



Centre for Civil Society

# **RESERVATION IN PRIVATE SCHOOLS UNDER THE RIGHT TO EDUCATION ACT: MODEL FOR IMPLEMENTATION**

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**ViewPoint 10**



# **RESERVATION IN PRIVATE SCHOOLS UNDER THE RIGHT TO EDUCATION ACT MODEL FOR IMPLEMENTATION**

## **INTRODUCTION**

Section 12 of the Right of Children to Free and Compulsory Education Act 2009 (the Act) has made it compulsory for every private unaided school to admit at least 25% of its entry level class from children belonging to weaker and disadvantaged groups. For this category of students the state government shall reimburse schools an amount equal to either the fees charged by the school or the per child expenditure in state schools, whichever is lower.

The private aided schools are also stipulated to provide free education to children in proportion to the aid received by them. However, the Act has not specified the categories of students who would be eligible for this benefit in aided schools.

Through this document the Centre for Civil Society seeks to highlight the lacunae in the current framework for 25% reservation for weaker and disadvantaged groups in unaided private schools and to provide inputs on effective implementation of the same. In the first section, we have examined the Model Rules (the Rules) with reference to the 25% reservation. In the second section, we have proposed a model for effective implementation of this provision.

## **ISSUES OF CONCERN**

### **1. 25% Quota only in Neighborhood Private Schools**

The existing rule prescribes that the limits used to define neighborhood for the purpose of neighborhood schools under Rule 4(1) shall also be used for defining areas and limits for the purpose of the 25% quota. This definition may be too narrow for the purpose of the 25% quota and may result in reducing the choices available to parents. The poor and disadvantaged neighbourhoods such as slums are likely to have relatively poor quality of private schools. Therefore, the neighbourhood restriction may limit the disadvantaged residents to access only these schools.

## **2. Per-child Expenditure is Insufficient**

The per-child expenditure for the purpose of reimbursement with respect to the 25% quota has been defined as the total annual recurring expenditure of the government on its own schools divided by the number of students enrolled in such schools. This amount may not be enough to cover the cost that the private schools actually incur. Apart from this, a higher reimbursement amount would probably engender less resistance to the 25% quota from the private unaided schools. In the current scenario, schools may have to raise their fees to cover the increased expenses. This in turn would impose an inequitable burden on the parents of the non-quota students.

## **3. Determination of Eligibility for Free Education in Aided Schools**

The Act stipulates that all aided schools shall provide free education to such proportion of their students as the aid received by them from the government proportions to their total recurring expenditure. However, the Act is silent about what criteria aided schools shall use to determine the category of students that are eligible for free education under this provision. To take care of this, the Rules should provide that the children given free education under this provision shall belong to weaker sections and disadvantaged groups as defined for the purpose of the 25% quota.

## **4. Frequency of Calculation of the Per-child Expenditure**

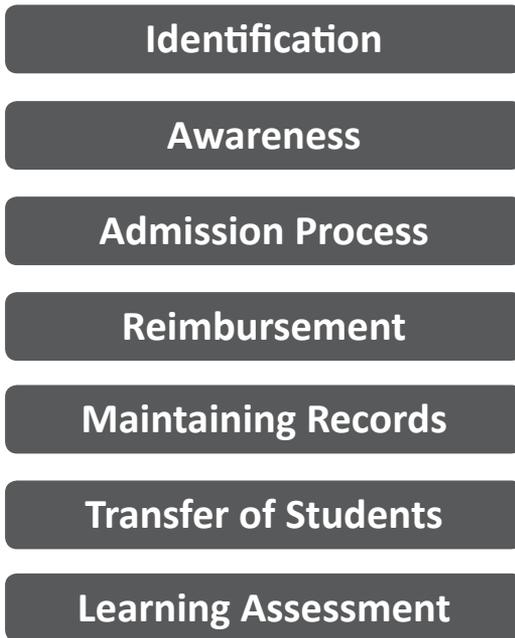
The Rules do not state how often the per-child expenditure shall be calculated. One suggestion by CCS is to re-calculate the amount after regular intervals, say every two years. Another suggestion is to index the amount to Consumer Price Index and thereby compensate only for inflation in the cost of providing education. If there are no clear guidelines on the frequency of re-calculation, there is a risk of the reimbursement amount becoming insufficient with time to cover the school expenditure.

## **5. Modalities for the Payment of Per-child Expenditure**

The Rules suggest that the reimbursement amount be paid directly into the bank account of private schools but do not specify whether the full amount be paid in one go or the amount be divided over the academic year. Knowing the exact times and the amounts that the government shall transfer to schools will help schools in better financial planning.

## MODEL FOR IMPLEMENTATION

For effective implementation of the 25% reservation in private schools there is a need to ensure a fair selection process, a leak proof payment mechanism, and a transparent monitoring and evaluation system. At Centre for Civil Society, based on the experience of our pilot projects (Delhi Voucher Project, 2007 and School Voucher for Girls, 2009) we have devised a model for implementation for this provision.



### 1. Identifying 25 %

- As per Section 12 of the Act, 25% seats at the entry level class in unaided private schools shall be reserved for “disadvantaged groups and weaker sections”.
- Children from the disadvantaged groups and weaker sections should apply under this reservation of 25% seats if their annual family income is less than a stipulated ‘X’ amount.

- If an unaided school is already under an obligation to provide free education to a specified number of children under any other law, then that number shall be adjusted to 25%.
- **Disadvantaged Groups**
  - a. According to the Act, the disadvantaged groups include scheduled castes, scheduled tribes and other backward classes.
  - b. Scheduled caste/tribe/OBC certificate should be used as a proof to establish whether a person falls in the category of disadvantaged groups or not.
  - c. Annual income level should be verified to exclude the creamy layers amongst the disadvantaged except where deemed necessary to include all.
- **Weaker Sections**
  - a. Option 1: Families below annual income of X should qualify for reservation. Any government document such as income certificate, ration card, job card issued under NREGA, UID card, etc. should be used for verification.
  - b. Option 2: The state/local authority should create a list of 'excluded' families from the scheme as opposed to specifying who is included in the scheme (for example, exclude all income tax payers, vehicle owners, businesses with annual turnover of more than X amount, and so on).

## 2. Neighborhood Schools

- The Act defined principle of neighborhood (1 km for class 1-5 and 3 km for class 6-8) should be used only to establish new schools.
- This criterion should not be used for the implementation of the 25% as it is likely to restrict choice. Since poor and disadvantaged neighborhoods such as slums are likely to have relatively poorer

quality of private schools, the neighborhood restriction may limit the disadvantaged residents to access only these schools.

- For the purpose of the implementation of 25% reservation, the school district/zone or whole town should be defined as the neighborhood for urban areas and *panchayat* or *zilla parishad* or district should be defined as the neighborhood for rural areas.

### **3. Awareness of 25% Reservation**

- Government should post notifications on the rights of disadvantaged groups and weaker sections to seek admissions in private schools in local newspapers as well as in the radio.
- Each school should announce the number of seats it has reserved under section 12 of the Act.
- Each school should provide information on the number of seats to the state/local authority.
- Local/state authorities should compile and place outside their office and where applicable on their website, the number of seats available for disadvantaged and weaker section in each school within their jurisdiction.
- Government should take steps to encourage social mobilization and social auditing to spread awareness on this issue and to ensure accountability.

### **4. Admission Forms and Selection Process**

We discuss two options for ways of selecting students to fill the reserved seats. The first option is called the common admission process, which is to be done at an education district/zone/city level, and the second is called school level admission process, which is to be administered at individual school level. We feel that the common admission process is better because it ensures increased transparency and less scope for corruption and for abuse either by schools or by education officers.

- **Option 1-Common Admission Process**

- There should be a common admission form for all schools at the city/town, ward or block level. The form should also be made available online and for free in every school and in state/local authorities such as the directorates of education, municipalities, *zilla parishads*, *panchayats*/PRIs, etc.
- The admission form should be in English as well as the local language and should give the option of listing up to 10 schools in the order of preference.
- Admission forms should be submitted to state/local authorities and the receipt of the form should be acknowledged by assigning a registration number.
- The state/local authority should maintain a database of all the received application forms.
- School level lottery: The state/local authority should conduct a lottery on a specified date in a public place in front of parents and media first at the school level (assuming more applicants than seats in the school). Such computerized lotteries should be run for each school to select from students who had listed that school as one of the preferences.
- Student level lottery: There should be a second round of lottery conducted by state/local authority for those students who did not get admission in any of their preferred schools. Through this lottery each student should be allotted a rank amongst all the schools with vacant seats.
- In practice, both the lotteries should be conducted on the same day.
- The list (including waiting list) should be publicised in the state/local authority offices as well as in individual schools.
- Applicants should be able to check their status/ranking among remaining schools online as well as get the information from state/local authorities.
- The final school wise list of the 25% reserved seats should be published by the state/local authority.

- **Option 2- School Level Admission Process**

- Where the state/local authorities do not have the resources to manage the common admission process and conduct a centralized lottery, there should be a school wise application process and the selection via lottery should be done at the school level but in the presence of the applicants and the media.
- Admission forms should be in English as well as the local language and the schools should make them available free of cost.
- Admission forms should be submitted to the schools and the schools should acknowledge the receipt of the same.
- The acknowledgment receipt should clearly mention the date of the lottery. The date of lottery should also be put on the notice board outside the school premises.

## **5. Reimbursement**

- Reimbursements should be made on a per student basis and the amount transferred directly to the school's bank account.
- Per student expenditure should be calculated based on the total school education budget (recurring and capital cost, plan and non-plan outlays) under all concerned ministries/departments at the state level.
- In order to ensure accountability from schools, the reimbursement should be done in two parts: X % to be paid on admission and the remaining 100-X% at the end of the year after the state/local authority has received the attendance and assessment reports.
- State education departments should maintain the list of students studying in each school and update it from time to time to ascertain whether the child is still studying there and if the reimbursement has been made. This list should be made public.

## **6. School Transfers**

- During the academic year, a student should be able to seek transfer to those schools that have not filled their 25% reserved seats. If

no such schools exists that are convenient to the student, then the student should be able to seek transfer to a government school.

- Each year the schools should review if any student from the 25% quota has left. That vacancy should be publicised and applications invited first from weaker sections and disadvantaged groups who wish to seek transfer to the school.

## Concluding Remarks

For the success of any scheme, the devil lies in the details. In the case of the reservation of 25% seats in private unaided schools, there is a lack of clarity in design and implementation strategy. Moreover, the method for calculation of per-child reimbursement expenditure (which is to exclude capital cost) may yield an inadequate resource flow to private schools which may in turn give rise to resentment amongst private schools. Private schools, which have to implement this scheme, are already struggling to accommodate it within their existing admission processes. Clear policy guidelines and support structures from the government in ways such as the one proposed by the Centre for Civil Society can go a long way towards ensuring effective implementation of this scheme.

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## Further Readings

1. Analysis by CCS on Model Rules under RTE, <http://righttoeducation.in/analysis-ccs-model-rules-under-rte>
2. Matrix for Drafting State Rules under the RTE Act, <http://righttoeducation.in/matrix-drafting-state-rules-under-rte-act>
3. Parth J Shah and Shreya Agarwal, Right to Education Act: A Critique, CFO Connect, May 9 2010
4. India's First Voucher Pilot: Delhi School Voucher Project, 2007, <http://schoolchoice.in/delhivoucher.php>
5. The Case for Right to Education of Choice: Key Findings from the Delhi Voucher Project, [http://schoolchoice.in/events/20090219\\_delhivoucher.php](http://schoolchoice.in/events/20090219_delhivoucher.php)
6. School Voucher for Girls, 2009, <http://schoolchoice.in/gvp/>

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## **ViewPoint 10: Reservation in Private Schools under the Right to Education Act: Model for Implementation**

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# Centre for Civil Society

## Social Change Through Public Policy

Established on 15 August 1997, the Centre for Civil Society (CCS) is an independent, non-profit public policy think tank devoted to improving the quality of life for all citizens of India by reviving and reinvigorating civil society. Through its award winning programs, CCS is a resource for innovative community and market based ideas for sound public policy solutions, particularly in the areas of education, livelihood, governance and environment. By bringing these ideas to current and future leaders, CCS is advancing opportunity and prosperity for all Indians.



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