

## **The Right of Children to Free and Compulsory Education Act: It's Implementation in Maharashtra**

(This is a PPT Presentation, Slides are Published here)

**Dr. M. A. Baseer**

**86<sup>th</sup> Constitutional Amendment, 2002 :**

**Art 21-A** inserted in Fundamental Rights

*The State shall provide free and compulsory education to all children of the age of 6 to 14 years in such manner as the State may, by law, determine.*

**Notification will be issued after enactment of consequential legislation under Art 21-A.**

**Consequential legislation:**

The Right of Children to Free and Compulsory Education Act, 2009.

**Presidential assent received on 26<sup>th</sup> August, 2009**

**Child rights :**

Right of Children to free and compulsory admission, attendance and completion of EE.

- 1) Defines 'free' as removal of any financial barrier by the state that prevents a child from completing eight years of schooling
- 2) And defines 'compulsion' as compulsion on the state, rather than targeting parents.
- 3) Not enrolled/dropout children be admitted to age appropriate class
  - i. Special training to enable such children to be at par with others
  - ii. Child so admitted entitled to completion of EE even after age 14
- 4) Softens barriers like birth certificate, transfer certificate, etc
- 5) No child shall be psychologically abused by calling him/her 'failed' in any class upto class 8, or expelling him/her from school
- 6) Bars corporal punishment, mental harassment

**Teachers :**

- 1) Qualification for appointment of teachers laid down by academic authority authorised by Central Government to address the problem of untrained teachers
- 2) Lays down academic responsibilities of teachers
- 3) Prohibits private tuition by teachers
- 4) Prohibits deployment of teachers for non-education purpose, except decennial census, disaster relief and elections

**Schools :**

**Norms and standards specified**

- 1) Infrastructure
- 2) PTR
- 3) School days; working days for teachers
- 4) Facilities

Community participation ensured through SMC comprising elected reps, teachers and parents  $\frac{3}{4}$  members from among parents of children in the school; 50% women Proportionate representation to weaker and deprived sections

SMC to plan, manage and monitor – in collaboration with the local authority

**Schools :****No capitation fees**

**Penalty:** fine upto 10 times the capitation

**No screening for admission**

Penalty: fine of Rs 25,000 for 1<sup>st</sup> contravention and Rs 50000 for each subsequent contravention

**No school without recognition**

Penalty: Rs one lakh; in case of continuing contravention, penalty of Rs 10,000 for day

All unaided schools to provide free education to at least 25% children from the neighborhood-as a measure of ensuring common schooling

Costs reimbursed @ per child expenditure incurred by the State or actual fee charged, whichever is less

**Appropriate Government, Local Authority :**

- 1) Ensure free and compulsory education
- 2) Provide schools in neighborhood within 3 years
- 3) Children belonging to weaker sections and disadvantaged groups not to be discriminated against
- 4) Infrastructure, school building, teaching staff, learning equipment
- 5) Special training for previously not enrolled or drop out children to enable them to be on par with others
- 6) Monitoring of admission, attendance, completion of EE
- 7) Good quality EE conforming to specified norms and standards
- 8) Timely prescription of curriculum, courses of study, teachers' training

**Curriculum:**

Curriculum by prescribed academic authority should:

- 1) Conform to constitutional values
- 2) Make child free from fear, trauma and anxiety
- 3) Be child centred, child friendly; provide for learning through activities
- 4) Medium of instruction – child mother tongue to the extent possible
- 5) Provide for comprehensive and continuous evaluation

No Board examinations till completion of EE

**Protection of Right :**

Act assigns NCPCR/SCPCR additional functions

- 1) Examine and review safeguards for rights under this Act, recommend measures for effective implementation
  - 2) Inquire into complaints relating to child's right to free and compulsory education
- NCPCR/SCPCR have powers assigned under Section 14 and 24 of the Commissions for Protection of Child Rights Act Where SCPCR not constituted, appropriate Government may constitute an Authority

**RTE Act : Implementation Status in Maharashtra :**

RTE Act Section	IMPLEMENTATION	ISSUES
Sec 3(2) No child shall be liable to pay any kind of fee	Mah State G R dated April 18, 2013; District level flying squad for monitoring RTE Implementation	Students have to pay many kind of fee in private aided/ unaided schools as Computer, Smart Class, School Development fee etc. Govt. has regulatory mechanism but it is not effective.
Sec 4 Special Provisions for out of School children, direct admission in a class appropriate to their age	Mah State G R dated August 28, 2014 (Working group constituted); Mah State G R dated March 28, 2013; Mah State G R dated April 18, 2013; District level flying squad for monitoring RTE Implementation	State govt has conducted state wide survey on 4th July 2015 and found just 10 thousand out of school children, SSA report 2014 showed 1.85 lakh out of school children; As per PTI news, despite several efforts, including enacting the Right to Education Act, as many as 48,379 children were out of school in Maharashtra, according to the states Economic Survey. The survey for 2017-18, tabled in the state legislature on March 8, 2018,
Section 4. Remedial Coaching for poor/under performers/ laterally admitted children	Mah State G R dated June 16, 2010	Schools with two shifts, due to non availability of class rooms do not conduct extra coaching.
Sec 5 (i) Every child shall be entitled to receive free textbooks, writing materials and uniforms.”	Being implemented only for Govt and aided schools	However, the parents of 25% Quota in Pvt schools have to bear the cost of uniforms, books and stationary, government should include these cost within the per-child expenditure that is to be reimbursed to each school.
Section 5. Right of transfer to other school:	Implemented through UDISE portal	Practically not easy, students parents face most difficulties

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Sec 6 Duty of Appropriate Government and local authority to establish school	1) Mah State G R dated June 14,2012 2) Mah State G R dated August 27, 2012 3) Mah State G R dated Sept. 25,2013 4) Mah State G R dated August13,2014	Perspective Development Plan was prepared after mapping, decision taken to establish 651 Primary schools, 1579 Upper Primary Schools, 142 Secondary schools in Marathi medium as per RTE norms. However for Urdu, Kannad, Telugu, Hindi medium Perspective Development Plan not required, no school other than Marathi medium was established. Where 200 population, minimum 30( later modified by 20) children resides, Urdu school establishment proposals to be submitted by local govt. As per the RTE (Right to Education) act, there should be a High school within 5 km radius of geographical reach. According to which 144 new school locations for un-aided private Marathi medium high schools all across the Maharashtra state have been identified. "School Sanctions and Approvals" (SSAA) application is first and one of its kind initiative and a step forward towards RTE compliance
Sec 6	Mah State Director School Education Circular dated February 12, 2013	For Urdu medium schools, Group School concept by merging 2-3 nearby schools was proposed. <ul style="list-style-type: none"> <li>The National Human Rights Commission (NHRC) in January 2018 has sent a notice to the Maharashtra government following media reports that its education department has decided to close down nearly 1300 zila parishad schools with fewer than 10 students and shift them to nearby institutes, affecting adversely more than 10000 students from their right to free and compulsory education.</li> </ul>
Sec 6	Mah State G R 13 Feb, 2013 Mah State G R 28 Aug,2015; Mah State G R dated Jan 01,2018; staffing pattern implemented for Sanch approvals	New pattern under RTE class I-V and class VI-VIII; out of 2500 schools run by BMC education department, only few schools have started standard eight classes after the Right to Education (RTE) Act was implemented.( THE ASIAN AGE, Apr 9, 2018) <i>Bombay High Court questioned State Govt. policy of restricting 289 BMC Schools upto Class VII not to start Class VIII( Hindustan Times November 10, 2014)</i> Class I-V and Class VI-VIII staffing pattern
Sec 7 Sharing of financial and other responsibilities:		For last 3-4 years, still state govt didn't reimbursed complete approved fee of candidates selected under 25% free seats
Sect. 8. Duties of appropriate Government:		
8 (b) Ensure availability of a neighbourhood School as specified in section 6	Mah State G R dated June 14, 2012	Still schools in Urdu, kannada, telugu, Hindi media are not made available as required/ ensured by RTE
8 (d) provide infrastructure including school building, teaching staff and learning equipment		Shortage of teaching staff in private aided schools, Teachers recruitment banned since 2013-14

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8(e) provide special training facility specified in section 4;	Mah State G R dated June 16, 2010	Schools with two shifts, due to non availability of class rooms do not conduct extra coaching.
8(f) ensure and monitor admission, attendance and completion of elementary education by every child;	School Admission Rules Mah State G R dated June 11, 2010 Mah State G R dated June 11, 2010	Most of illiterate poor parents face much difficulties in admissions due to lack of proper guidance.
Sec 8 (g) ensure good quality elementary education conforming to the standards and norms specified in the Schedule;	Govt has initiated Baseline Survey for Quality improvement.	AS per ASER annual Report 2014, 40.7% of Class III students unable to read Class I text book, 37.8% of class V students can not read Second Std Text book ; 54.5% students were unable to perform two digits addition subtraction. The National Achievement Survey conducted by the Ministry of Human Resource Development, there is a visible performance decline in government schools
Sec 9 Duties of local authority: Every local authority shall: 9 (m) Decide The Academic alendar	Mah State G R dated August 20, 2014	Before commencement of academic year from June, every year admissions in Pre Primary and primary classes start in Jan-Feb violating RTE norms
Sec 10. Duty of parents and guardian:		Specially Labours, Slum areas and rural areas, migrants violate the norms keeping away their children from schools
Sec 11. Appropriate Government to provide for pre-school education:	<i>Govt of India Gazette dt December 13,2002; Article 45 of Constitution-86<sup>th</sup> amendment "The state shall endeavor to provide early childhood care and education for all children until they complete the age of six years"</i> Anganwadis, Balwadis working under ICDS NAC has suggested starting of preprimary sectionsin Govt Schools	<ul style="list-style-type: none"> <li>x No mapping is done by State Govt. for ensuring availability of Anganwadis, Balwadis in Minority dominated areas; No provision of appointing Sewikas knowing Urdu, Telugu, Kannada;</li> <li>x No Specific targets and achievements under PM15 PP</li> <li>x No rules, norms, byelaws to regulate pre primary schools.</li> </ul> Bombay High Court WP No. 2800/2015 has been filed seeking grant from State Govt for 25% admissions allotted for Pre KG students.

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