

## **ENTRY LEVEL FOR RTE ADMISSIONS**

- Aishwarya Gupta

The Hon'ble Bombay High Court in the case of *Uran Education Society v. State of Maharashtra*, WP/2800/2015, dated April 28, 2015, held that once 25% children belonging to the weaker sections are admitted in elementary and/or in pre-school education as per government's instructions, such schools/institutions are entitled to the reimbursement as per law. The Court held that the Government cannot first ask the schools to admit students to pre-school and then refuse to reimburse the schools for such students.

### **Facts**

Some private unaided schools provided admission to the economically weak children under the 25% RTE reservation. Their claim of reimbursement under the Maharashtra Right of Children to Free and Compulsory Education Rules 2013 was rejected by the State Government. The State argued that no reimbursement should be granted to the schools for pre-primary admissions under the 25% RTE reservation and the schools have to charge fees for the same. The schools approached the Hon'ble High Court through the writ petition.

### **Contentions**

The petitioner contended that the admissions to mini kg were done in accordance to the provisions of the RTE Act. The State argued that as per Article 21A of the Constitution, it is the responsibility of the Central Government to provide free and compulsory education. The State also contended that according to Section 12(2), reimbursement is provided only for elementary education i.e. from class 1 to 8.

### **Judgment**

The Court relied upon the proviso of Section 12(2) to conclude that a school is imparting pre-school education will also have to reserve 25% of the strength of the class for children belonging to weaker section and disadvantaged group and provide free and compulsory education to them. It also relied upon Section 11 of the RTE Act to hold that it is the

responsibility of the Government of Maharashtra to provide free pre-school education for children between age group 3 to 6 years to prepare them for elementary education and to provide early childhood care. It observed that the State government of Maharashtra had directed schools to admit students from the 25% quota by way of a Government Order. Hence, the State has to reimburse these schools. The Apex Court also observed that the stand taken by the Government is conflicting and contradictory as the Government Circulars issued by the Government from time to time were inconsistent.

### **Analysis**

The Court defines the entry point of admissions under RTE as pre-school. The Court emphatically holds that it is the responsibility of the State Government to reimburse the schools for admitting students under RTE. This shows that under the RTE it is neither expected of the private schools to go into losses or of the economically weak students to pay for schooling. Thus, the State Government cannot direct the schools to admit RTE students without reimbursing them.

In response to this judgment, the Maharashtra Government has issued a Resolution restricting the entry point of admissions under the RTE to Class I. Few schools have challenged this Resolution and the Bombay High Court has stayed the same.

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