

**SUGGESTIONS FOR CORRECTIONS & MODIFICATIONS IN THE DRAFT NOTIFICATION RULES
UNDER THE “RIGHT OF CHILDREN TO FREE AND
COMPULSORY EDUCATION ACT” (RTE – 2009)**

NAJMA KAZI

INTRODUCTION:

The Government of Maharashtra through the circular number PRE-2010/PR No 212/PR.ED-01 dated 09-11-2010 has framed rules for the successful implementation of the RTE Act and before its finalization and promulgation has brought it in the public domain seeking suggestions for correction and changes in the rules through the stakeholders and public.

The RTE Act provides a justifiable legal framework that entitles all children between the ages of 6 – 14 years to an Education of reasonable quality, based on principles of equity and non discrimination. By making Education for children in neighbourhood schools a fundamental right, it has made it incumbent for government to fulfill their basic responsibility. A path breaking enlightened Act that demands an enlightened society.

However the implementation of this act will create many challenges and problems from the management and administrator’s point of view. Some clauses and provision in the act may jeopardize the smooth functioning of the existing well performing schools.

CHALLENGES AND SUGGESTIONS:

1) **Creating Awareness:** The Act and Modal Rules are a detailed and comprehensive piece of legislation presented as a legal document which is not easy to understand by the majority of the stakeholders. Most well meaning legislation fails to make an impact or significant changes without proper awareness and grass root pressure. This can be undertaken through mass awareness programme as well as ensuring proper understanding by all people responsible for its implementation. Hence, this programme should be included in the functions and duties of the state Government or local authorities under clause 1, 2, 3 of section 35 in chapter VII (Miscellaneous).

2) **Inputs & Outcomes:** The Act is excessively input focused rather than outcome oriented. Even though better school facilities, books, uniform, & better qualified teachers are important, their significance in the act has been over estimated in the light of inefficient and unaccountable monitoring agency. Their role and functions responsibilities need to be more clearly defined.

3) **School Recognition:** The act unfairly penalizes private aided / unaided schools for lacking the infrastructure facilities listed under the schedule in the Act. But the ground reality is, that these schools are extremely cost efficient, operate mostly in urban slums and rural areas and provide essential and educational services to the middle class. It is a well known fact that such schools provide better teaching services compared to Government schools especially in a city like Mumbai where they are much in demand. Going by extremely high pupil teacher ratio in these schools, the Government need to implement the norms and standards mentioned in the schedule selectively or if possible should be relaxed or can be given an extended period for compliance (5 to 10 years in exceptional cases).

Having a play ground is next to impossible in the space crunch areas of Mumbai. A better alternative would have been to find mechanism through which public resources should have been infused into such schools. For example, the local authorities may allow their play ground in the neighbourhood to be used by the schools in the vicinity.

It is also not made clear what is to be done for the overcrowded urban slum schools. Is the school expected to expel the extra students within 3 years or face derecognition and subsequent closure.??????

The most important aspect is the exemption from these same recognition requirements for Government schools. This is discriminatory and a case of double standard on the part of the Government.

4) Reservation for Disadvantaged: The Act and the rule require all the private unaided / aided schools to reserve at least 25% of their seats for economically weaker and socially disadvantaged section in the entry class. Greater clarity for successful implementation is needed on:.....

1. How will the Government select the students for entry level class, which in majority of schools is the pre-primary section over which the Government has no control?
 2. Would the admission lottery / draw be conducted by neighbourhood or by entire village / town / city?
 3. How would the supply demand gaps in each neighbourhood be addressed?
 4. For schools who take more than 25% of such students, what special benefits would be granted to them?
 5. How will the students admitted under this quota afford the quality of life of their peers? Will it not create a socio-economic division in schools?
 6. It is advisable if the disadvantaged and economically weaker section be further defined with a clear percentage split (of 25%) between them. (e.g. as in Andhra Pradesh rules).
- 5) Reimbursement of 25% quota:** The Act says that the 25% students admitted in private schools will not pay tuition fees and other miscellaneous expenses, and the Government will reimburse their fees calculated on the basis of per child expenditure in Government schools.

The successful implementation of the above rule needs the following clarifications.

- i) What will be the mechanism for reimbursement?
- ii) How will the Government monitor the whole process?
- iii) What type of external vigilance / social audit would be allowed / encouraged on the process?
- iv) What would happen if some of these students need to change schools in higher classes?
- v) The Government needs to define the word reimbursement, whether it would be considered a Government Grant or Financial Aid in which case the institution would come under the R.T.I. Act?
- vi) What if some of the schools end up charging more to the 75% fee payer students to make space for the 25% of students they are forced to take?
- vii) Reimbursement calculation should include capital as well as recurring costs incurred by the Government.
- viii) If possible a graded system for reimbursement should be implemented, where schools are grouped, based on infrastructure, academic outcomes, extra / co-curricular inputs provided and other quality indicators into different categories which would then determine their reimbursement.

3

6) Schools Management Committee: It is learnt that the Schools Management Committee for minority institutions is being made into a purely advisory body in the amendment to the Act and also they would be exempted from preparing the school development plan.

However, some areas which would still create problems needs to be looked into;

- i) What will happen to the existing management structure like School Committee, P. T. A., Academic Council etc.
- ii) The functions, duties, responsibilities and powers of all the above needs to be clearly defined to avoid overlapping of powers and clash of interests.
- iii) Who is the supreme authority in case of differences and disputes?
- iv) The annual budget and the account of income and expenditure of schools are at present prepared and approved by the school committee. What role would an advisory Schools Management Committee will play in the financial dealings?

- v) Which of the powers and duties of Schools Management Committee will be curtailed / revised in case it has to function as an advisory body?
- vi) It is advisable if the strength of the Schools Management Committee member is based on the strength of the school.

For example; Schools having strength less than 200 = 9 members

Schools having strength between 200 – 500 = 12 members

Schools having strength more than 500 = 16 members

7) Norms and Standards in the Schedule: As per section 19(1) and the conditions in the self declaration form, the norms and standards mentioned in the schedule is to be implemented by the management of schools, but it would be in the interest of the schools if the Government clarifies the guidelines given in the schedule based on the typical situation in our state;

- i) How will we define a primary school?

For example; In urban areas,

Std. I to IV constitute a primary school governed by the local authority (e.g. B.M.C. in Mumbai) whereas, Std. V to VII is upper primary & Std. VIII to X is secondary school governed by the State Government.

In Districts,

Std. I to VII constitute a primary school, and Std. VIII is included in the secondary section.

- ii) In order to bring uniformity in all types of schools under the Act, the Government should clarify the;

- | | |
|--------------------------------------|--|
| (a) Working hours for Teachers. | (b) School hours. |
| (c) School Calendar (Academic terms) | (d) Shift timings (in the light of 11(g) which says school cannot start before 8:00 A.M.). |
| (e) Maximum strength of class. | (f) Pupil Teacher ratio. |

4

8) Miscellaneous:

- (i) Children admitted at any time before the end of the 1st term need to complete the studies with the help of special training? It is not clear how & when the Continuous Comprehensive Evaluation of the lost time is to be done.
- (ii) The specially designed /developed bridge course / programme for students with no schooling before needs special training for teachers also specially designed study material. It will be of immense help if the N.G.O's who specialize in such programmes are involved and given responsibilities.
- (iii) Point 11(10) talks about Comprehensive System of Evaluation for teachers & schools and also periodical conduct of Evaluation by external agencies. The Government should designate and specify in detail the agencies and the procedure.
- (iv) In the point No. 6 (form No. II as per rule 11(4), which states that, "The Schools should not deny admission to any child for lack of age proof, grounds of gender, religion, caste, or place of birth", the following addition to be made "subject to the availability of seats as per the norms and standards in the schedule".
- (v) Point No. 7(ii) in form No. II as per rule 11(4) says, ' No child are subjected to physical punishment or mental harassment'.

The said rule need to define what constitute mental harassment as this clause can be misused for settling personal scores or could put teachers in constant fear, tension & anxiety, which will definitely affect their performance.

- (vi) The United Nation's Convention in the Rights of the child 1989 signed by the Government of India in 1992 Article 28 states, 'I have the right to make mistakes, and everyone has the responsibility to accept, we can learn from our mistakes'.

However, for behavioural problems and offences committed by children, some reformatory / corrective measures need to be taken and for the sake of uniformity and fair treatment, it would be great if the Government devises a model code of conduct / guidelines for dealing with such problems.

- (vii) Providing a kitchen for cooking mid day meal in big crowded city schools is a safety hazard.

This provision need to be relaxed/revised specially for schools in urban areas for want of space and safety measures.

- (viii) The duties of State Government and local authorities seem to be mixed up in the Act. The model rules thus needs to clearly define their respective roles and responsibilities.

- (ix) It is still not clear how the Government will ensure/monitor good quality Education.

- (x) In the schedule, the norms and standards for a school, mentions the number of teachers depending upon the strength of class. But there is no mention for number of non-teaching staff (clerks & peons).

As they form an integral part of the entire school system & also with the new pupil –teacher ratio in place, the number of teaching staff will have to be doubled, putting added burden of maintaining the records etc. of twice the employees. Hence it is advisable to revise the G.R. of November 2005 regarding the norms of appointments of the non-teaching staff and also their working hours.