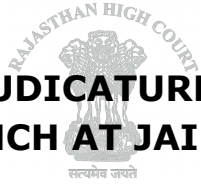




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



D.B. Special Appeal Writ No. 738/2023

Rukmani Birla Modern High School, Shanti Nagar, Gopalpura
Bye- Pass, Jaipur 302018 Through Secretary Of The Managing
Committee, Rukmani Birla Modern High School, Jaipur.

-----Appellant

Versus

1. State Of Rajasthan, Through Principal Secretary, To The Government, Department Of School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Elementary Education, Lalgarh Palace, Bikaner.
3. Union Of India, Through Principal Secretary, Ministry Of Human Resources Development, New Delhi.

-----Respondents

Connected With

D.B. Civil Writ Petition No. 7361/2020

Abhyutthanam Society, Through Its President Pranjal Singh S/o
Mr. Shivanand Singh, Aged 27 Years, Resident Of 25, Behind
Sheopur Gadh, Inside Vidhya Sagar School, Sector-7 Pratap
Nagar, Jaipur, Rajasthan Pin - 302033.

-----Appellant

Versus

1. State Of Rajasthan, Through Chief Secretary, Government Of Rajasthan, Government Secretariat, Janpath, Jaipur.
2. Department Of Elementary Education, Through Secretary, Government Secretariat, Jaipur.
3. Director, Elementary And Secondary Education, Bikaner (Raj.)
4. The Union Of India, Through Under Secretary, Department Of School Education And Literacy, Ministry Of Human Resource Development, Government Of India.

-----Respondents

D.B. Civil Writ Petition No. 9887/2020

Smile For All Society (Ngo), Through Its Secretary, Bhunesh
Sharma S/o Prahalad Sharma, Aged About 30 Years, R/o B-19,
Govindpuri, Sodala, Jaipur.





-----Appellant

Versus

1. Elementary Education Rajasthan, Bikaner, Rajasthan, Through Director.
2. The State Of Rajasthan, Through Chief Secretary, Government Of Rajasthan, Government Secretariat, Jaipur.

-----Respondents

D.B. Special Appeal Writ No. 684/2023

Mayoor School (Run By Mayo College General Council Society, Ajmer), Through Its Vice Principal Miss Sindhu Chaturvedi, D/o Late Sh. Ravindra Kumar Chaturvedi Aged About 54 Years, Presently Working As Vice Principal Mayoor School, Ajmer, R/o Staff Quarters, Mayoor School, Alwar Gate Ajmer Presently Through Its Principal Sanjay Khati Aged About 51 Years, S/o Shri Dps Khati Presently Working As Principal Mayoor School, Ajmer, R/o Staff Quarters, Mayoor School, Alwar Gate Ajmer

-----Appellant

Versus

1. State Of Rajasthan, Through Chief Secretary, Government Of Rajasthan, Government Secretariat, Janpath, Jaipur.
2. Department Of Elementary Education, Through Secretary, Government Secretariat, Jaipur.
3. Director, Elementary And Secondary Education, Bikaner (Raj.).
4. District Elementary Education Officer (Headquarters), Office Of District Elementary Education Officer (Headquarters) Secondary Education, Vinay Nagar, Topdara, Ajmer, Rajasthan 305001
5. Department Of School Education And Literacy, Ministry Of Education Through Under Secretary At Shashtri Bhawan, C-Wing, New Delhi 110001

-----Respondents

D.B. Special Appeal Writ No. 769/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director Elementary Education, Government Of





Rajasthan, Bikaner.

3. Director, Secondary Education, Government Of Rajasthan, Bikaner.

-----Appellants

Versus

1. Bharatiya Vidya Bhavan Vidyashram, K.m. Munshi Marg, Opp. Ots, Jaipur (Raj.) Through Mr. R.c. Jain, Honorary Director, Bharatiya Vidya Bhavan, Jaipur Kendra.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 770/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Elementary Education, Government Of Rajasthan, Bikaner.
3. Director, Secondary Education, Government Of Rajasthan, Bikaner.

-----Appellants

Versus

1. Sanskar School, Sirsi Road, Jaipur Through Its President Mrs. Rhea Thryamal.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 782/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur
2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director Secondary Education, Government Of Rajasthan, Bikaner.

-----Appellants

Versus





1. Maheshwari Public School, Spl, 224, Industrial Area, Phase-2, Riico, Bagru, Sanganer, Jaipur, Through Its Honorary Secretary Shri Shyam Sunder Totla.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 783/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director, Secondary Education, Government Of Rajasthan, Bikaner.

-----Appellants

Versus

1. Jaipur School, Sector-6, Vidyadhar Nagar, Jaipur (Raj.) Through Its Secretary Major Nand Kumar Sharma
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 785/2023

1. State Of Rajasthan, Through Principal Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur, Rajasthan-302005.
2. Director, Elementary And Secondary Education, Near Lalgarh Palace, Samta Nagar, Bikaner, Rajasthan.

-----Appellants

Versus

1. School Kranti Sangh, Having Its Registered Office At P.n. 37, Mahaveer Nagar- X, Near Riico Railway Overbridge, Near Sanganer Road, Jaipur - 302029, Through Its President Ms. Hemlata Sharma, R/o 128/6, Pandit Ji Ka Farm, Oxford I.p. School Ke Paas, Asshind Nagar, Sanganer, Sanganer Bazar, Jaipur, Rajasthan - 302029.
2. Union Of India, Through Ministry Of Human Resource





Development, Shastri Bhawan, Dr. Rajendra Prasad Road,
New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 786/2023

1. State Of Rajasthan, Through Secretary, School Education,
Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Elementary Education, Government Of
Rajasthan, Bikaner.
3. Director, Secondary Education, Government Of Rajasthan,
Bikaner.

-----Appellants

Versus

1. Neerja Modi School, Shipra Path, Mansarovar, Jaipur,
Through Its Chairman, Mr. Saurabh Modi
2. Union Of India, Through Ministry Of Human Resource
Development, Shastri Bhawan, Dr. Rajendra Prasad Road,
New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 787/2023

1. State Of Rajasthan, Through Secretary, School Education,
Government Of Rajasthan, Secretariat, Jaipur.
2. Director Elementary Education, Government Of
Rajasthan, Bikaner.
3. Director, Secondary Education, Government Of Rajasthan,
Bikaner.

-----Appellants

Versus

1. Maheshwari Public School, Shreedhar City-I, Near
Sushant City, Nari Ka Bas, Kalwar Road, Jaipur Through
Its Honorary Secretary- Shri Ashok Kumar Malu.
2. Union Of India, Through Ministry Of Human Resource
Development, Shastri Bhawan, Dr. Rajendra Prasad Road,
New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 788/2023

1. State Of Rajasthan, Through Secretary, School Education,





Government Of Rajasthan, Secretariat, Jaipur.

2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director, Secondary Education, Government Of Rajasthan, Bikaner.

----Appellants

Versus

1. Maharaja Sawai Man Singh Vidyalaya, Sawai Ram Singh Road, Jaipur Through Mr. Vikramaditya, Chairperson Of The Managing Committee.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 789/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur
2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director Secondary Education, Government Of Rajasthan, Bikaner.

----Appellants

Versus

1. Shri Maheshwari Senior Secondary School, Vijay Path, Gurunanakpura, Tilak Nagar, Jaipur, Through Its Honorary Secretary Shri Kamal Kishore Saboo.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 790/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Elementary Education, Government Of Rajasthan, Bikaner.
3. Director, Secondary Education, Government Of Rajasthan, Bikaner.





----Appellants

Versus

1. Maharaja Sawai Bhawani Singh School, Mahal Yojana, Jagatpura, Jaipur Through Authorized Member Of The Managing Committee Smt. Rama Datt.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 791/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur
2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director Secondary Education, Government Of Rajasthan, Bikaner.

----Appellants

Versus

1. Modern School, Bharatpur, Gram Varso, Near Truck Lay Bye, Nh-1, Agra Road, Bharatpur-321 001 Through Its Authorized Signatory Mr. Hanuman Singh S/o Late Shri Kalyan Singh.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 792/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director, Secondary Education, Government Of Rajasthan, Bikaner.

----Appellants

Versus

1. Neerja Modi School, Sez Road, Kalwara, Jaipur, Through Authorized Person-Mr. Lalit Mohan Sharma.





2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 794/2023

Maharaja Sawai Man Singh Vidyalaya, Sawai Ram Singh Road, Jaipur Through Mr. Vikramaditya, Chairperson Of The Managing Committee.

-----Appellant

Versus

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director, Secondary Education, Government Of Rajasthan, Bikaner.

-----Respondents

D.B. Special Appeal Writ No. 795/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director, Secondary Education, Government Of Rajasthan, Bikaner.

-----Appellants

Versus

1. The Palace School, City Palace, Jalebi Chowk, Jaipur Through Authorized Member Of The Managing Committee Smt. Rama Datt.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 796/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur



2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director Secondary Education, Government Of Rajasthan, Bikaner.

----Appellants

Versus

1. Modern School, Baran, College Road, Malkheri Bye Pass, Baran-325205, Through Its Authorized Signatory Mr. Hanuman Singh S/o Late Shri Kalyan Singh.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 797/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur
2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director Secondary Education, Government Of Rajasthan, Bikaner.

----Appellants

Versus

1. St. Edmunds Convent School, A-Block, Malviya Nagar, Jaipur - 302 017, Through Its President, Managing Committee Mr. Anoop Singh.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 798/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur
2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director Secondary Education, Government Of Rajasthan, Bikaner.

----Appellants





1. Modern School, Jaipur, Shipra Path, Mansarovar, Jaipur Through Its Authorized Signatory Mr. Hanuman Singh S/o Late Shri Kalyan Singh.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 799/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur
2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director Secondary Education, Government Of Rajasthan, Bikaner.

-----Appellants

Versus

1. Modern School, Naya Nohra, Baran Road, Kota-234001, Through Its Authorized Signatory Mr. Hanuman Singh S/o Late Shri Kalyan Singh.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 801/2023

Neerja Modi School, Sez Road, Kalwara, Jaipur, Through Authorized Person-Mr.Lalit Mohan Sharma, At Present Through Mr. Sourabh Modi.

-----Appellant

Versus

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director, Secondary Education, Government Of Rajasthan, Bikaner.

-----Respondents





D.B. Special Appeal Writ No. 802/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Elementary Education, Government Of Rajasthan, Bikaner.
3. Director, Secondary Education, Government Of Rajasthan, Bikaner.

----Appellants

Versus

1. Cambridge Court World School, Varun Path, Mansarovar, Jaipur, Through Its Secretary Mrs. Lata Rawat.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 803/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director Secondary Education, Government Of Rajasthan, Bikaner.

----Appellants

Versus

1. The Nest Childrens Senior Secondary School, Barwara House Compound, Ajmer Road, Jaipur- 302006 (Raj.) Through Its Joint Secretary, As Authorized Signatory Mrs. Deepali Singh W/o Mr. Prithvi Raj Singh.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 804/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director Elementary Education, Government Of Rajasthan, Bikaner.





3. Director, Secondary Education, Government Of Rajasthan, Bikaner.

----Appellants

Versus

1. All Saints Senior Secondary School, Near Railway Hospital, Beawar Road Ajmer, Through Its President Mrs. Veena Arora.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 805/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director Secondary Education, Government Of Rajasthan, Bikaner.

----Appellants

Versus

1. Modern School, New Rajeev Gandhi Nagar, Sector-A, Talwandi, Kota-324005 (Raj.), Through Its Authorized Signatory Mr. Hanuman Singh S/o Late Shri Kalyan Singh
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 806/2023

1. State Of Rajasthan, Through Principal Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur, Rajasthan.
2. Director, Elementary And Secondary Education, Government Of Rajasthan, Bikaner.

----Appellants

Versus

1. Progressive School Association, Society Registered Under The Rajasthan Societies Registration Act, 1958 Having Its





Registered Office At 4/157, Jawahar Nagar, Bye-Pass, Jawahar Nagar, Jaipur, Rajasthan Through Its Secretary Treena Chakraverty W/o Alok Kumar Chakraverty Aged 53 Years At 4/157, Jawahar Nagar, Bye-Pass, Jawahar Nagar, Jaipur, Rajasthan..

2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 807/2023

1. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director Elementary Education, Government Of Rajasthan, Bikaner.
3. Director Secondary Education, Government Of Rajasthan, Bikaner.

-----Appellants

Versus

1. Cambridge Court High School, Aravali Marg, Sector-8, Mansarovar, Jaipur, Through Its Secretary Mr. Aayush Rawat.
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 861/2023

1. State Of Rajasthan, Through Principal Secretary To The Government, Department Of School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, Elementary Education, Lalgarh Palace, Bikaner.

-----Appellants

Versus

1. Rukmani Birla Modern High School, Shanti Nagar, Gopalpura Bye- Pass, Jaipur - 302 018 Through Secretary Of The Managing Committee, Rukmani Birla Modern High School, Jaipur.
2. Union Of India, Through Ministry Of Human Resource





Development, Shastri Bhawan, Dr. Rajendra Prasad Road,
New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 863/2023

1. State Of Rajasthan, Through Chief Secretary, Government Of Rajasthan, Government Secretariat, Janpath, Jaipur.
2. Department Of Elementary Education, Through Secretary, Government Secretariat, Jaipur.
3. Director, Elementary And Secondary Education, Bikaner (Raj.).
4. District Elementary Education Officer, (Headquarters), Office Of District Elementary Education Officer (Headquarters) Secondary Education, Vinay Nagar, Topdara, Ajmer, Rajasthan 305001

-----Appellants

Versus

1. Mayoor School (Run By Mayo College General Council Society, Ajmer), Through Its Vice Principal Miss Sindhu Chaturvedi, D/o Late Sh. Ravindra Kumar Chaturvedi Aged About 54 Years, Presently Working As Vice Principal Mayoor School, Ajmer, R/o Staff Quarters, Mayoor School, Alwar Gate Ajmer
2. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 103/2024

Krishna Sharma S/o Ritu Sharma W/o Shri Tekchand, Aged About 6 Years, R/o 101/72, Meera Marg, Agarwal Farm, Mansarovar, Jaipur 302020 (Raj.) Since, Minor Through Its Mother Smt. Ritu Sharma.

-----Appellant

Versus

1. Neerja Modi School, Shipra Path, Mansarovar, Jaipur, Through Its Chairman Saurabh Modi
2. State Of Rajasthan, Through Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.





3. Director, Elementary Education, Government Of Rajasthan, Bikaner.
4. Director, Secondary Education, Government Of Rajasthan, Bikaner.

-----Respondents

D.B. Special Appeal Writ No. 390/2024

1. State Of Rajasthan, Through Additional Chief Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, School Education, Government Of Rajasthan, Bikaner
3. District Education Officer (Head Quarter), Elementary Education, Shiksha Sankul, Jawhar Lal Nehru Marg, Jaipur.

-----Appellants

Versus

1. Chiranji S/o Shri Kajod Mal, Aged About 31 Years, Resident Of B-34, Anandpuri Adarsh Nagar, Moti Dungri Road, Jawahar Nagar, Rajasthan.
2. Maharaja Sawai Man Singh Vidhyalaya, Sawai Ram Singh Road, Jaipur Through Its Principal.
3. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 391/2024

1. State Of Rajasthan, Through Additional Chief Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, School Education, Government Of Rajasthan, Bikaner.
3. District Education Officer (Head Quarter), Elementary Education, Shiksha Sankul, Jawahar Lal Nehru Marg, Jaipur.

-----Appellants

Versus

1. Dinesh Kumar Panwar S/o Shri Birdi Chand, Aged About





21 Years, Resident Of 283, Kacchi Basti, Jawahar Nagar, Jaipur (Raj).

2. Maharaja Sawai Man Singh Vidhyalaya, Sawai Ram Singh Road, Jaipur Through Its Principal.
3. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 392/2024

1. State Of Rajasthan, Through Additional Chief Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, School Education, Government Of Rajasthan, Bikaner.
3. District Education Officer (Head Quarter), Elementary Education, Shiksha Sankul, Jawahar Lal Nehru Marg, Jaipur.

-----Appellants

Versus

1. Sunil Saini S/o Shri Omprakash Saini, Aged About 38 Years, Resident Of 14, Sati Ji Ki Bagichi, M.d. Road, Jaipur, Rajasthan.
2. Maharaj Sawai Man Singh Vidhyalaya, Sawai Ram Singh Road, Jaipur Through Its Principal.
3. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 393/2024

1. State Of Rajasthan, Through Additional Chief Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, School Education, Government Of Rajasthan, Bikaner
3. District Education Officer (Head Quarter), Elementary Education, Shiksha Sankul, Jawhar Lal Nehru Marg, Jaipur.





----Appellants

Versus

1. Dinesh Kachhwa S/o Shri Mool Chand, Aged About 40 Years, Resident Of 408, Gali No. 2, Axis Bank, Raja Park, Janta Colony, M.d. Road, Jaipur, Rajasthan.
2. Maharaja Sawai Man Singh Vidhyalaya, Sawai Ram Singh Road, Jaipur Through Its Principal.
3. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 394/2024

1. State Of Rajasthan, Through Additional Chief Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, School Education, Government Of Rajasthan, Bikaner.
3. District Education Officer (Head Quarter), Elementary Education, Shiksha Sankul, Jawahar Lal Nehru Marg, Jaipur.

----Appellants

Versus

1. Mitesh Tiwari S/o Shri Omprakash Tiwari, Aged About 39 Years, Resident Of 203, Dinanath Ji Ki Gali, Chandpole Bazar, Jaipur, Rajasthan.
2. Maharaja Sawai Man Singh Vidhyalaya, Sawai Ram Singh Road, Jaipur Through Its Principal.
3. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 396/2024

1. State Of Rajasthan, Through Additional Chief Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, School Education, Government Of Rajasthan, Bikaner.



3. District Education Officer (Head Quarter), Elementary Education, Shiksha Sankul, Jawhar Lal Nehru Marg, Jaipur.

-----Appellants

Versus

1. Syed Mohd Abdulla Naqvi S/o Shri Syed Abdul Wahid Naqvi, Aged About 49 Years, Resident Of 70, Amarnath Ki Bagichi, Janta Colony, Adarsh Nagar, Jaipur, Rajasthan.
2. Maharaja Sawai Man Singh Vidhyalaya, Sawai Ram Singh Road, Jaipur Through Its Principal.
3. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 400/2024

1. State Of Rajasthan, Through Additional Chief Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, School Education, Government Of Rajasthan, Bikaner.
3. District Education Officer (Head Quarter), Elementary Education, Shiksha Sankul, Jawhar Lal Nehru Marg, Jaipur.

-----Appellants

Versus

1. Yogendra Upadhyay S/o Shri Ghanshyam Lal Sharma, Aged About 43 Years, R/o D-67, Shanti Path, Patrakar Colony, Mama Ki Hotel, Jawahar Nagar, Jaipur, Rajasthan.
2. Maharaja Sawai Man Singh Vidhyalaya, Sawai Ram Singh Road, Jaipur Through Its Principal.
3. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

-----Respondents

D.B. Special Appeal Writ No. 401/2024

1. State Of Rajasthan, Through Additional Chief Secretary, School Education, Government Of Rajasthan, Secretariat,





Jaipur.

2. Director, School Education, Government Of Rajasthan, Bikaner
3. District Education Officer (Head Quarter), Elementary Education, Shiksha Sankul, Jawhar Lal Nehru Marg, Jaipur.

----Appellants

Versus

1. Manish Thakur S/o Shri Ratan Kumar Thakur, Aged About 36 Years, Resident Of 65, Chat House Ki Gali, Kanota Bagh, Near Mooti Doongri Circle, Jawahar Nagar, Jaipur, Rajasthan.
2. Maharaja Sawai Man Singh Vidhyalaya, Sawai Ram Singh Road, Jaipur Through Its Principal.
3. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 402/2024

1. State Of Rajasthan, Through Additional Chief Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, School Education, Government Of Rajasthan, Bikaner.
3. District Education Officer (Head Quarter), Elementary Education, Shiksha Sankul, Jawhar Lal Nehru Marg, Jaipur.

----Appellants

Versus

1. Vinod Tanwar S/o Shri Babu Lal Tanwar, Aged About 42 Years, Resident Of 07/76, Reserve Bank Of India, Staff Quarters, Gandhi Nagar, Jaipur.
2. Maharaja Sawai Man Singh Vidhyalaya, Sawai Ram Singh Road, Jaipur Through Its Principal.
3. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.





----Respondents

D.B. Special Appeal Writ No. 397/2024

1. State Of Rajasthan, Through Additional Chief Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, School Education, Government Of Rajasthan, Bikaner.
3. District Education Officer (Head Quarter), Elementary Education, Shiksha Sankul, Jawhar Lal Nehru Marg, Jaipur.

----Appellants

Versus

1. Abdul Sajid S/o Shri Sayed Abdul Latif, Aged About 40 Years, Resident Of B-12, Sati Ki Bagichi, Ward No. 150, M.d. Road, Jaipur, Rajasthan.
2. Maharaja Sawai Man Singh Vidhyalaya, Sawai Ram Singh Road, Jaipur Through Its Principal.
3. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 403/2024

1. State Of Rajasthan, Through Additional Chief Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, School Education, Government Of Rajasthan, Bikaner.
3. District Education Officer (Head Quarter), Elementary Education, Shiksha Sankul, Jawhar Lal Nehru Marg, Jaipur.

----Appellants

Versus

1. Manmohan Jangid S/o Shri Bhanwar Lal Jangid, Aged About 40 Years, Resident Of 4, Chat House Ki Gali, Kanota Bagh, Near Trimurti Choraha, Jaipur, Rajasthan.
2. Maharaja Sawai Man Singh Vidhyalaya, Sawai Ram





Singh Road, Jaipur Through Its Principal.

3. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 414/2024

1. State Of Rajasthan, Through Additional Chief Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, School Education, Government Of Rajasthan, Bikaner
3. District Education Officer (Head Quarter), Elementary Education, Shiksha Sankul, Jawhar Lal Nehru Marg, Jaipur.

----Appellants

Versus

1. Kishan Saini S/o Shri Nemi Chand Saini, Aged About 35 Years, Resident Of 85-C, Ram Singh Road, Yati Ji Ki Bagichi, Heera Bagh, Jawahar Nagar, Jaipur, Rajasthan.
2. Maharaja Sawai Man Singh Vidhyalaya, Sawai Ram Singh Road, Jaipur Through Its Principal.
3. Union Of India, Through Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi.

----Respondents

D.B. Special Appeal Writ No. 506/2024

1. State Of Rajasthan, Through Additional Chief Secretary, School Education, Government Of Rajasthan, Secretariat, Jaipur.
2. Director, School Education, Government Of Rajasthan, Bikaner.
3. District Education Officer (Head Quarter), Elementary Education, Shiksha Sankul, Jawhar Lal Nehru Marg, Jaipur.

----Appellants

Versus

1. Shekhar Visvakarma S/o Shri Shambhu Nath, Aged





About 39 Years, Resident Of F-44, Majdur Nagar,
Hasanpura, Ajmer Road, Jaipur, Rajasthan.

2. Maharaja Sawai Man Singh Vidhyalaya, Sawai Ram
Singh Road, Jaipur Through Its Principal.

----Respondents



For Appellant(s)	:	Mr. Surendra Singh Naruka, AAG with Mr. Divyanshu Gupta, AGC Mr. Sachin Singh Rathore Mr. Anshuman Singh Mr. Tanishq Aditya Parmar Ms. Palak Saxena Ms. Pratik Jain Mr. Ashish Kabra with Mr. Keshav Parashar for Mr. Ashwini Jaiman Ms. Riddhi Chandrawat Mr. Sarthak Saxena Mr. Avik Rajoria Dr. Abhinav Sharma in S.A.W. No. 684/2023 with Ms. Puja Sharma Mr. Akshaya Sharma and Mr. Mr. Rahul Sharma Mr. Vikas Jakhar Mr. Siddharth Bapna and Ms. Meyhul Mittal in S.A.W. No.794/2023, 801/2023
For Respondent(s)	:	Mr. Devesh Yadav, CGC with Ms. Niti Jain Bhandari for Mr. Bharat Vyas, ASG Ms. Abhinav Sharma Ms. Gauri Jasana for Mr. Prateek Kasliwal Mr. Siddharth Bapna in SAW No.788/2023, 792/2023 Ms. Meyhul Mittal Mr. Rahul Kumar Ms. Tanushka Saxena Dr. Abhinav Sharma in S.A.W. Nos. 738/2023 and 863/2023 with Ms. Puja Sharma Mr. Akshaya Sharma and Mr. Mr. Rahul Sharma Mr. Dinesh Yadav

HON'BLE THE ACTING CHIEF JUSTICE MR. SANJEEV PRAKASH SHARMA
HON'BLE MR. JUSTICE BALJINDER SINGH SANDHU



Date of conclusion of arguments : **4th November, 2025**
Date on which judgment was reserved : **4th November, 2025**
Whether the full judgment or only
the operative part is pronounced : **Full judgment**
Date of pronouncement : **8th January, 2026**

ORTABLE

(Per Hon'ble the Acting Chief Justice)

1. Application seeking leave to file appeal, filed in D.B. Special Appeal (Writ) No.103/2024, is allowed.
2. For the reasons mentioned in the applications filed under Section 5 of the Limitation Act in DB SAW Nos.103/2024, 390/2024, 391/2024, 392/2024, 393/2024, 394/2024, 396/2024, 402/2024, 403/2024 and 414/2024, the same are allowed. Delay in filing the said appeals is hereby, condoned.
3. The present bunch of cases have a common link, hence, were heard together.
4. While D.B. Civil Writ Petition (PIL) Nos.7361/2020 and 9887/2020 have been filed by the Societies, espousing the cause of implementation of The Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred as 'RTE Act') and associated with the education of downtrodden class of children, and also challenges the authority of the State Government to set out guidelines beyond what the parent Act has authorized and prays to declare the act of the State Government in issuing such guidelines unconstitutional.
5. The other set of special appeals filed by the State Government and various Schools, challenges the judgment dated 18.07.2023 passed by the learned Single Judge whereby, he partly allowed the writ petitions, holding the State Government entitled



to admit students to the institution at two levels, namely, Nursery/PP3+ at Pre School Education as well as Class-I for Elementary Education and further holding that for the institutions which are providing education at both levels, namely, Pre School Education and Elementary Education, there should be two entry levels.

6. It would be appropriate to first take up the matter relating to the PIL.

7. As per the case set up by the petitioner in the PIL petition No.7361/2020, the petitioner is a Society working for implementation of Article 21A of the Constitution of India and the RTE Act. It has been the concern of the Society to see that the RTE Act is implemented in its true form.

8. It is stated that the RTE Act rephrases the provisions of Article 21A of the Constitution which is a fundamental right. It was urged by the petitioner that the State Government had issued guidelines for the Academic Session 2020-21 which restricted the application of Section 12(1)(c) of the RTE Act to Class I only and had altogether forbidden the admission at Pre Primary Levels resulting in a situation where the unaided non-minority schools had been allowed to admit children at the Pre School Education Level upon payment of fees while the children belonging to the weaker sections and disadvantageous groups would be denied admission at the Pre School Admission Level.

9. Written arguments have been submitted on behalf of the petitioner in PIL Petition No.7361/2020 and it is stated that the State Government has no legal competence to make Rules on the subject of 'Entry Level' under Section 12(1)(c) of the RTE Act. In



pursuance of the Clause (c) of Sub-section (1) of Section 12 of the RTE Act, read with Article 21-A of the Constitution of India, the children belonging to weaker sections and disadvantaged groups are accorded with the right to free and compulsory education in unaided non-minority private schools. The appropriate Government, i.e., the State Government in the present case, has been given limited powers to issue guidelines for the implementation of the RTE Act, which it has been issuing every year since 2014. The State Government has no authority to set out guidelines beyond what the parent Act (RTE Act in the present case) has authorized.

10. It is further submitted that a plain reading of Section 12(1)(c) of the RTE Act indicates that no rule-making power has been conferred upon the State Government by the Parliament. Consequently, any rule framed by the State Government on the subject would be *ultra vires* and invalid in law for want of authority under the parent statute. Furthermore, the RTE Act expressly provides rule-making powers only under Section 38, which enumerates an exhaustive list of matters in respect of which the State Government is empowered to frame rules.

11. It is further stated that Section 38 of the RTE Act lays down the power of appropriate Government to make Rules under the list provided therein. However, the matters enumerated in the said list do not include any power to prescribe or specify the entry level for admissions under the RTE Act. Accordingly, the impugned guidelines/rules, insofar as they purport to define or determine the entry level for RTE admissions, are *ultra vires*, unlawful, and



beyond the scope of the legislative authority conferred upon the State Government by the parent enactment.

12. It is also contended that the right to education conferred under Section 12(1)(c) of the RTE Act is a fundamental right guaranteed under Article 21-A of the Constitution of India and has been upheld by the Hon'ble Supreme Court as a reasonable restriction on the right of unaided private institutions in **Society for Unaided Private Schools of Rajasthan Vs. Union of India**¹.

12.1 The marginal heading of Section 12 of the RTE Act reads, 'Extent of school's responsibility for free and compulsory education'. The substantive provision under Section 12(1)(c) is clear and unambiguous. It does not vest any discretion in schools to either provide or withhold admissions under the RTE mandate at Class I and pre-school level, where such levels are offered by the institution.

12.2 The obligation imposed upon schools under the RTE Act is co-extensive with that of the State Government. Accordingly, schools cannot evade or abdicate their statutory responsibility to provide free and compulsory education to children belonging to weaker sections and disadvantaged groups, primarily on the ground of reimbursement.

12.3 Further, the Proviso to Section 12(1)(c) categorically states that in case of schools offering Pre School Education, the provision of section 12(1)(c) which mandates reservation of 25% seats shall apply to such Pre Primary Levels. The RTE Act nowhere grants the

¹ (2012) 6 SCC 1



State Government or the Schools, with the discretion of not applying the rule of 25% reservation to Pre School Education.

12.4 Furthermore, the schools covered under Section 12(1)(c) are those defined under Section 2(n) of the RTE Act, which, upon a plain reading, refers to 'schools imparting elementary education'.

Accordingly, the applicability of Section 12(1)(c) extends to schools providing elementary education, i.e., upto the completion of Class VIII, notwithstanding whether they take admissions in Class I or Pre Primary Level.

13. It is further stated in the written submissions that the main provision of Section 12(1)(c) and its Proviso constitute a single composite scheme and cannot be interpreted in a manner that creates two distinct categories of schools, one comprising institutions imparting only Pre School Education and another comprising those commencing from Class I. A conjoint reading of Section 2(n) and Section 12(1)(c), along with its proviso, clearly establishes that the provision applies to all schools imparting elementary education, and that the 25% reservation mandate is equally attracted to such schools where admissions are offered at the Pre Primary Level.

14. It is also contended that the impugned guidelines have created two *de facto* categories of children; privileged ones, who can access Pre School Education and the under-privileged ones, to whom the impugned guidelines, unlawfully denied access to Pre School Education. This is apparently an unreasonable classification inasmuch as the State Government has no reasonable justification to substantiate that the children belonging to weaker sections and disadvantaged groups do not require Pre School Education, while



the privileged ones do. This classification is, therefore, in absolute teeth of the test of 'Reasonable Classification' set out under Article 14 of the Constitution of India.

15. It is further submitted that the legislative intent underlying Section 12(1)(c) was to maintain a 25:75 ratio between 'RTE admitted' and 'non-RTE admitted' children throughout the entire span of elementary education. Any act of restricting RTE admissions to only one or two entry levels, while permitting admissions of non-RTE children at additional levels, would disrupt the balance envisaged by the legislature and upheld by the Hon'ble Supreme Court, thereby defeating the very objective of social inclusion embedded in the RTE framework.

16. It is further contended that any rule or regulation purporting to prescribe or restrict the entry level for admissions under Section 12(1)(c) would be *ultra vires* and unlawful, for want of adequate legislative or rule making authority. It is further submitted that Section 12(1)(c) does not create separate categories of schools, children, or entry levels. Rather, it mandates that wherever there exists an open entry point for non-RTE children in any school imparting elementary education, RTE admissions must be provided at each such entry level, to the extent of at least 25%. Accordingly, the petitioner submits that Section 12(1)(c) should be given full effect at all entry levels, including Class I as well as all Pre Primary Levels, whether designated as PP3+, PP4+ or PP5+ where any school defined under Section 2(n) provides Pre School Education to non-RTE children.



17. It would be relevant to notice that although the PIL Petition was kept pending, however, this Court vide order dated 23.10.2021 made following observations and an interim order was passed:

"In this PIL, challenge has been made to the policy of the State insofar as direction has been issued by the State Authorities that admission to pre-school classes in educational Session 2020-21 shall not be governed by The Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the 'RTE Act').

During the pendency of this petition, the aforesaid direction has been reiterated for the purposes of admission to be made in the Educational Session 2021-22, copy of which has already been placed on record.

Learned counsel for the petitioners would contend that the State's directions to prohibit admission to pre-classes under RTE Act is contrary to the statutory scheme of Section 12 of the RTE Act and the State has illegally absolved the private schools from complying with the statutory obligation enjoined under Section 12(1)(c), in relation to per-educational classes, in ignorance of scheme under Proviso to that provision.

On the other hand, learned State Counsel would submit that in view of definition of 'child' as provided in Clause (c) of Section 2 and that of 'elementary education' under Clause (f), the petitions are misconceived as the statutory obligations under the Act cannot be fastened where the education is being provided in per-school to children under the age of six years which, otherwise, is not a part of the elementary education.

In the alternative, State Government would submit that the applicability of the provisions to per-school would essentially depend upon proper reimbursement to be made to the State by the Central Government under the scheme of Section 7 of the Act and, therefore, unless such scheme is properly worked out and implemented, no direction could be sought in the garb of PIL by the petitioners.

At this stage, learned counsel for the petitioners has submitted that as the process of admission has been initiated and the last date of submitting application is 24.10.2021, an appropriate interim order may be made, so that at least for the present ongoing session, the petitions may not be rendered infuctuous.

We have been apprised that a notification on 08.10.2021 has been issued by the office of the Director of Elementary Education Rajasthan, Bikaner, which shows that the schedule of admission procedure provides last date as 24.10.2021 for submission of online applications and uploading of necessary documents.

On prima-facie consideration, we find that proviso to Sub-section (1) of Section 12 provides that where a school specified in Clause (n) of Section 2 imparts pre-school education, the provisions of Clauses (a) to (c) shall apply for admission to such per-school education. Thus, Proviso creates





an obligation on the schools specified in Sub-clauses (iii) and (iv) of Clause (n) of Section 2 to admit, to the extent of at least twenty five percent of the class, Children belonging to weaker section and disadvantaged group.

The direction issued by the State Government, on a prima-facie consideration, seeks to absolve the schools of the aforesaid specified category from the statutory obligation as stated under proviso of Sub-Section 2 of Section 12.

Therefore, we are inclined, at this stage, to pass an interim order to the effect that the direction of the State shall not come in the way of performance of statutory obligation by the schools specified in Sub-clauses (iii) and (iv) of Clause (n) of Section 2 of the RTE Act and Proviso as referred to above shall oblige them to make admission under the RTE Act. Such admission, however, would be provisional in nature and to be governed by the final order that may be passed by this Court in the writ petitions.

Considering the nature of litigation, we deem it proper to list these petitions for final hearing on 17.11.2021.

Central Government, if so advised, may file its return on or before 10.11.2021. Rejoinder, if any, may be filed by the petitioners to the reply of the Central Government, if filed, and the reply which has already been filed."

18. Thus, by aforesaid interim order and facts, this Court gave its *prima facie* opinion, holding that the admission of children belonging to weaker sections and disadvantageous groups cannot be limited at Class-I Level, but also would have its application to admissions to the Schools which impart Pre School Education, i.e., PP1, PP2 and PP3.

19. It appears that under Secretary, Department of School Education & Literacy, Ministry of Education filed an additional affidavit on behalf of the Union of India to submit the status of pre school education in Rajasthan. It also stated that the Government of Rajasthan would be the "appropriate Government" in terms of definition under the RTE Act and under the Samagra Siksha Scheme, 2018-19, the existing fund sharing burden is 60:40 for all the States with 90:10 for North Eastern and three Himalayan States and 100% for Union Territories.





20. The petitioner in PIL Petition No.7361/2020 also filed an additional affidavit stating that in the Academic Session 2019-2020, out of a total of 2.1 lakhs admissions, 1.2 lakhs students were given admission in Pre Primary Classes. Thus, 55% of the total children were admitted in Pre Primary Classes and the guidelines, if allowed to operate, would result in discarding and deleting from the domain of RTE, a huge percentage of children.

21. In the other set of special appeals filed by the Schools, it is stated that the state Government issued fresh guidelines for the Academic Session 2023-2024 for providing free seats for admission in the non-Government Schools. As per the said guidelines, admissions were to be given at the Pre Primary Levels, i.e., Pre Primary 3+, Pre Primary 4+ and Pre Primary 5+ relating to the children above 3 years and less than 4 years, 3 years 6 months to less than 5 years, 4 years 6 months to less than 6 years respectively. It also provided for entry level at Class I for children 5 years or above but less than 7 years as on 31.03.2023. Aggrieved by the policy of the State Government, writ petitions were filed by association of schools and various schools which were providing admission at the Elementary Level in Pre Primary as well as in Class I alleging that the guidelines framed by the State Government were contrary to the provisions of Article 21A of the Constitution of India and the RTE Act, as above.

22. The learned Single Judge, after considering the petitions filed by the association of schools as well as by individual school, framed three points for consideration as under:

"1. Whether the State Government is within its jurisdiction to issue guidelines for admitting the students at multiple entry levels in elementary or in pre-school education



under the provisions of the Act of 2009 as well as the Rules of 2011?

2. Whether under Clause-I of the guidelines the State Government has rightly given directions for admitting the students at all levels i.e. pre-school education i.e. PP3+, PP4+, PP5+ and at Class-1?

3. Whether the petitioners-institutions are entitled for reimbursement from the State Government for the students admitted in the Pre-School Education?"



23. The learned Single Judge answered the above points vide judgment dated 18.07.2023 by holding that the State Government is competent to issue such guidelines to monitor admissions. The learned Single Judge also further held that the schools were under an obligation to have reservation of 25% seats at each entry level and admit students at Pre School Entry Level and also at Class I which is the entry level for Elementary Education. However, the learned Single Judge proceeded to hold that the policy of the State Government in allotting students at all levels is bad in the eyes of law and there should only be two entry levels, one at PP3 and second at Class-I at the level of Elementary Education. For the purpose of entitlement, the Court further proceeded to hold that the Schools shall be entitled for reimbursement of the expenditure so incurred by them and further, the students were to be allotted only from the neighborhood areas and not from all the areas considering the provisions of the Act.

24. The learned Single Judge, vide order dated 20.07.2023 passed on the application filed by the State for modification of the order dated 18.07.2023, clarified that the students who have already been admitted in pursuance to the impugned guidelines either by the petitioner-institutions or any other institution under PP4+ and PP5+, their admissions shall not be cancelled.



25. Mr. Siddharth Bapna, learned counsel appearing for the appellants in D.B. Special Appeals (Writ) No.794/2023 and 801/2023, has vehemently argued that the institutions were not obliged to allow admission below elementary level under the RTE Act as Section 12 does not envisage admission at two levels. He submits that if the admissions are being made at the Pre School Level, then it is only at that level that the admission can be allowed to be made against the 25% quota, but the schools cannot be asked to again make a separate 25% quota for Class-I Level.

26. Learned counsel further submits that the provisions of Section 12 and proviso to 12(1)(c) of the RTE Act have been erroneously construed by the learned Single Judge. He also relied on the clarification on provisions stated to have been issued by the Deputy Secretary, Education Department of the Union of India. It is further submitted that the Proviso added to Section 12(1)(c) has to be treated as an exception to the main Rule and relies on the case of **State of Punjab Vs. Principal Secretary to Governor of Punjab**².

27. The State Government has also placed before us the latest guidelines issued for the Academic Session 2025-26 wherein, in terms of the judgment passed by the learned Single Judge, the entry level has been restricted to Pre Primary(PP)3+ and Class-I alone.

28. Learned counsel for the State reiterates its submission that the State Government has the power under Section 38 of the RTE Act to lay down the guidelines for admission. He further submits

2 (2024) 1 SCC 384



that the reimbursement has to be done by the Central Government even for admission to be made at the Pre Primary Level. Since the State was not being provided reimbursement by the Central Government, the earlier policy (impugned in the PIL) restricted admission to Class I only and not for Pre School level. He further submits that the State Government is under obligation for reimbursement to Class-I Level only and not for the Pre School Level.

29. It has also been submitted that so far as the State Government is concerned, it only gives recognition from Class 1st to 5th, 6th to 8th, 9th & 10th and 11th & 12th and there is no provision for providing elementary education at the Pre Primary Level.

Our Analysis and Conclusion:

30. The Parliament framed the RTE Act, which came into force with effect from 01.04.2010. The "appropriate Government" has been defined under Section 2(a) of the said Act, which reads as under:

*"(a) "appropriate Government" means—
(i) in relation to a school established, owned or controlled by the Central Government, or the administrator of the Union territory, having no legislature, the Central Government;
(ii) in relation to a school, other than the school referred to in sub-clause (i), established within the territory of—
(A) a State, the State Government;
(B) a Union territory having legislature, the Government of that Union territory;"*

30.1 The term "elementary education" has been defined under Section 2(f), which reads as under:

"(f) "elementary education" means the education from first class to eighth class;"

30.2 School has been defined under Section 2(n), which reads as under:



"(n) "school" means any recognised school imparting elementary education and includes—

- (i) a school established, owned or controlled by the appropriate Government or a local authority;
- (ii) an aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority;
- (iii) a school belonging to specified category; and
- (iv) an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority;"

30.3 Section 3 of the Act of 2009 provides as under:

"3. Right of child to free and compulsory education.—[(1) Every child of the age of six to fourteen years, including a child referred to in clause (d) or clause (e) of section 2, shall have the right to free and compulsory education in a neighbourhood school till the completion of his or her elementary education.]

(2) For the purpose of sub-section (1), no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the elementary education.

[(3) A child with disability referred to in sub-clause (A) of clause (ee) of section 2 shall, without prejudice to the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), and a child referred to in sub-clauses (B) and (C) of clause (ee) of section 2, have the same rights to pursue free and compulsory elementary education which children with disabilities have under the provisions of Chapter V of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996):

Provided that a child with "multiple disabilities" referred to in clause (h) and a child with "severe disability" referred to in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999) may also have the right to opt for home-based education.]"

30.4 Section 11 provides as under:

"11. Appropriate Government to provide for pre-school education.—With a view to prepare children above the age of three years for elementary education and to provide early childhood care and education for all children until they complete the age of six years, the appropriate Government may make necessary arrangement for providing free pre-school education for such children."



30.5 Section 12 lays down the extent of a school's responsibility for free and compulsory education, which reads as under:

"12. Extent of school's responsibility for free and compulsory education.—

(1) For the purposes of this Act, a school,—

- (a) specified in sub-clause (i) of clause (n) of section 2 shall provide free and compulsory elementary education to all children admitted therein;
- (b) specified in sub-clause (ii) of clause (n) of section 2 shall provide free and compulsory elementary education to such proportion of children admitted therein as its annual recurring aid or grants so received bears to its annual recurring expenses, subject to a minimum of twenty-five per cent.;
- (c) specified in sub-clauses (iii) and (iv) of clause (n) of section 2 shall admit in class I, to the extent of at least twenty-five per cent of the strength of that class, children belonging to weaker section and disadvantaged group in the neighbourhood and provide free and compulsory elementary education till its completion:

Provided further that where a school specified in clause (n) of section 2 imparts pre-school education, the provisions of clauses (a) to (c) shall apply for admission to such pre-school education.

(2) The school specified in sub-clause (iv) of clause (n) of section 2 providing free and compulsory elementary education as specified in clause (c) of sub-section (1) shall be reimbursed expenditure so incurred by it to the extent of per-child-expenditure incurred by the State, or the actual amount charged from the child, whichever is less, in such manner as may be prescribed:

Provided that such reimbursement shall not exceed per-child-expenditure incurred by a school specified in sub-clause (i) of clause (n) of section 2:

Provided further that where such school is already under obligation to provide free education to a specified number of children on account of it having received any land, building, equipment or other facilities, either free of cost or at a concessional rate, such school shall not be entitled for reimbursement to the extent of such obligation.

(3) Every school shall provide such information as may be required by the appropriate Government or the local authority, as the case may be."

30.6 Power of appropriate Government to make rules is defined under Section 38 of the RTE Act, which reads as under:

"38. Power of appropriate Government to make rules.—(1) The appropriate Government may, by notification, make rules, for carrying out the provisions of this Act.





(2) *In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—*

- (a) *the manner of giving special training and the time-limit thereof, under first proviso to section 4;*
- (b) *the area or limits for establishment of a neighbourhood school, under section 6;*
- (c) *the manner of maintenance of records of children up to the age of fourteen years, under clause (d) of section 9;*
- (d) *the manner and extent of reimbursement of expenditure, under sub-section (2) of section 12;*
- (e) *any other document for determining the age of child under sub-section (1) of section 14;*
- (f) *the extended period for admission and the manner of completing study if admitted after the extended period, under section 15;*
- [(fa) *the manner and the conditions subject to which a child may be held back under sub-section (3) of section 16;]*
- (g) *the authority, the form and manner of making application for certificate of recognition, under sub-section (1) of section 18;*
- (h) *the form, the period, the manner and the conditions for issuing certificate of recognition, under sub-section (2) of section 18;*
- (i) *the manner of giving opportunity of hearing under second proviso to sub-section (3) of section 18;*
- (j) *the Other functions to be performed by School Management Committee under clause (d) of sub-section (2) of section 21;*
- (k) *the manner of preparing School Development Plan under sub-section (1) of section 22;*
- (l) *the salary and allowances payable to, and the terms and conditions of service of teacher, under sub-section (3) of section 23;*
- (m) *the duties to be performed by the teacher under clause (f) of sub-section (1) of section 24;*
- (n) *the manner of redressing grievances of teachers under sub-section (3) of section 24;*
- (o) *the form and manner of awarding certificate for completion of elementary education under sub-section (2) of section 30;*
- (p) *the authority, the manner of its constitution and the terms and conditions therefor, under sub-section (3) of section 31;*
- (q) *the allowances and other terms and conditions of appointment of Members of the National Advisory Council under sub-section (3) of section 33;*
- (r) *the allowances and other terms and conditions of appointment of Members of the State Advisory Council under sub-section (3) of section 34.*

(3) *Every rule made under this Act and every notification issued under sections 20 and 23 by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any*





modification in the rule or notification or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

(4) Every rule or notification made by the State Government under this Act shall be laid, as soon as may be after it is made; before the State Legislatures."

30.7 Power of Central Government to remove difficulties is defined under Section 39 of the RTE Act, which reads as under:

"[39. Power of Central Government to remove difficulties.—(1) *If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:*

Provided that no order shall be made under this section after the expiry of three years from the commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2012 (30 of 2012).

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.]"

31. The learned Single Judge, as noticed above, had held that the State Government is entitled to direct the privately managed schools as defined in Section 2(n) to allow admission at the stage of Pre-Primary as well as in Class-I. Learned counsel's attempt on the part of the school is to submit that admission under the RTE Act can be directed by the appropriate Government only at one level, i.e., Class-I and not at the stage of Pre Elementary, and submits that the directions for admission at both the stages is unjustified. At the same time, in the PIL, the petitioners attempt to submit that the State Government's directions to forbid admission to the Pre-Primary Classes is contrary to the statutory scheme.



32. We notice that so far as the RTE Act is concerned, it only defines Elementary Education under Section 2(f). The RTE Act apart from proviso to Section 12(1)(c) nowhere recognizes the concept of Pre School Education. Thus, the right of free and compulsory education has been recognized from the age of 6 to 14 years. Child means a male and a female child of the age of 6 to 14 years as defined in terms of Section 2(c).

33. In these circumstances, the scope of the RTE Act to the schools which fall under Clause (n) to Section 2 would have to mean those schools, which admit children in Class-I. However, the proviso to Section 12(1)(c) of the Act, for repetition, requires to be noticed separately as under:

"Provided further that where a school specified in clause (n) of section 2 imparts pre-school education, the provisions of clauses (a) to (c) shall apply for admission to such pre-school education."

34. Section 11 of the RTE Act also recognizes the duty of the appropriate Government to make necessary arrangements for providing free Pre School Education for children above the age of 3 years, who are to be prepared for elementary education. Necessary early childhood care and education for all children until the age of 6 years is also required to be provided.

35. A combined reading of Section 11 and proviso to Section 12(1)(c) would, therefore, mean that the provisions of the RTE Act are not only limited to the children above the age of 6 years, but also to those who are below 6 years and above the age of 3 years, who are required to be given Pre School education, as 25% of the seats in Class-I are required to be reserved in the schools where the admissions are starting from Class-I. The concerned schools



where Pre Elementary Education is being provided, i.e., PP1, PP2 and PP3 for children from the age of 3 years onwards, similar benefit of 25% seats need to be kept available at the stage of Pre Elementary Education. Thus, it is not necessary for application of the Act to be only at the stage of Class-I.

36. The contention of learned counsel for the schools is essentially for applying the Act only at one stage, i.e., if it is to be applied at the stage of PP3, it need not be applied again at Class-I stage and to that extent, learned counsel submits that the order passed by the learned Single Judge deserves to be set aside. If we examine the proviso to Section 12(1)(c), we notice that while Section 12(1)(c) majorly mentions that at least 25% of the strength of Class-I needs to be reserved, the word "further" used in the proviso would have to mean in addition to what has been provided in the main clause. Proviso has to be understood according to the language mentioned therein.

37. In some cases, proviso would mean the exception to be carved out from the main clause. Thus, while a particular provision in a statute may be providing the method and manner of the statute to be applied, provisos to the main clause would in ordinary course mark out a departure from the main section dealing with a situation other than what has been already mentioned in the main part of the provision. There may be different situations for which different provisos may be added. However, when "provided further" is the opening phrase, the same has to be treated to be "in furtherance".



37.1 The Hon'ble Supreme Court in **Commissioner of Commercial Taxes & Ors. vs. Ramkishan Shrikishan Jhaver & Ors.**³ has observed that:

"Again in Commissioner of Income-tax v. Nandlal Bhandari & Sons, it was observed that "though ordinarily a proviso restricts rather than enlarges the meaning of the provision to which it is appended, at times the legislature embodies a substantive provision in a proviso. The question whether a proviso is by way of an exception or a condition to the substantive provision, or whether it is in itself a substantive provision, must be determined on the substance of the proviso and not its form."

Hence, the proviso to Section 12(1)(c) will be in furtherance of what has already been stated in the main Clause 12(1)(c). The interpretation has to be done as above, if the Court does not intend otherwise.

38. Corollary of the aforesaid provision would, therefore, mean that those schools, which are defined under Section 2(n) of the RTE Act, mainly unaided schools not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority, would also have to provide free education to 25% of children coming from marginalized and weaker sections of the society at Pre Elementary school stage as they would be entitled to free education. Thus, the State Government, while following the neighbourhood clause, would allow 25% students coming from the marginalized and weaker sections of the society to be admitted in such unaided schools also and grant aid to the said extent to the schools for imparting education. The schools would be bound to provide free education to them.

39. The RTE Act was framed to further the right of free education as provided under Article 21A of the Constitution of India. As such

³ 1967 SCC OnLine SC 31



these provisions of the Act are to be understood and interpreted with the purpose of bringing the concept of Article 21A of the Constitution in its practical form. The word "Elementary Education", therefore, used in the Constitution, essentially has to be read and be inclusive of even those children who need Pre Primary Education. The interpretation, therefore, has to be inclusive and not exclusive.

40. The Bombay High Court in **Dr. Vikhe Patil Foundation's Vikhe Patil Memorial School Pune & Ors. vs. Union of India & Ors.**⁴ has observed as under:

"54. The purpose and object and specifically of Section 12(1) (c) with proviso is crystal clear, positive affirmation for the "school" to admit children of 25% of the schools strength of every class of entry level. Therefore, the "schools" in question and/or which runs both classes of pre-primary school and elementary school, they are under obligation to have reservations of 25%, based upon the strength of the respective first entry classes. There is no specific intention expressed and/or no such choice and/or option is provided to such schools to select one out of these two entry classes, for providing admission and reservation in question. The mandate is to provide reservation irrespective of the classes i.e. pre-primary, at both levels."

41. The Hon'ble Supreme Court in **Society for Unaided Private Schools of Rajasthan** (supra) has already interpreted Section 12(1)(c) and (b) read with Section 2(n)(i) to (iv) read with Section 18(3) along with constitutional provision covering the pre-school education by the school.

42. The State Government appears to have adopted a restrictive and exclusive approach to deny those children who are wanting to join the Pre Primary classes, i.e., PP1, PP2 and PP3. It is common knowledge that in schools which are unaided, admissions are not only given at Class-I level but are also given in the Montessori

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level, i.e., Pre Primary Schools. The students studying in those schools then get admitted in the same school at Class-I level or may even shift to another school. While the Act necessarily requires 25% admission of the children from the marginalized society at Class-I level, who continue to study upto the age of 14 years. It also recognizes that children are being admitted at the lower level, i.e., before Class-I by such schools. Thus, if a student coming from the marginalized and weaker section of the society is not allowed to be admitted at the Pre Primary level, he/she would not be able to compete and reach the same stage as those who are admitted with them at Class-I level.

43. Therefore, we are of the view that the circular issued by the State subsequently allowing admission at the Pre Primary level apart from at Class-I level is the correct approach. We further notice that learned Single Judge has reduced the level of admission only to one year, i.e., PP3 level apart from Class-I. However, we are of the considered view that if the students are being admitted at PP1, PP2 and PP3 levels, the State department has to proceed for admitting 25% students at the first initial stage of school admission whether it is PP1, PP2 and PP3. Once 25% students from the marginalized and weaker sections of the society have been admitted in the schools at any of the levels and thereafter come to Class-I, the concerned respective schools need not again admit 25% students separately. However, if the percentage of children coming from marginalized and weaker sections of the society is found to be less than 25% at Class-I level, the concerned school would be bound to admit additional students from marginalized communities so that at the level of



Class-I, 25% of the total strength of the class belongs to such marginalized students. It is only then the purpose of the RTE Act would be subserved.

44. We, therefore, uphold the judgment passed by the learned Single Judge to the aforesaid extent and also dispose of the PIL with the direction that the schools, which fall in Sub-clause (iii) and (iv) of Clause (n) of Section 2 of the RTE Act, shall admit children belonging to marginalized and weaker sections of the society from the neighbourhood upto 25% of the total strength of the class at Pre School stage, i.e., PP1, PP2 and PP3. If the schools only have one PP1 stage and thereafter Class-I they would provide the said reservation upto Class-I. The percentage of 25% of students from weaker sections and disadvantaged groups in the neighbourhood shall continue to be maintained at all levels. Thus, if there are 100 students admitted in the school, 25 students would be from the weaker sections and disadvantaged groups. If the school has PP2 and PP3 classes, the same percentage would be maintained for 100 students accordingly. Similarly, if at Class-I level the total strength of the students increase to total 200, then additional 25% would be again admitted from the said group of weaker sections and disadvantaged groups from the neighbourhood. The appropriate Government shall, accordingly, issue the circulars.

45. One of the contentions raised by the learned counsel appearing for the schools is that the State Government has only recognized classes from Class-I onwards and there is no such recognition for the Pre Primary Classes. However, the argument is without force. The recognition of the school education was made



for the purpose of establishment of the school and may be from the elementary level alone but it cannot be denied even at the PP1, PP2 and PP3 level. The admissions have to be regularized and cannot be un-channeled. The children from the weaker sections and disadvantaged groups ought not to be deprived of Pre Primary education. It need not be highlighted that as the country is progressing, the IQ level of children has increased and if children are deprived to learn at the Pre Primary stages, they may continue to remain behind those who are belonging to the well established higher societies. The very purpose of the RTE Act would be defeated, if students of the weaker sections and disadvantaged groups are made to be admitted only at Class-I level as they have a disadvantageous position compared to other children who have already studied in the Pre Primary Classes.

46. We therefore, dismiss the special appeals and dispose of the PIL with the aforesaid directions.

47. All pending applications also stand disposed of.

(BALJINDER SINGH SANDHU),J

(SANJEEV PRAKASH SHARMA),ACTING CJ

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