compliance

Case Title: We for Guwahati Foundation & 2 Ors. v. The State of Assam & 23 Ors.

Simplified: In this case, a PIL was filed for the enforcement of Section 12(1)(c) of the Right to Education Act in Assam. The court directed the Secretary of the Department of School Education to ensure the admission of 49 children whose applications were pending under the Act.

Summary: The Gauhati High Court has directed the Secretary of the Department of School Education to ensure the admission of 49 children whose applications are pending under the Right of Children to Free and Compulsory Education Act, 2009, in various schools in Assam. The division bench of the Court warned that if the directive is not followed, the Secretary will have to appear in Court on the next hearing date. The Court's directions were given in response to a Public Interest Litigation (PIL) highlighting the non-implementation of Section 12(1)(c) of the RTE Act in Assam's schools. The PIL claimed that despite the state issuing notifications mandating compliance with the RTE Act, many unaided educational institutions had refused to admit the children for the current academic session. Section 12(1)(c) of the RTE Act requires private unaided schools to admit at least 25% of children from weaker sections and disadvantaged groups in the neighborhood for class I and provide them with free and compulsory elementary education. The court had previously issued notice to the state and private respondents and directed the Secretary to address the matter and ensure immediate admissions for the listed children. However, on May 17, the petitioner alleged that only 15 out of the 49 children had been admitted under the RTE Act. It was also claimed that one school had pressured parents to sign blank undertakings, and two other schools were charging fees from children admitted under the RTE Act. The court instructed the petitioners to provide an affidavit with these additional details for the record.

Court: Guwahati High Court

Citation: PIL/30/2023

Date of Judgement: 31st May, 2023

Issue: Admission of EWS students under the Right to Education Act

Act: Right to Education Act, 2009

Key Phrases: Enforcement of 12(1)(c) / PIL

No Fundamental Right to School of Choice; Autonomy of Private Unaided Schools Upheld

Case Title: Avani Shukla and Ors. v Apeejay School Sheikh Sarai and Ors.

Simplified: The Delhi High Court clarified that seeking admission to a specific school is not a fundamental right, and private unaided schools aren't obligated to admit every child unless the criteria are arbitrary. The case involved a father seeking admission for his children, who were denied admission, and claimed harassment. They argued for admission based on neighborhood criteria under the RTE Act. The court, noting a previously dismissed civil suit on similar grounds, held it was barred by constructive res judicata. As the admission was under the general quota, the RTE Act was deemed inapplicable, and the petition was dismissed.

Summary: In this case, the Delhi High Court clarified that individuals do not possess a fundamental right to secure admission to a specific school or its branch as per their preference. The desire to join a particular school is not recognized as a fundamental right under the Constitution. The court highlighted that private unaided schools are not obligated to grant admission to every child unless the admission criteria are deemed arbitrary.

The case involved a father seeking admission for his children, one studying in class 6 in the Saket branch and seeking a transfer to the Sheikh Sarai branch, and the other, a younger brother, seeking admission to class 2 in the Sheikh Sarai branch. The petitioners claimed harassment and sought admission based on neighborhood criteria under the RTE Act, asserting a shift in residence near Sheikh Sarai. The respondent argued that the admission was under the general category, making RTE provisions inapplicable, and stressed the school's autonomy in admission matters. The court observed that the petitioners had previously filed a civil suit and appeal on similar grounds, dismissed earlier, leading to the present writ petition being barred by constructive res judicata. Emphasizing the admission under the general quota, the court held that the school's autonomy prevails, and the RTE Act does not apply, ultimately dismissing the petition.

Court: Delhi High Court

Citation: W.P.(C) 7728/2022

Date of Judgement: 3rd July, 2023

Issue: Whether individuals have a fundamental right to choose a specific school and whether private unaided schools are obliged to admit every child who seeks admission?

Act: The Constitution of India, Right to Education, 2009

Key Phrases: School of Choice / Autonomy of Private - Unaided Schools

Salary Arrears Dispute: Writ Denied in Teacher's Termination Case

Case Title: Manisha Rajendra Kamble v. The State of Maharashtra and Ors.

Simplified: The petitioner, appointed as an Assistant Teacher, sought arrears of salary for the period from 1.11.2011 to 28.06.2017, claiming the school's entitlement to partial grant-in-aid. However, the management denied funds and argued that the responsibility for salary payment lay with the education officer. The court noted that the claim for arrears beyond three years was time-barred due to general principles of limitation. It clarified that relief based on a personal service contract, like arrears of salary, couldn't be enforced through a writ petition unless a public law element was involved. As the petitioner's claim lacked this element, the court dismissed the writ petition.

Summary: The petitioner, appointed as an Assistant Teacher at a Junior College, faced service termination on 27.06.2017. Seeking salary arrears from 1.01.2011 to 28.06.2017, the petitioner claimed entitlement due to the school's partial grant-in-aid status. The management refuted responsibility, attributing it to the education officer, and insisted no funds were received despite entitlement. Additionally, the management alleged payment of Rs. 5,00,000 in cash upon the petitioner's resignation, which wasn't acknowledged.

The petitioner's claim for arrears beyond three years from the writ filing (1.11.2011 to 31.07.2014) was deemed time-barred due to limitations. The court emphasized that relief based on a personal service contract, like arrears, couldn't be pursued via a writ petition unless a public law element existed. As the petitioner's claim solely sought arrears of salary, lacking this public law element, the court dismissed the writ petition. In essence, the court highlighted that individual grievances tied to private contracts, devoid of a public element, cannot be rectified through a writ petition. Therefore, the petitioner's exclusive plea for salary arrears, falling under personal service, was not considered valid, leading to the dismissal of the writ petition.

Court: High Court of Bombay (Nagpur Bench)

Citation: Writ Petition No. 56/2018

Date of Judgement: 25th July, 2023

Issue: Whether the petitioner's demand for salary arrears, tied to personal service and disputed by the school, qualifies for resolution through a writ petition under Article 226?

Act: The Constitution of India

Key Phrases: Arrears of Salary / Time barred / Contract of Personal Service / Public law element

Balancing Parental choice and the Autonomy of Private Unaided Schools in the Admission Process

Case Title: Aahana v Sanskriti School and Ors.

Simplified: The Court here had to decide on a petition filed against the respondent school wherein it was alleged that they refused to take the petitioner in for nursery even though she fulfilled all the necessary criteria for the same. The Court held that it found no merit in the petition and that the respondent school had maintained complete transparency in the process of admission.

Summary: The Respondent school advertised admission to pre-school, allocating seats across various categories. The petitioner sought admission in the Non-Government category, which had 15 seats. The school also took into account the distance to the student's house from the school and accorded each student a certain number of points based on proximity from the school. Despite initially winning a draw of lots and securing the 7th position in the shortlist, her application faced challenges. The school, citing address discrepancies and travel distance, removed her from consideration after document verification. The petitioner argued that the school's interference in the choice of school contradicts the fundamental rights of parents and children. They asserted that the father's selection of a nearby area was within their rights and questioned the school's reliance on travel distance.

In response, the school defended its decision, emphasising the autonomy of private unaided schools in admissions. The court, after a thorough review, concluded that the school adhered to a transparent and fair admission criteria. It held the school had abided by its distance calculation points for all the students equally. The petitioner, obtaining 20 points for distance, was legitimately rejected due to higher-scoring applicants. Consequently, the court dismissed the writ petition, affirming the school's justified stance based on established admission norms.

Court: Delhi High Court

Citation: W.P.(C) 3939/2021 and CM Appl.11847/2021

Date of Judgement: 3rd July, 2023.

Issue: Whether the respondent school's denial of the petitioner's admission, despite meeting criteria, infringes on parents' and children's Fundamental Rights?

Act: The Constitution of India

Key Phrases: Economically Weaker Sections / Choice of School / Transparency in Admission Procedure

Supreme Court Ruling on B.Ed Eligibility for Primary School Teachers

Case Title: Devesh Sharma v. Union of India & Ors.

Simplified: In this case, the Court held that B.Ed candidates are not eligible to be appointed as primary school teachers as the qualification prescribed for the said post is a Diploma in Elementary Education (D.El.Ed).

Summary: The National Council for Teachers Education (NCTE) initially qualified B.Ed degree holders for primary school teacher positions, but the subsequent elimination of such applicants prompted a legal challenge before the Rajasthan High Court. The High Court, asserting that B.Ed degree holders were not suitable for primary school teaching, ordered the suspension of the NCTE's qualifying notification. An appeal reached the Supreme Court, which upheld the High Court's decision, emphasizing that B.Ed degrees are tailored for high school or secondary level teaching, lacking specific child psychology skills essential for primary education.

The Supreme Court further underscored the significance of quality education in alignment with the Right to Education Act, rejecting compromises on standards to address candidate shortages. Emphasising that primary teaching requires distinct pedagogy, the court advocated for Diplomas in Elementary Education, explicitly designed for instructing young students. The Court deemed the NCTE's notification contrary to the constitutional mandate of providing meaningful and quality education, violating the spirit of Article 21A.

Court: The Supreme Court of India

Citation: Civil Appeal No 5068 of 2023 (arising out of Special Leave Petition(C) No.20743 Of 2021)

Date of Judgement: 11th August, 2023

Issue: Whether NCTE was right in including B.Ed. qualification as an equivalent and essential qualification for appointment to the post of a primary school teacher?

Act: The Constitution of India, Right to Education Act, 2009

Key Phrases: Qualifications - Primary School Teacher

Balancing School's Admission Guidelines and Children's Fundamental Right to Education

Case Title: Shreya Bhattacharya v. Kendriya Vidyalaya Sangathan

Simplified: The Court held that it was not keen to rewrite the guidelines for admission into Kendriya Vidyalaya, but an exception had to be made as the young student's right to easy and hassle-free education was of supreme importance.

Summary: In this case, the daughter of a non-commissioned Air-Force Officer, was seeking a seat in Class VIII of Kendriya Vidyalaya, the Second Respondent. Her application was rejected on the ground that she was above the required age limit, as per the prescribed guidelines, for a student of Class VIII. The Petitioner challenged these guidelines of the School on the grounds that they were violative of Article 21A of the Constitution and Section 3 of the Right of Children to Free and Compulsory Education Act, 2009. It was also violative of the policy of automatic admission of the children of servicemen. The respondent contended that fixing the age limit for admitting a child in the Kendriya Vidyalaya is a policy decision, and it may not be interfered with in judicial review. The respondent also contended that there was no vacancy in the said school at that time, and the student strength cannot be expanded. The court here, while terming the case at hand a 'test case', and clarifying that the court was not keen to rewrite the existing guidelines, held that the student's right to life, and her right to easy and hassle-free education was supreme. Accordingly, without meddling with the guidelines now available and only to create an exception to deal with the larger right of the student, the Court allowed the petition and directed the Principal, Kendriya Vidyalaya at the Air Force Station in Tambaram to admit the student to Class VIII, relaxing the age-criterion alone, but not other criteria required for admission.

Court: Madras High Court

Citation: WP.No.12893 of 2023

Date of Judgement: 9th October, 2023

Issue: Whether the guidelines of Kendriya Vidyalaya Sangathan must be followed in allowing the Daughter of a member of the armed forces to get admission in the school

Act: The Constitution of India, Right to Education Act, 2009

Key Phrases: Right to Easy and Hassle Free Education / Article 21A- Right to Free and Compulsory Education

Upholding Right to Education for the EWS Category

Case Title: Master Singham v. Directorate of Education Govt. of NCT of Delhi Private School Branch Old Sett: Delhi 54 through Director (Education) and Another.

Simplified: The case was one where a father had misrepresented his income statement to show that he belonged to the EWS Category, to get his daughter admission in a school. The Court emphasised the idea of transformative constitutionalism and the protection of the educational rights of the economically weaker sections of the society. The Court also passed several guidelines for ensuring the proper implementation of the RTE Act in its true spirit.

Summary: This was a case wherein a father had misrepresented his income statement to get his daughter admission in a school. The income statements were presented in such a way as to show that they belonged to the EWS Category. Investigations also showed that there had been misrepresentation in the domicile as well as birth certificates. It was found that the petitioner's father consistently reported an income exceeding the EWS threshold. The court dismissed the petition as it found the petitioner ineligible for EWS seats, emphasising that the entire case hinged on false income representation, making the fraudulent acquisition of domicile and birth certificates redundant in the absence of genuine income entitlement.

The Court highlighted the importance of the requisite opportunity for the party to present his case before the adjudicating authority in line with principles of natural justice however the outcome may be. Further, a fine of Rs. 10 lakhs was imposed on the petitioner's father for misrepresenting their economic status. It also emphasised the idea of transformative constitutionalism and the protection of the educational rights of the economically weaker sections of the society. The Court also passed several guidelines for ensuring the proper implementation of the RTE Act in its true spirit.

Court: High Court of Delhi

Citation: W.P.(C) 4006/2021 & CM APPL. 12085/2021

Date of Judgement: 5th December, 2023

Issue: Whether the petitioner obtained admission under the EWS Category in a mala fide manner and by engaging in fraud or misrepresentation?

Act: The Constitution of India, Right to Education Act, 2009

Key Phrases: EWS Category / Misrepresentation of Economic Status / Protection of Education of People belonging to EWS Category