

The Right to Education Act 2009 and its Effective Implementation: A Socio-Legal Study of Children's Right in the State of Goa

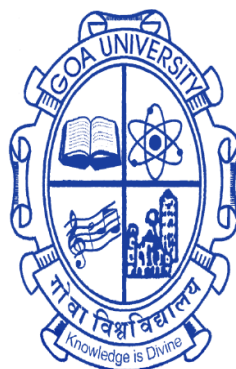
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IN

LAW

GOA UNIVERSITY



By

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DECLARATION

I, Shruti V. Kamat Dalal hereby declare that this thesis represents work which has been carried out by me and that it has not been submitted, either in part or full, to any other University or Institution for the award of any research degree.

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CERTIFICATE

I hereby certify that the above Declaration of the candidate, Shruti V. Kamat Dalal is true and the work was carried out under my supervision.

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Contents

CHAPTER – I.....	1
INTRODUCTION	1
1. Introduction.....	2
1.2 Importance of the Study.....	2
1.2.1 Status of Elementary Education with Reference to the State of Goa	3
1.3 Objectives of the Study.....	5
1.4 Scope and Limitations of the Study	5
1.4.1 Identification of the Research Problem.....	7
1.4.2 Research Questions.....	9
1.4.3 Hypothesis.....	10
1.5 Literature Review.....	10
1.5.1 Present Research	14
1.6 Methodology	16
1.7 Construction of Thesis	17
CHAPTER - II	20
RIGHT TO EDUCATION –.....	20
GLOBAL PERSPECTIVE	20
2. Introduction.....	21
2.1 Education during 1914 – 1945.....	22
2.2 Recognition of Right to Education post 1945.....	22
2.3 International agreements on education	23
2.3.1 Roadmap of education under UN	24
2.3.2 Education under UNESCO	25
2.4 Education in Third World Countries.....	27

2.4.1 Progress of education in Asian region	27
2.4.2 Progress of education in African Region	31
2.4.3 Progress of Education in Latin American Region	35
2.5 Move towards universal education	40
2.5.1 Jomtein Conference on Education for All (EFA)	40
2.5.2 Dakar Framework for Action and Millennium Development Goals (MDGs)....	42
2.5.3 Sustainable Development Agenda	43
2.5.4 Incheon Declaration and move of third world countries	44
2.5.5 Oslo Summit	47
2.6. Conclusion	47
CHAPTER - III.....	48
EVOLUTION	48
OF	48
RIGHT TO EDUCATION.....	48
IN INDIA	48
3. Introduction.....	49
3.1 Education in Ancient India	49
3.1.1 Upanayana.....	50
3.1.2 Vidyarambha and Primary Education.....	51
3.1.3 Other rituals and evolution of Secondary and Higher education	51
3.1.4 Growth of Professional and Liberal Education.....	53
3.1.5 Female education	54
3.1.6 Teacher student bond and establishment of Public Educational Institutions.....	55
3.2 Education during Muslim Rule in Medieval Period	59
3.2.1 Education Policy	59
3.2.2 Female Education.....	60

3.3 Education during Early British and other European Rule in India	61
3.3.1 Education in Provinces	63
3.3.2 Female Education.....	66
3.3.3 Development of Schools and Higher Education Institutions	66
3.3.4 Indian Education Commission and period thereafter.....	69
3.3.5 Subsequent development of Higher Educational Institutions	71
3.3.6 Foundation stone for Law on Elementary Education in India	72
3.4 Pre Independence Education in India	74
3.5 Education post-independence in India – Modern Education	76
3.5.1 Commissions and National Policies on Education	78
3.5.2 Radhakrishnan Commission	78
3.5.3 Central Planning Commission	79
3.5.4 Mudaliar Commission.....	79
3.5.5 Kothari Commission and the 1968 Policy on Education	80
3.5.6 National Policy on Education 1986 and the Programme of Action 1992.....	81
3.5.7 National Education Policy (NEP) 2020	83
3.6 Judicial Contribution towards Right to Education.....	84
3.6.1 Move towards Right to Education	85
3.6.2 Programmes on Elementary Education.....	86
3.6.3 Right to Education as a Fundamental Right	88
3.6.4 Concluding Statistical analysis on Right to Education	89
CHAPTER - IV.....	91
CENTRAL LEGISLATION ON	91
RIGHT TO EDUCATION.....	91
IN INDIA	91
4. Introduction.....	92

4.1 Constitutional Commitment for education.....	92
4.1.1 Education expressed through constitutional provisions.....	93
4.1.2 Education and Fundamental Rights	94
4.2 Apex Court Directive towards education as a right	99
4.2.1 Judgments pronounced by Supreme Court	99
4.3 Placement of Education in Constitution in 2002	100
4.4 Legislation on Education in State of Goa	101
4.5 Central law on Right to Education.....	102
4.5.1 Provisions relating to Child and Parent/Guardian	103
4.5.2 Provisions relating to Elementary Education.....	104
4.5.3 Provisions relating to Schools.....	105
4.5.5 Provisions relating to Capitation Fee.....	116
4.5.6 Provisions relating to Reservation for children pursuing Elementary Schooling	120
4.5.7 Duties of School Management Committee and Local Authority.....	122
4.5.7.1 School Management Committee.....	122
4.5.7.2 Local Authority	128
4.6 Conclusion	129
5. Pre Liberation Educational set up in the State of Goa	132
5.1 Post Liberation Education system in Goa.....	132
5.2 Levels of Education in Goa.....	135
5.3 Roadmap for Empirical Study in the State of Goa and Limitations	136
5.3.1 Scheme of the Empirical Study.....	138
5.4 Data on count of Schools, Levels of education and Enrollment.....	142
5.5 Empirical Data on enrollment under reservation quota in Unaided Schools.....	149

5.5.1 Empirical Data on Awareness of Reservation kept in Unaided Non-minority schools and the status of these seats falling vacant.....	157
5.6 Empirical Data on Capitation Fee demanded by Unaided schools.....	160
5.7 Empirical Data on norms and standards relating to infrastructure of Government Schools and Recognition granted.....	166
5.7.1 Empirical Data on Provision of Teaching aids, Water facility and other requirements in Schools.....	178
5.7.2 Inspection of Government Schools and the Budget sanctioned	186
5.8 Empirical Data on constitution of School Committees and its functioning.....	189
5.8.1 Inspection of Schools.....	217
5.9 Empirical study on duties of Local Authority.....	219
5.9.1 Empirical study on role and functioning of Officials from Directorate of Education and its branches at zonal level	223
5.10 Analysis of Hypothesis	233
5.10.1 Noncompliance of the twenty-five percent reservation provision by the Unaided schools has violated the children’s right to equality	233
5.10.2 Demand for contribution or donation by the Unaided schools falls within the ambit of capitation fee.	235
5.10.3 Government schools do not have to adhere to the norms and standards and the same has diluted the mandates of infrastructure under the RTE Act.....	237
5.10.4 Dereliction of duties on part of the School Management Committee and Local Authority has proportionally affected Children’s fundamental Right to Education..	240
5.10.4.1 Extent of performance of duties by School Management Committees	241
5.10.4.2 Non-performance of the duties by the Local Authority.....	248
5.10.5 Final Observation.....	250
CHAPTER – VI.....	253
CONCLUSION.....	253
AND.....	253

SUGGESTIONS	253
6. Conclusion	254
6.1 Right to Education at the International Level	254
6.2 Education at National Level.....	256
6.3 Judicial approach and Legislative framework	258
6.4 Findings derived from empirical study	259
6.4.1 Status of compliance of the twenty-five percent reservation norm by the Unaided Schools.....	259
6.4.2 Demand of capitation fee made by Unaided Schools	260
6.4.3 Non adherence by the Government schools of the norms and standards has diluted the infrastructural mandates	260
6.4.4 Dereliction of duties by the School Management Committee and the Local Authority	261
6.5 Suggestions	262
BIBLIOGRAPHY	269
ANNEXURES	285

List of Tables

Table 1 Average Area covered and the Population served by School	136
Table 2 Respondents for Questionnaire I*	139
Table 3 Respondents for Questionnaire II*	139
Table 4 Respondents for Questionnaire III*	139
Table 5 Respondents for Questionnaire IV	140
Table 6 Zone wise count of categories of Schools*	142
Table 7 Year wise Classification/Levels of education in schools	143
Table 8 No. of Non-Minority and Minority Schools	145
Table 9 Level wise Enrollment of students in schools.....	146
Table 10 Student admission in Schools at elementary stage.....	147
Table 11 Enrollment of students in Class I of Schools	149
Table 12 Enrollment of children belonging to Weaker & Disadvantaged group in Class I of Schools	151
Table 13 Enrollment of children belonging to Weaker & Disadvantaged category in Class I of Government Schools.....	153
Table 14 Enrollment of children belonging to Weaker & Disadvantaged section in Class I of Aided Schools.....	154
Table 15 Enrollment of children belonging to Weaker & Disadvantaged section in Class I of Unaided Schools	155
Table 16 Enrollment under twenty-five percent reservation in Class I of Unaided Non-minority Schools - Response from Schools	156
Table 17 Awareness of twenty-five percent reservation in Class I of Unaided Non-minority Schools amongst parents or guardian.....	158
Table 18 Stand of weaker and disadvantaged category on admission of their child under twenty-five percent reservation in Unaided Non-minority schools.....	159
Table 19 Status of twenty-five percent reserved seats of Class I falling vacant in Unaided Non-minority Schools	160
Table 20 Donation or payment or contribution demanded by Unaided Non-minority schools.....	161
Table 21 Donation or payment or contribution demanded by Unaided minority schools	162

Table 22 Issuance of receipt by the Unaided Non-minority schools towards donation or payment or contribution demanded	163
Table 23 Issuance of receipt by the Unaided minority schools toward donation or payment or contribution demanded	164
Table 24 Compliance of Infrastructural Facilities by Schools	166
Table 25 Compliance of Infrastructural Facilities by Schools in percent	166
Table 26 No. of Schools with Infrastructural facilities - Response from Parents or Guardian.....	167
Table 27 Schools with Infrastructural facilities in percent - Response from Parents or Guardian.....	168
Table 28 Compliance of Infrastructural facilities by Specified Category Schools ..	169
Table 29 No. of Specified Category Schools lacking Infrastructural norms	170
Table 30 Specified Category Schools in percent deficient in Infrastructural norms	170
Table 31 No. of Unaided Schools lacking Infrastructural norms.....	172
Table 32 Compliance of Infrastructural facilities by Government Schools.....	174
Table 33 No. of Government Schools not complying with the Infrastructural norms	175
Table 34 No. of Government schools with Adequate Teaching Learning Equipment's class wise	179
Table 35 No. of Government schools deficient in specific Teaching Learning Equipment's class wise.....	180
Table 36 Government schools lacking specific Teaching Learning Equipment's class wise in percent	180
Table 37 No. of Government schools having accessible and hygienic Toilet facility	181
Table 38 No. of Government Schools having accessible and hygienic toilet facility in Government Schools.....	182
Table 39 No. of Government schools having Adequate and Safe Drinking Water facility	183
Table 40 No. of Government Schools having Adequate and Safe Drinking Water facility	183
Table 41 No. of Government Schools with insufficient Facility class wise	184
Table 42 No. of Government schools visited by the Officer under the Directorate of Education to assess the quality of Mid-day meals	186

Table 43 No. of times Government Schools inspected by the (A.D.E.I)	187
Table 44 Budget sanctioned by State and actual expenditure on Infrastructure by Government Schools	188
Table 45 Constitution of School Committees	190
Table 46 Constitution of School Committees in percent	191
Table 47 Constitution of School Committees	192
Table 48 Constitution of School Committees in percent	192
Table 49 Monthly meetings conducted by Government School Committees and making it public	194
Table 50 Monthly meetings conducted by Aided Minority school committees and making it public	195
Table 51 Monthly meetings conducted by Aided Non-minority school committees and making it public	196
Table 52 Monthly meetings conducted by Unaided minority school committees and making it public	197
Table 53 Monthly meetings conducted by Unaided Non-minority school committees and making it public.....	198
Table 54 Monthly meetings conducted by Specified Category school committees and making it public	198
Table 55 Status of performance of functions by School Committees.....	199
Table 56 No. of Schools where School Committees do not perform their functions	201
Table 57 Schools in percent where School Committees do not perform their.....	202
Table 58 No. of Government schools where Educational facilities are provided to Students with Disability	205
Table 59 Aided minority schools where Educational facilities are provided to Students with Disability.....	206
Table 60 No. of Aided Non-minority schools where Educational facilities are provided to the Students with Disability	207
Table 61 No. of Unaided minority schools where Educational facilities are provided to Students with Disability	208
Table 62 Unaided Non-minority schools where Educational facilities are provided to Students with Disability	209

Table 63 Specified Category Schools where Educational facilities are provided to Students with Disability.....	210
Table 64 No. of Schools providing Entitlements to the Students	211
Table 65 Schools in percent providing Entitlements to the Students.....	211
Table 66 Schools devoid of Equipped Library.....	212
Table 67 Schools in percent devoid of Equipped Library.....	213
Table 68 Schools with Teaching Learning Equipment's class wise.....	214
Table 69 Schools in percent with Teaching Learning Equipment's class wise	215
Table 70 Schools with insufficient Sport facility class wise.....	216
Table 71 Schools in percent with insufficient Sport facility class wise.....	216
Table 72 No. of times Schools inspected by (A.D.E.I).....	218
Table 73 No. of times Schools inspected by the (A.D.E.I) - in percent.....	218
Table 74 Awareness as to functions of School Management Committee.....	220
Table 75 Participation in the School Management Committee functioning and attendance at the monthly School meetings.....	221
Table 76 Reason behind evading the duties of the School Management Committee	222
Table 77 Whether Unaided Non-minority schools claim reimbursement of the expenses incurred for enrolling children under reserved seats	223
Table 78 Whether Officials have received any complaint about Unaided schools demanding capitation fee and whether legal action is taken.....	224
Table 79 Reason for not taking action against Unaided schools for demanding capitation fee.....	225
Table 80 Action taken as per RTE law against the Government schools for not adhering to the infrastructural norms	226
Table 81 Reason for not taking action as per RTE law against the Government schools for violating the infrastructural norms	227
Table 82 Reason behind Infrastructural paucity in Government schools	229
Table 83 Extent of interference of the Officials acceptable to Unaided and Specified Category Schools as far as School functioning is concerned	230
Table 84 Reason behind reluctance of the Officials to supervise and thereby manage inspection and functioning of Unaided schools	230
Table 85 Reason for reluctance of Officials to supervise and thereby manage inspection and functioning of Specified Category schools.....	232

List of Figures

Figure 1 No. of Schools established in educational zones.....	143
Figure 2 Year wise Classification of education at the school	144
Figure 3 Count of Non-Minority and Minority Schools	145
Figure 4 Level wise student enrollment at the school.....	146
Figure 5 Elementary level enrollment of students in Schools	148
Figure 6 Student enrollment in Class I of Schools.....	150
Figure 7 Enrollment of children belonging to reserved category in Class I of Schools	152
Figure 8 Enrollment of children belonging to reserved category in Class I of Government Schools.....	153
Figure 9 Enrollment of children belonging to Weaker & Disadvantaged category in Class I of Aided Schools.....	154
Figure 10 Enrollment of children belonging to Weaker & Disadvantaged category in Class I of Unaided Schools	156
Figure 11 Admission under twenty-five percent reservation in Class I of Unaided Non-minority Schools - Response from Schools	157
Figure 12 Awareness amongst parents or guardian of twenty-five percent reservation in Class I of Unaided Non-minority schools - comparative response	158
Figure 13 Stand of other category on admission of their child under twenty-five percent reservation in Unaided Non-minority schools	159
Figure 14 Status of twenty-five percent reserved seats of Class I falling vacant in Unaided Non-minority Schools	160
Figure 15 Voluntary or Involuntary demand made by Unaided Non-minority schools - comparative response	161
Figure 16 Voluntary or Involuntary demand made by Unaided minority schools - comparative response.....	162
Figure 17 Issuance of receipt by the Unaided Non-minority schools for the voluntary or involuntary demand made - Response from Parents/guardian	163
Figure 18 Issuance of receipt by the Unaided Non-minority schools for the donation or payment or contribution demanded - Response from said schools	164

Figure 19 Issuance of receipt by the Unaided minority schools towards donation or payment or contribution demanded - Response from Parents/guardian	165
Figure 20 Issuance of receipt by the Unaided minority schools for the voluntary or involuntary demand made - Response from said schools	165
Figure 21 Compliance of Infrastructural Facilities by Schools	167
Figure 22 Response from Parents or Guardian on compliance of Infrastructural Facilities by Schools	168
Figure 23 Specified Category Schools complying with the Infrastructural facilities - comparative response.....	169
Figure 24 Specified Category Schools devoid of Infrastructural norms - comparative response.....	171
Figure 25 No. of Unaided Schools devoid of specific infrastructural norms - comparative response.....	173
Figure 26 Compliance of Infrastructural facilities by Government Schools - comparative response.....	174
Figure 27 Government Schools devoid of Specific Infrastructural norms as per the response given by Schools	176
Figure 28 Government Schools lacking specific infrastructural norms as per the response from Parents or Guardian.....	177
Figure 29 Government Schools with Sufficient No. of Teaching Learning Equipment's class wise - comparative response	179
Figure 30 Government Schools devoid of specific Teaching Learning Aids class wise - comparative response	180
Figure 31 Government school's response on Status of Toilets being accessible and hygienic.....	181
Figure 32 Government schools with accessible and hygienic Toilet facility - as per Parents or guardians response.....	182
Figure 33 Government schools having Adequate and Safe Drinking Water facility - Response from Parents or Guardian	183
Figure 34 Government Schools having Safe and Adequate Drinking Water facility - as per Schools response	184
Figure 35 Government Schools deficient in Sports Facility class wise as per Schools response.....	185

Figure 36 Government Schools lacking Sports facility class wise as per the response from Parents or Guardian.....	185
Figure 37 Government Schools visited by the officer under the Directorate of Education to assess the quality of Mid-day meals - As per Schools response	187
Figure 38 No. of times Government Schools inspected by the (A.D.E.I) - As per the response given by schools.....	187
Figure 39 Budget sanctioned by State and actual expenditure incurred on Infrastructure by Government Schools	188
Figure 40 Constitution of School Committees as per Response from Schools	191
Figure 41 Constitution of School Committees as per response from School Committee Members	193
Figure 42 Monthly meetings conducted by Government School Committees and Making it public - comparative response.....	194
Figure 43 Monthly meetings conducted by Aided Minority school committees and making it public - comparative response	195
Figure 44 Monthly meetings conducted by Aided Non-minority school committees and making it public - comparative response	196
Figure 45 Monthly meetings conducted by Unaided minority school committees and making it public - comparative response	197
Figure 46 Monthly meetings conducted by Unaided Non-minority school committees and making it public - comparative response	198
Figure 47 Monthly meetings conducted by Specified Category school committees and making it public - comparative response	199
Figure 48 Status of performance of functions by School Committees - as per Committee Members response.....	200
Figure 49 Schools in percent where School Committees do not perform their functions - as per response from School Committee Members	203
Figure 50 Government Schools where Educational facilities are provided to.....	205
Figure 51 Aided minority schools where Educational facilities are provided to Students with Disability - comparative response.....	206
Figure 52 Aided Non-minority schools where Educational facilities are provided to the Students with Disability - comparative response	207
Figure 53 Unaided minority schools where Educational facilities are provided to Students with Disability.....	208

Figure 54 Unaided Non-minority schools where Educational facilities are provided to Students with Disability.....	209
Figure 55 Specified Category Schools where Educational facilities are provided to Students with Disability.....	210
Figure 56 Schools providing Entitlements to the Students.....	211
Figure 57 Schools devoid of Equipped Library - as per response from schools	213
Figure 58 Schools devoid of Equipped Library - as per response from Parents / Guardian.....	214
Figure 59 Schools with Teaching Learning Equipment's class wise - comparative response.....	215
Figure 60 Schools devoid of class wise Sport facility - comparative response	217
Figure 61 No. of times Schools inspected by (A.D.E.I)	219
Figure 62 Awareness as to functions of School Management Committee	220
Figure 63 Participation at the School Management Committee functioning and attendance at the monthly School meetings.....	221
Figure 64 Reason behind evading the duties of the School Management Committee	222
Figure 65 Whether Unaided Non-minority schools claim reimbursement of the expenses incurred under twenty-five percent reservation.....	224
Figure 66 Whether Officials have received any complaint about Unaided schools demanding capitation fee and whether legal action is taken.....	225
Figure 67 Reason for not taking action against Unaided schools for demanding capitation fee.....	226
Figure 68 Action taken as per RTE law against the Government schools for not adhering to the infrastructural norms	227
Figure 69 Reason for not taking action as per RTE law against the Government schools for violating the infrastructural norms	228
Figure 70 Reason behind Infrastructural paucity in Government schools.....	229
Figure 71 Extent of interference of the Officials acceptable to Unaided.....	230
Figure 72 Reason behind reluctance of the Officials to supervise and thereby.....	231
Figure 73 Reason for reluctance of Officials to supervise and thereby manage inspection and functioning of Specified Category schools.....	232

ABBREVIATIONS

RTE	Right of Children to Free and Compulsory Education Act
DHE	Directorate of Higher Education
GDP	Gross Domestic Product
GER	Gross Enrollment Rate
SSA	Sarva Shiksha Abhiyan
UN	United Nation
UNESCO	United Nations Educational Scientific and Cultural Organisation
IBE	International Bureau of Education
UNO	United Nations Organisation
UDHR	Universal Declaration of Human Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic Social and Cultural Rights
CEDAW	Convention on Elimination of all Forms of Discrimination against Women
CRC	Convention on the Rights of the Child
ILO	International Labour Organisation
UNICEF	United Nations Children's Fund
APIED	Asian Programme of Educational Innovation for Development
EPTA	Expanded Programme of Technical Assistance
GNP	Gross National Product

EFA	Education for All
EWLP	Experimental World Literacy Programme
NEIDA	Network of Educational Innovation for Development in Africa
UNPAAERD	United Nations Programme of Action for African Economic Recovery and Development
OAS	Organisation of American States
ECLA	United Nations Economic Commission for Latin America
FOA	Food and Agriculture Organisation
OREALC	The Regional Bureau of Education for Latin America and the Caribbean
CREFAL	Regional Cooperation Center for Adult Education in Latin America and the Caribbean
CARNEID	Caribbean Network of Educational Innovation for Development
UNDP	United Nations Development Programme
EFA	Education for All
MDGs	Millennium Development Goals
SDGs	Sustainable Development Goals
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
DPSP	Directive Principle of State Policy
NITI	National Institution for Transforming India
NCERT	National Council of Educational Research and Training
NEEM	National Elementary Education Mission

DPEP	District Primary Education Scheme
MDMS	Mid-Day Meal Scheme
KGBV	Kasturba Gandhi Balika Vidyalaya
A.D.	After Death
B.C.	Before Christ
SC	Scheduled Caste
ST	Scheduled Tribe
OBC	Other Backward Caste
NPEGEL	National Programme for education of Girls at the Elementary Level
CBSE	Central Board of Secondary Education
NIOS	National Institute of Open Schooling
NVS	Navodaya Vidyalaya Samiti
KVS	Kendriya Vidyalaya Sangthan
CTSA	Central Tibetan School Administration
RMSA	Rashtriya Madhyamik Shiksha Abhiyan
MHRD	Ministry of Human Resource Development
NEP	National Education Policy
UGC	University Grants Commission
DIET	District institutes of Education and Training
NAAC	National Assessment and Accreditation Council
SEDGs	Socially and educationally disadvantaged groups
UDISE	Unified District Information System for Education

GSACS	Goa State AIDS Control Society
A.D.E.I	Assistant District Educational Inspector
No.	Number
S.C.	Supreme Court
S.C.R.	Supreme Court Report
BOM	Bombay
S.C.C.	Supreme Court Cases
M.L.J.	Maharashtra Law Journal
AUG	Aurangabad
NGP	Nagpur
A.I.R.	All India Reporter
U.O.I.	Union of India
CONST.	Constitution
Anr.	Another
Ors.	Others

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2.	Unni Krishnan, J.P. and Others v. State of Andhra Pradesh and Others A.I.R. 1993 2178: 1993 S.C.R. (1) 594
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14.	State of Madras v. Srimathi Champakam Dorairajan (1951) S.C.R. 525
15.	St. Stephen's College v. The University of Delhi A.I.R. 1992 S.C. 1630
16.	Islamic Academy of Education v. State Of Karnataka and Ors. (2003) 6 S.C.C. 697

17.	P.A. Inamdar & Ors. v. State Of Maharashtra & Ors. 2005 S.C. 614
18.	Bachpan Bachao Andolan v. Union of India and Ors. 2011 S.C. 431
19.	M/s. Dabhol Educational Society and Ors. v. The State of Maharashtra and Ors. 2016 BOM 664
20.	Naz Foundation (India) Trust v. Union of India & Ors. LNINDORD 2017 S.C. 8430
21.	Raje Shivsai Mahila Bachat Gat and Ors. v. State of Maharashtra and Ors. 2014 BOM 443
22.	Avinash Mehrotra vs Union Of India, LNINDORD 2017 SC 13043
23.	Sindhudurg Zilla Shikshan Sanstha Chalak Mandal and Ors. v. The Union of India and Ors. 2015 BOM 853
24.	Parwatidevi Apang Shikshan Va Prashikshan Prasarak Mandal & Ors. v. The State of Maharashtra & Ors. 2014 AUG 93
25.	Sau Laxmibai Shantaram Doke Samajvikas Prathisthan v. The State of Maharashtra, 2012 AUG 550
26.	Father Thomas Shingare and Ors. v. State of Maharashtra and Ors. A.I.R. 2002 S.C. 463
27.	Modern Dental College & Research Centre v. State of M.P. (2009) 7 S.C.C. 751
28.	Saraswati Shikshan Sanstha and Ors. v. State of Maharashtra and Ors. 2018 NGP 449
29.	Naresh Gangaram Gosavi & Ors. v. Chembur English School & Ors. 2013 BOM 239
30.	Canossa Convent School Society & Ors. v. The State of Maharashtra & Ors. 2014 AUG 936
31.	Environment and Consumer Protection Foundation v. Delhi Administration and Ors. 2012 S.C. 1067.
32.	Modern School v. Union of India A.I.R. 2004 S.C. 2236
33.	National Legal Services Authority v. Union of India and Ors. (2014) 3 M.L.J. 595 (S.C).

CHAPTER – I

INTRODUCTION

1. Introduction

Education paves way towards self-empowerment, thus making an individual self – reliant. Education makes an individual aware of his rights and duties in the eyes of law. The political stability and economic growth of the Nation is predominantly dependent on education. Education is the nucleus to realize the core values of human rights that leads to social transformation.

Right to education has always been flagged high on the international agenda and this has solicited the responsiveness of countries at the global level to strategize and to make education accessible for all.¹ Children who would be the youth of tomorrow are the future pillars of a civilized state. The goal of achieving optimum development of a Nation is primarily based on providing quality education to every child that shall be accessible and available without discrimination, distinction or hurdles.

The Indian government respecting the international commitment with the influx of time carved plans, strategies and policies and implemented legislations that would strive to achieve the goal of right to education. It is indeed a complex procedure to set the target for quantity and quality education that shall be of inclusive nature that would emphasize attendance, attainment and completion of education devoid of social or legal impediments.

This obligation envisioned of positive outcome predominantly solicits the attention of not only the government but also the stakeholders, monitoring agencies and community at large that aims to build a literate Nation.

1.2 Importance of the Study

Elementary stage is the stepping stone of a child to explore the avenues of learning and development. This stage of education becomes a resource that develops a child mentally, psychologically, physically and aids in building child's intellectual ability at the school level. Without crossing this level of education it is impossible to climb the

¹ For more details See, chapter II.

ladder of higher classes of success. In fact Indian government has expressed its objectives to elevate the quality of educational institutions, provide access to education, focus on development in a planned manner.²

The enforcement of the Right of Children to Free and Compulsory Education Act (RTE) 2009 is a historic initiative taken by the Government of India which brings the country closer to achieve the mission of ensuring children's accessibility to elementary schooling as a legal right which shall be free and compulsory.

The state of Goa was indeed fortunate to have a piece of legislation on compulsory elementary education,³ but the entire Nation rejoiced when finally a central legislation on the right of a child to pursue compulsory elementary education free of cost was recognized and the central as well as the state government were made accountable under the unique piece of legislation.

In order to construct an evil free society and for the growth of the Nation, a healthy elementary school driven education system is mandatory to impart to children quantity as well as quality education. The RTE 2009 legislation is a welcoming step which would aid in making this dream turn into reality.

1.2.1 Status of Elementary Education with Reference to the State of Goa

The education system in India has evolved and has been driven by focusing more on the elementary education. It is apt to peruse the progress of elementary education since the inception of the RTE Act of 2009 as it stresses more on overall development of the child and the concept of quantity and quality education. This central legislation came into force in April 2010.

² GOVERNMENT OF INDIA, DEPARTMENT OF SCHOOL EDUCATION AND LITERACY, DHE, MHRD, ANNUAL REPORT 2 (2016-17), https://www.education.gov.in/sites/upload_files/mhrd/files/document-reports/HRD%20AR%202016-17.pdf.

³ The Goa Compulsory Elementary Education Act, 1996, No. 4.

Considering the elementary level of education, for the year 2015 – 16, there are total 1,270,170 recognized institutions in India.⁴ Further, there are 1,96,717 children who are enrolled in schools at the elementary stage.⁵ The number of recognized institutions in hundred at the elementary level reflected to be 11,961 for the year 2010 – 11 whereas, the year of 2015 – 16 reflected count of 12,701 educational institutions in India.⁶

Thus it can be perceived that there has been gradual increase of recognized educational institutions at the elementary level in India. Further, the enrollment of the children in lakh at the elementary level was 1,966 and 1,967 for the years 2010 – 11 and 2015 -16 respectively.⁷ Gross Domestic Product (GDP) on education for the year 2014 – 15 by the States / Union Territories and Centre amounted to 1.82 percent.⁸ Thus the Budget Estimate reflecting the expenditure on education is 4.04 percent of GDP.⁹

As per census 2011, Goa is the smallest state in terms of area in India. The data of State of Goa reflects 1,099 elementary educational institutions in the year 2013 – 14 whereas, the year of 2015 – 16 reflected a count of 1059 educational institutions. Thus there has been a slight decline in the number of these institutions.¹⁰ Further, the Gross Enrollment Rate (GER) at the elementary level is 210.9 for the year 2013 -14 whereas for the year 2015 – 16 the GER is 199.86 which shows a gradual decline in the enrollment.¹¹ Added to this the State for the year 2015 – 16 shows hundred percent drinking water facility and toilet facility for girls and full provision of text books being made available to the students within a month from the beginning of the academic session.¹²

Though there is a mention of few of the indicators as specified above, it is primarily important to analyze the progress of the implementation of the legislation in letter and spirit in the State of Goa.

⁴ GOVERNMENT OF INDIA, DEPARTMENT OF SCHOOL EDUCATION AND LITERACY, STATISTICS DIV. MHRD, EDUCATIONAL STATISTICS AT A GLANCE 7 (2018), https://www.education.gov.in/sites/upload_files/mhrd/files/statistics-new/ESAG-2018.pdf.

⁵ *Id.* at 8.

⁶ *Id.* at 22.

⁷ *Id.* at 23.

⁸ *Id.* at 11.

⁹ *Id.* at 40.

¹⁰ *Id.* at 44.

¹¹ *Id.* at 50.

¹² *Id.* at 79, 82 and 85.

1.3 Objectives of the Study

- 1) To study the concept, scope and status of elementary education at the Global and National level.
- 2) To examine the evolution of right to education as a fundamental right enshrined in the Constitution of India.
- 3) To study various laws pertaining to elementary education prevalent at the central and state level.
- 4) To analyze the effective implementation of cost free admission of children with respect to minimum twenty-five percent reservation given to disadvantaged group and weaker section in unaided schools established in State of Goa.
- 5) To examine whether the unaided schools established in State of Goa are involved in demanding additional payment besides the school fee at the cost of the children seeking admission.
- 6) To assess compliance of norms and standards of recognition under the RTE Act pertaining to infrastructure of the schools established in the State of Goa.
- 7) To examine the role and functioning of monitoring bodies under RTE legislation in State of Goa.
- 8) To propose suggestions with respect to effective implementation of RTE statute in State of Goa.

1.4 Scope and Limitations of the Study

The study is based on effective implementation of the RTE 2009 Act and is restricted to State of Goa with respect to adherence by the unaided schools as to the provision of twenty five percent reservation in class I of these schools; charges or contribution or payment taken from children or parent or guardian by unaided schools; grant of

recognition of schools on the basis of compliance with the infrastructural facilities under the standards to be maintained and the dereliction projected by the monitoring bodies in performing their respective duties.

Legislation on education was in force in State of Goa when Goa was part of Union Territory.¹³ As the state and central Law on school education are both in force, it was relevant to study the functioning of schools under both these laws, as the state rules framed under the RTE law intersects with the State education law in force in specific cases. Therefore, even though the study was restricted only to the central law, the state law was also required to be analyzed on certain grounds for perfect analysis. Considering the fact that RTE legislation was brought in force on 1st April 2010, the empirical study covers the analysis of implementation of the Act for a ten-year period i.e. from 2010 – 2020 in the State of Goa.

The RTE Act excludes the unaided minority schools from the applicability of twenty-five percent reservation provision, hence these schools were not taken for the purpose of study for analyzing Hypothesis (i). Further, only those norms and standards that relate to school's infrastructure were analyzed in hypothesis (iii). Mid-day meal requires kitchen shed in schools for cooking, hence implementation of Mid-day meal provision in schools was also studied. Then, entitlements given to children is applicable to only those who have enrolled under the reservation quota, hence Specified Category Schools were excluded from the research from the angle of this provision. As far as Disaster Management Guidelines on School Safety is concerned, its compliance is studied only from the perspective of school infrastructure. Emphasis is given on Government schools as far as compliance of infrastructural norms are concerned. However, schools having insufficiency in totality on specific infrastructural indicators are also projected.

School Management Committee functions only relating to School infrastructure, monitoring school grants and funds, submission of accounts and Plan before the Director, enrollment of children falling under reservation quota, facilities provided to them, and awareness of children's rights, and duties of the monitoring bodies, schools

¹³ The Goa, Daman and Diu School Education Act, 1984, No. 15 1985.

and Parents under the Act has been studied. There are schools that have constituted committees as per the Central law or State law or have constituted both the committees or have not constituted committee as per the central law. Hence, functioning of both committees are part of the research. Finally, the duties of the Local Authority are also restricted in context with hypothesis (i), (ii), (iii) and functions of the School Management Committee.

It is the Directorate of Education that administers and regulates the school education in the state of Goa.¹⁴ Further, Goa is divided into three educational zones each comprising of specific number of talukas.¹⁵ Considering the total count under each of the categories of schools established in Goa, specific number of schools from each of the category have been covered for the purpose of research.¹⁶ The study analysis the responses gathered from the parent or guardian, the school authority or teachers and the committee members of the school. The members from the Local Authority and the Officials from the Directorate of Education and its branch offices were also interviewed.

1.4.1 Identification of the Research Problem

The RTE legislation ushered a ray of hope amongst the Indians, as finally the expectation of the quality school education, which would be free and compulsory has been made available to the children as their basic right without any obstacle.

The legislation comprehensively deals with the modalities inclusive of provisions related to establishment of schools, proper school building, teacher's obligations, admission of students, curriculum, evaluation, access to elementary education and duties and responsibilities of the government and monitoring agencies.

The primary question that needs to be answered is whether there is adequate awareness of the central law amongst the masses, more so when it comes up to certain privileges that are conferred on children belonging to specific sections of community.

¹⁴ Government of Goa, Directorate of Education, Organization, <http://www.education.goa.gov.in/organisation> (last visited June. 3, 2021).

¹⁵ *Ibid.*

¹⁶ For more details See, chapter V.

Secondly, the legislation enables all children, leaving aside distinction on basis of caste, creed, economic status, gender or background to complete elementary school education. With respect to admission of such children in unaided schools, the Act is anchored on the belief that availability of equal educational opportunities to children belonging to different social and economic background will reinforce the idea of equality enshrined in Indian Constitution, and ensure that children are not discriminated on any of such criteria's.¹⁷ The statute makes a provision where the government will bear the cost of study at elementary stage of such children at government rate.¹⁸ But here the question is whether the community at large is aware of such provisions existing in central law? This further gives rise to apprehensions as to whether the unaided schools would genuinely follow the reservation provision while admitting students in class I.

Further, accepting money other than the school fee from the child or the parent or guardian of the child at the time of admission in schools is punishable by imposition of fine.¹⁹ Thus the legislation ensures non – discriminatory, rational and transparent procedure at the stage of enrollment in schools. But the fact is unaided schools are not funded by the government and these schools are required to bear their own cost. Though a school is always worshiped as a temple of learning and is meant to be a charitable institution, the question is whether the unaided schools are not involved in demanding capitation fee.

Another aspect to be mentioned is that the RTE law differentiates government schools from other schools clearly. It states that all schools except government schools require recognition in order to avoid closure.²⁰ Thus all government schools are privileged to get recognition by birth as it is presumed that these schools fulfill the requirement of norms and standards as mandated by the statute. This dilutes the motto of uniformity to

¹⁷GOVERNMENT OF INDIA. DEPARTMENT OF SCHOOL EDUCATION AND LITERACY, MHRD, *Guidelines under section 35(1) of the RTE Act, 2009 regarding procedure for admission in schools under section 13(1) and section 12(1)(c) of the RTE Act*, (Apr. 19, 2016, 9:51 AM), http://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/RTE_2.pdf.

¹⁸ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 12, sub-sec. (2).

¹⁹ *Id.*, sec. 13, sub-sec. (1) and sub-sec. (2).

²⁰ *Id.*, sec. 18, sub-sec. (1), sub-sec. (3) and sub-sec. (4).

be maintained by all schools so as to provide a holistic atmosphere of learning for children pursuing elementary education.

Also, the deadline for meeting the norms by the schools established prior to the commencement of the Act was on 31st of March, 2013. It's been more than five years from the date of the deadline, the much awaited public education system aspired for a set up as mandated by the legislation, but the ground reality belies the statutory vision.

Further, the monitoring agencies who have been assigned the duties of ensuring effective implementation of the provisions of the Act have failed to perform their required tasks which ultimately affect the child's right to pursue elementary education in child centric education system.

Hence the right of education extended on the aforesaid aspects by the promising legislation to the children of age group of eight to fourteen years has to be introspected and analyzed from the point of view of its effective implementation.

1.4.2 Research Questions

The questions addressed in this study are in consonance with the objectives and the research problem expressed above, and are as under:

(i) Whether the privilege of twenty-five percent reservation in favour of children belonging to disadvantaged group and weaker section is practically followed by the unaided schools?

(ii) Are the unaided schools involved in accepting capitation fee from the children who are pursuing education in these schools?

(iii) Is there a visible line of distinction when it comes to compliance of infrastructural norms to be followed by government schools and other schools for the grant of school recognition?

(iv) How far the school management committee and the local administrative bodies are aware of their role and thereby diligent in performance of their duties as per the RTE law in force?

1.4.3 Hypothesis

The study seeks to test the following hypotheses:

(i) Noncompliance by unaided schools of the norm of twenty-five percent reservation kept for children belonging to disadvantaged group and weaker section has violated the rule of equality.

(ii) The demand for contribution or payment or donation from the children or parent or guardian by the unaided schools circuitously falls within the ambit of capitation fee which violates the RTE law in force.

(iii) Privilege of recognizing government schools at the time of its establishment without adhering to the norms and standards has diluted the mandates of infrastructure under the RTE Act.

(iv) Dereliction of duties on part of the school management committee and local authority has proportionally affected children's fundamental right to education.

1.5 Literature Review

Before proceeding with the study, the researcher has read and reviewed a couple of articles, research papers and other online material connected, related or incidental to RTE Act. The present study is distinctive that stands apart from the literature reviewed, more so the study is restricted to state of Goa, wherein the state already had a legislation on elementary schooling when it was part of Union Territory.

The authors in their article²¹ have attempted to express the unanswered challenges that lie across the path of enforcement of RTE statute. For instance, the provision that

²¹ Praveen Jha, Pooja Parvati, *Right to Education Act 2009: Critical Gaps and Challenges*, Vol. XLV, No. 13, 20 Economic & Political Weekly, 21 - 23 (2010).

mentions of establishment of neighbourhood schools by 2013 is ambiguous as there is no clarity with regard to the area of such school and this is left in the hands of the government.²² Further, the teachers in schools are untrained or academically deficient and the rules pertaining to their continuity in schools are relaxed.²³ Then, private schools are exempted from constituting school management committees, that would create difficulty from the perspective of accountability and added to this is the education budget that was decided to be six percent of GDP awaits implementation.²⁴

In yet another article²⁵ the author writes about education as means to realize human rights and that education as a right has international recognition along with national importance. Still accomplishment of this right in India as has been foreseen for years has lot many difficulties mainly because of lack of school infrastructure, imbalanced pupil teacher ratio, curriculum and teaching pedagogy not up to the mark and school drop outs specially girls.²⁶ The author has emphasized on preschool education to elevate the enrollment ratio and on curbing commercialization of education especially in case of private schools.²⁷

The author of the research article²⁸ projects that even after the implementation of the RTE legislation, the government schools in India are not at par with the private schools in imparting education as focused under the Act. Further, the paper puts forth the ASER study which indicates that inadequacy of infrastructure is one of the prime reason for children staying out of school.²⁹ Also, despite efforts being made to improvise the infrastructure of government schools, there still exists significant shortages with regards school boundary wall; availability of classrooms; pupil student ratio; lack of sanitation, transport facilities; safety measures and computer facilities.³⁰

²² *Ibid.*

²³ *Ibid.*

²⁴ *Ibid.*

²⁵ Prof. Elumalai, Deepthi S. Nair, *Human Rights vis-à-vis Right to Education in Indian Context: Problems and Issues*, (June. 6, 2021, 11:00 AM), https://wikieducator.org/images/7/78/SJ_Elumalai.pdf.

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ Chandrappa, *Right to Education Act (RTE) – Elementary Education: Backbone of the Education System*, Vol. 2, No. 1, 16 IJAESS, 16, 18 – 19 (2014).

²⁹ *Ibid.*

³⁰ *Ibid.*

In another paper³¹ the author assesses the education policies and schemes that were implemented during the span of promulgation of Indian Constitution till the enforcement of RTE statute. It is expressed that every National education policy and schemes such as Sarva Shiksha Abhiyan (SSA), Mid – day meal, Operation Blackboard and others could not be effectively implemented due to some impediments such as lack of financial resources, mismanagement or lack of political will and this diluted the educational attainments.³²

It is also added that right to education though has been internationally recognized by virtue of United Nations (UN) instruments and is also a legal right of child, but the RTE law belies its effective enforcement even after completion of one year, post implementation.³³ Few of the major reasons for this were non enrollment of children in schools and shortage of teaching staff.³⁴ The paper³⁵ recommends and suggests that education should be given human rights approach by the duty bearers under the legislation.

The article³⁶ reflects the challenges that have to be faced by the state of Rajasthan to implement the central legislation. In order to balance pupil teacher ratio, equivalent number of teachers have to be recruited in the teaching profession.³⁷ Then, gender differences, poverty, lack of school infrastructure, child labour are the major causes behind children dropping out of schools.³⁸ Majority of the regular educational institutions are devoid of disabled friendly atmosphere, hence children with disability are reluctant to enroll themselves in such schools.³⁹ Also, lack of qualified teachers at the elementary level affects education at this stage.⁴⁰

³¹Mamta Viswanath, *Right to Education using Human Rights Based Approach: A Policy Perspective for India*, Vol. 19, Issue 6, 46 IOSR-JHSS, 47 – 50, 52 (2014).

³² *Ibid.*

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶Dr. Anshu Chaturvedi, Natasha Kuldeep, *Status of Implementation of the RTE Act 2009 and Challenges in the Schools of Rajasthan*, Vol. 3, Issue 3, 163 EPRA International Journal of Economic and Business Review, 168 (2015).

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ *Ibid.*

The author in his article⁴¹ expresses that implementation of RTE legislation itself was a significant milestone on part of Indian Government. The legislation aims in nurturing, creating and building child centric school and the Act also comprises of salient features that supports right to education of every child devoid of socio-economic barriers.⁴² To mention a few, privilege of reservation in private schools for children who are educationally, socially and economically backward, standards to be followed by schools, constitution of central and state commissions for protecting child rights, constitution of school committees that would comprise members from the community and initiatives to be taken to train the school teachers.⁴³

The analysis of right to education as a legal right under the RTE law in terms of its availability, accessibility, acceptability and adaptability was analyzed by the authors in the paper.⁴⁴ This right finds its mention in the core UN instruments which in turn expects a stronger commitment from the Nations including India. Framework of availability includes adequate number of schools along with proper infrastructure, facilities and standards for the enrollment of children.⁴⁵ The term accessibility would mean that all children without discrimination or distinction of any kind would be able to pursue barrier free school study.⁴⁶ Providing relevant quality education that would be unbiased and would not divert children towards religious or ideological beliefs falls under the structure of acceptability of education.⁴⁷

The ambit of adaptability covers flexibility in educational programmes as per the societal demands and needs and therefore, the primary responsibility to protect and respect these terms lie on the government and the other actors under the RTE law.⁴⁸

⁴¹ Ashok K. Saini, *The Right of Children to Free and Compulsory Education Act – 2009: As One of the Most Pioneering Academic Reforms in India*, Vol. 1, No. 2, 58 International Research in Higher Education, 58 – 60 (2016).

⁴² *Ibid.*

⁴³ *Ibid.*

⁴⁴ Mr. Ravindra Kumar, Dr. Preeti Misra, *Right to Education: A critical Evaluation of the Right of Children to Free and Compulsory Education Act, 2009 in the light of 4A's Framework*, 180 Bharati Law Review, 180, 185, 187 – 189, 196 (2016).

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

Another research paper⁴⁹ presents a study on challenges that have crossed the path of Delhi school teachers in implementing the central legislation. Due to lack of clarity in understanding the law, inappropriate guidelines, absence of training, the teachers responded that the Act has increased their responsibility unnecessarily.⁵⁰ Also, individual attention to students is difficult due to high pupil teacher ratio.⁵¹ Further, suggestions from the respondents include consistent supervision of the schools by the authorities and a realization that for betterment of education, not just the school but also the state, non-state actors, private agencies and the society at large must work together.⁵²

1.5.1 Present Research

The present research is a socio legal study that would decipher the genuine implementation of the right of the child to pursue education at the elementary level. This right though articulated in different modalities under the RTE 2009 legislation, is also a fundamental right which can neither be abridged nor violated by the state.

One aspect of the study deals with the real picture of the admission given to children to the extent of twenty-five percent reservation, in class I of the unaided schools. Study further focuses on unauthorized amount demanded by the unaided schools, from parents or guardians or child. Further, the double standards projected when it comes to compliance of infrastructural norms by government schools in comparison with other schools and finally the question as to effective functioning of the monitoring bodies under the central law in the State of Goa.

It was in the year 2010 the wandering public education system was given a positive promise by providing a ray of hope by enacting the much dreamt RTE Act. In fact, the structure of the statute mandates participation of the government, local authority, schools, teachers, parents or guardian, for the benefit of all children who fall within a

⁴⁹Charu Sethi, Alka Muddgal, *A study of Challenges of Right to Education Act, 2009 among Municipal Corporation Primary (MCP) School Teachers of Delhi*, Vol. 3, No. 1, AIJTE, (2017).

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Ibid.*

specific age. It assigns responsible work upon the school committee that has a versatile composition of members who belong to differing fields. The monitoring bodies under the legislation are expected to perform their obligation with a vision of holistic approach in the interest of the child, without discrimination and distinction.

Quality education is directly proportional to demand for admission. The legislation emphasizes on education where children with myriad background, interests and ability will study in a shared classroom environment which will be consistent with the constitutional values, especially with the ideals of fraternity, social justice and equality of opportunity.⁵³ Keeping this objective the legislature has incorporated a provision for admission of children to the extent of minimum twenty five percent of the strength of class I and this privilege of enrollment is based upon socio – economic and educational backwardness of the child.⁵⁴ The study reveals the underlying truth as to whether this privilege is actually availed of by the concerned section of the community.

Further, as per the Act, except school notified fee, the unaided schools cannot collect any unauthorized charges or accept payment from parent or guardian or child pursuing elementary schooling.⁵⁵ The study addresses the dubious nature of the unaided schools striving to provide quality education without receiving any government funds and the schools approach in implementing the said provision.

Further as the legislation harps on overall development of the child, the school norms and standards that relate to the infrastructural requirement carries weightage and adds in making a difference. It can be interpreted that the central legislation excludes the Government schools by virtue of its birth from complying with the norms of standards to be followed at the time of its establishment, whereas this is not the case with the other schools.⁵⁶ The schools established after the commencement of the RTE legislation, have to obtain the certificate of recognition for being functional and the

⁵³*The Right of Children to Free and Compulsory Education Act, 2009, Clarification on Provisions*, (Nov. 9, 2015, 9:51 AM), <http://righttoeducation.in/sites/default/files/Section%20Wise%20Rationale%20or%20Clarification%20of%20RTE%20Act.pdf#overlay-context>.

⁵⁴The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 12, sub-sec. (1), cl. (c).

⁵⁵*Id.*, section 13, sub-sec (1).

⁵⁶*Id.*, sec. 18, sub-sec. (1).

schools established prior to 2009, have to obtain the said certificate within three years from the date of commencement of the statute.⁵⁷

Further, the recognition granted to the schools can also be withdrawn on specific grounds and derecognized school becomes defunct.⁵⁸ Functioning of such school's warrants punishment under the Act.⁵⁹ Thus, it is mandatory for all schools to fulfill the requisite pertaining to the school infrastructure for the grant of recognition. The study reveals the fact of those schools that escape the rigors of law that warrants compliance of infrastructural requirement. The study expresses the fact of clear stratification made by the statute on this ground between the government schools in comparison with other schools.

Also, the monitoring bodies established have been assigned the tasks to be handled in the form of duties under the legislation. These bodies are required to keep vigil on the implementation of the Act, so that the right of the children to pursue elementary study is not hampered.

As the Act has already crossed the duration of deadline for all schools to satisfy the criteria for grant of recognition and it's been a decade since its inception, it is significant to study the truth of its effective implementation as the legislation is child centric, aims on building an inclusive educational pyramid which is quality based and the question relates to the legal right of children to pursue education at the elementary stage.

1.6 Methodology

The methodology adopted to conduct the present study shall be descriptive and analytical. The analysis made shall be based on both quantitative and qualitative information. The relevant data for the study shall be collected through primary and secondary sources.

⁵⁷ *Id.*, sec. 18, sub-sec. (1) and sec. 19, sub-sec. (2).

⁵⁸ *Id.*, sec. 19, sub-sec. (3) and sub-sec. (4).

⁵⁹ *Id.*, sec. 19, sub-sec. (5).

The qualitative material gathered for the purpose of study includes the central and state laws in force on education and the rules made thereunder, policy instruments, guidelines, reports, the ratio laid down in the form of precedents and the observations made by the higher courts in India. Primary data shall include formal and informal interview schedules, observations and structured questionnaires. The Secondary sources shall comprise of official records of Directorate of Education, research papers, reference books, magazines, articles, and online sources.

Random sampling method is adopted for the purpose of collecting data from respective schools, parents or guardian of the child pursuing education at the elementary level, school authorities and the committee members of the school.

1.7 Construction of Thesis

The study is divided into Six Chapters. The introductory chapter deals with importance of education that provide means for development and elevation of human being. A child is a human being and the legal right to pursue school education is provided under the central law. This legislation is in force for more than ten years, hence its implementation and status at the National and state level becomes relevant. The chapter reveals the objectives, hypothesis, limitations involved, methodology adopted; and for better understanding and analysis of the study, different articles, research papers, books and online documents have been referred and reviewed.

The least developed Nations and the low income group countries faced major setback during the economic crisis and to overcome poverty and for the growth of the Nations, it was realized that education is one of the medium that can revive the countries. Chapter II deals with the realization of the right to education dawned by the third world countries and the support provided by the UN organisations, global partners and the world community at large to reach to the goal of universal education for all. This Chapter also reflects few of the major UN conventions, declarations, covenants and treaties that have obligated the member states to ensure this right to their people. The world conferences convened in order to achieve the desired target of universal education have also been discussed at length in the course of the Chapter.

The path of evolution of Right to Education in Chapter III encompasses three major era's comprising the Ancient, Medieval and the Modern period. Female education was never given prime importance in the Ancient and Medieval period. However, females belonging to priestly and higher castes were a bit advantageous to pursue education, if they desired to in their life. Education in the Ancient period was linked with the profession and subsequently this led to development of rigid caste system. There was a direct connection between the tutor and the pupil. Medieval period predominates the Muslim reign and for the spread of their religion, Hindu educational institutions were left aside or shunted. There was no much growth of higher educational institutions in the Ancient and the Medieval period.

Modern era was a turning point in the history of the education system in India. The Nation witnessed foreign rule. Every British Governor appointed in India adopted his independent methodology of administering education. Indian freedom fighters and leaders endeavored for school education to be made compulsory and free. There was gradual growth of education at all stages. Educational institutions established were Government, aided and private too. Post-independence reflected a period of constitution of Education Commissions for development of education so as to increase the literacy rate. Educational policies, and programmes specially at the elementary level were implemented. The third Chapter projects all these phases along with the steps taken by Indian judicial system to support Right to Education and the consequent implementation of legislation.

Chapter IV discusses the legal aspect of the right to education in India. The Constitution of India expressed this right in two forms i.e. as a non-justiciable right and later as a fundamental right. Indian Judicial system was also instrumental in expressing this right in vivid aspects. In course of time, the right to education was implemented as a statutory right. This Chapter lays down interpretations attached to the right to education pronounced as judgments by Supreme Court and High Courts in the country. Relevant provisions of the central and the state law along with the rules framed thereunder are also discussed. Thus Chapter IV gives an in depth view of the RTE legislation implemented in India. Germane provisions of the legislation on school education in force in the State of Goa is also discoursed in the text.

Chapter V deals with the analysis of the empirical research comprising the data collected through field study, and interviews conducted of monitoring bodies performing their duties as per the RTE law.

Chapter VI deals with the Conclusions and Suggestions that the researcher has proposed on analyzing the legal provisions and the empirical data collected.

CHAPTER - II

RIGHT TO EDUCATION

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GLOBAL PERSPECTIVE

"There is a large number of human rights problems, which cannot be solved unless the right to education is addressed as the key to unlock other human rights."⁶⁰

2. Introduction

The arena of education globally has undergone a roller coaster ride. Delving into the past the era of world wars witnessed myriad issues that lead to economic decline of the Nations at large. The devastation that had occurred on account of the world wars spread a message for international peace and respect for human rights. These principles of global peace and respect could be brought into practice only through the medium of education. Eventually the post-world war period started recognizing the right to education which has been reiterated and enumerated in various human rights treaties and conventions. Focus was on educational expansion where education was to be made accessible at all levels.

A step further it was understood that meeting basic learning needs is indispensable to realize and resolve human rights issues, may it be at the social or political or cultural or economic level.⁶¹ Such challenges were to be resolved through policies and programmes framed at the global level. It was UN and its agencies, world governments, development partners, world bank and other civil society organizations who joined hands to contribute their ideas and develop strategy to overcome future obstacles and think in terms of progress of Nations which was to be realized through means of education.⁶²

This universal pledge of fulfilling the right to education globally has always been an enduring process. Therefore, right to education has been a priority on the international community agenda. In order to study the global perspective of right to education, it is important to know the development of education since the era of world wars which the researcher has covered in the current chapter.

⁶⁰ Katerina Tomasevski, *Removing obstacles in the way of the right to education*, (June. 18, 2021, 9:51 AM), https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Tomasevski_Primer%201.pdf.

⁶¹ UNESCO, *EDUCATION FOR ALL BY 2015 WILL WE MAKE IT?* 14 (2007), <https://unesdoc.unesco.org/ark:/48223/pf0000154820>.

⁶² *Id.* at 14 – 15.

2.1 Education during 1914 – 1945

Education was not formally focused during the period of the two world wars.⁶³ Majority of the international education agreements were adopted by international conferences organized by the International Bureau of Education (IBE)⁶⁴, but they lacked formal mandate and were drawn informally only as recommendations.⁶⁵

The International Conference on Public Education organized by IBE from 1934 provided a platform, where its member countries could share their experiences in the field of educational developments.⁶⁶ Few of the educational themes that were debated at the conference and even later were on compulsory education; admission to secondary schools; public educational economy; elementary school teachers professional training; school inspection & preschool education organisation.⁶⁷ Though such conferences led to promoting child-centered teaching and facilitating avenues for educational expansion but their outcome was purely informal & advisory, which the participant countries could adopt as per their individual needs.⁶⁸

2.2 Recognition of Right to Education post 1945

At the initiative of the British government, a standing conference of the Allied Ministers of Education was convened in London to discuss on educational reconstruction and co-operation which countries would need to undertake post World War II.⁶⁹ Another development was that, the United States had commenced establishment of United Nations Organisation (UNO) and the San Francisco Treaty containing the UN Charter. One of the vision envisaged by the Charter was, promoting and encouraging respect for human rights and for fundamental freedoms without any distinction.⁷⁰ Further, United

⁶³ *International Education Agreements, International Agreements in General, The Years between the Wars (1918 – 1939)*, (Nov. 5, 2016, 9.00 AM), <http://education.stateuniversity.com/pages/2121/International-Education-Agreements.html>.

⁶⁴ International Bureau of Education, a nongovernmental/intergovernmental body established in 1926 in Geneva and was an offshoot of the University of Geneva's School of Education in Europe.

⁶⁵ *Supra* note 63.

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ UN Charter, art. 1, June., 26, 1945.

Nations Educational Scientific and Cultural Organisation (UNESCO) whose constitution was adopted at the London Treaty also acted as a multiplier for contributing towards maintaining international peace and respecting human rights, through education as one of the source.⁷¹ Majority of the international agreements on education adopted since the end of World War II have been due to the initiatives taken by the UN and UNESCO.⁷²

In December 1948, the UN General Assembly notified about the Universal Declaration for Human Rights (UDHR), where its member countries marched ahead to accept and adopt human rights principles into practice.⁷³ It was this constitution of the declaration that explicitly focused on the right to education, which at the elementary stage shall be free and compulsory and further gave right to parents to choose kind of education for their children.⁷⁴ Majority of the subsequent international agreements recognizes and affirms the provision as to right to education constituted in the constitution of UDHR.

The initiative of free and compulsory education at the global level started in 1951 at Geneva at the XIVth International Conference on Public Education that was organized by UNESCO and IBE.⁷⁵ Few of the other conferences organized at the international level were the XVIth 1953 Conference on Training and Status of Primary School Teachers and XVIIIth 1955 Conference on the System of Financing Education.⁷⁶

2.3 International agreements on education

The international agreements concerning education adopted since 1948 were the ones adopted under the auspices of UN and UNESCO.⁷⁷

⁷¹ UNESCO, art. 1, Nov., 16, 1945.

⁷² *Supra* note 63.

⁷³ UDHR, art. 26(2), Dec., 10, 1948.

⁷⁴ UDHR, 1948 Article: 26 (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

⁷⁵ UNESCO, *Regional Conference on Free and Compulsory Education in the Latin American States*, Lima, Apr., 23 – May 5, 1956, (Apr. 5, 2017, 10.00 AM), <http://unesdoc.unesco.org/images/0015/001554/155448eb.pdf>.

⁷⁶ *Ibid.*

⁷⁷ *Supra* note 63.

2.3.1 Roadmap of education under UN

Education is imperative to attain global development and this was always realized by UN which focused on molding education in diverse forms for utilizing it as means to achieve progress and this began with signing of treaties.⁷⁸ The state parties obligated to guarantee right to education to all without considering race as a ground for distinction under the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).⁷⁹

The International Covenant on Economic Social and Cultural Rights (ICESCR), recognized the right of education to everyone by making primary education free and compulsory and also mentioned about secondary, higher and fundamental education along with religious and moral education, where parents are free to choose schools for their children as approved by the state.⁸⁰

As per the Convention on Elimination of all Forms of Discrimination against Women (CEDAW), the states parties undertake to ensure gender equality without discrimination between women and men in the field of education.⁸¹ On the other hand the Convention on the Rights of the Child (CRC), declares about the right to pursue

⁷⁸ *Ibid.*

⁷⁹ ICERD, art. 5(e)(v), Dec., 21, 1965.

⁸⁰ ICESCR, 1966 Article: 13 (1) The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms.

(2) The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education.

(3) The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

⁸¹ CEDAW, art. 10, Dec., 18, 1979.

primary education that must be free and must be channelized to develop child's personality, talent and implant values to respect human rights.⁸²

So as to focus world opinion on specific aspects of education, the UN General Assembly has also adopted resolutions proclaiming an International Day⁸³, Year⁸⁴, or Decade⁸⁵ relating to education.⁸⁶

2.3.2 Education under UNESCO

UNESCO has been instrumental and has tirelessly toiled in pipelining education for global advancement and policy. From 1947 onwards the International Conferences on Public Education were convened jointly by UNESCO with IBE.⁸⁷ In 1969 IBE merged with UNESCO and then subsequently till 1997 International Conferences on Education were convened biennially.⁸⁸

The treaties adopted by UNESCO includes, The Convention against Discrimination in Education, which considered the principle pronounced in UDHR, that discrimination in education is violation of rights and further affirmed UNESCO's constitution focusing on equality of educational opportunity.⁸⁹ The members states to this convention were obliged to make basic education compulsory and free, make secondary education available to all and accessibility of higher education was based on individual capacity.⁹⁰

⁸² CRC, 1989 Article: 28 (1) State Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

(a) Make primary education compulsory and available free to all.

Article 29 (1) State Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own.

⁸³ International Literacy Day observed on September 8th and World Teachers Day observed on October 5th.

⁸⁴ International Literacy Year (1990).

⁸⁵ United Nations Decade for Human Rights Education (1995–2004).

⁸⁶ *Supra* note 63.

⁸⁷ *Ibid.*

⁸⁸ *Ibid.*

⁸⁹ Convention against Discrimination in Education, Dec., 14, 1960.

⁹⁰ Convention against Discrimination in Education, art. 4 (a), Dec., 14, 1960.

The Convention was first of its kind which brought within its framework educational rights of minorities and also parental choice for their ward with regard to education.⁹¹ The Convention further stressed the obligation on part of states parties to frame national policy that would promote equal opportunity for all in the education field and equally maintain the standards of education in public educational institutions.⁹²

There were also agreements relating to higher education that were adopted at regional level by UNESCO.⁹³

Historically many provisions in the constitution of UNESCO's convention though in the nature of prescriptions or recommendations, have been adopted by its general conference.⁹⁴ The reason behind its adoption was to stimulate countries to adopt good practices and policies in relevant fields.⁹⁵ Few of them include, recommendations concerning International Standardization of Educational Statistics 1958; the Recommendation against Discrimination in Education 1960; the Recommendation concerning the Status of Teachers 1966; the Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms 1974; the 1978 Revised Recommendation concerning the International Standardization of Educational Statistics that was replaced in 1997 by the International Standard Classification on Education and was adopted through the General Conference resolution of UNESCO.⁹⁶

In course of time to expand and channelize education one amongst which was through the perspective of realizing human rights, UNESCO vigorously collaborated with different international organizations. Important international agreements which

⁹¹ Convention against Discrimination in Education, art. 5 (1) (b) and (c), Dec., 14, 1960.

⁹² Convention against Discrimination in Education, 1960 Article: (4) The States Parties to this Convention undertake furthermore to formulate, develop and apply a national policy which, by methods appropriate to the circumstances and to national usage, will tend to promote equality of opportunity and of treatment in the matter of education and in particular:

(b) To ensure that the standards of education are equivalent in all public educational institutions of the same level, and that the conditions relating to the quality of the education provided are also equivalent.

⁹³ *Supra* note 63.

⁹⁴ *Ibid.*

⁹⁵ *Ibid.*

⁹⁶ *Ibid.*

blossomed due to this were the World Declaration on Education for All 1990 and the World Plan of Action on Education for Human Rights and Democracy 1993, adopted by the International Congress on Education for Human Rights and Democracy, Montreal.⁹⁷ Others which could be referred are the Dakar Declaration on Education for All which succeeded the Jomtien Declaration, adopted by the World Education Forum and subsequently the 2015 Incheon Declaration.

2.4 Education in Third World Countries

The developing countries were dipped in the ocean of economic crisis, political instability, poverty and mortality.⁹⁸ It was realized by the international community that education had to be prioritized for sustainable growth of the developing nations.

Thus education was the only source that would cater to the growth and development of the Nation.

2.4.1 Progress of education in Asian region

It was realized by the nations in south and east Asia that, only development in the field of education would be the apt mode of elevating the standards of life and this built a thirst for education for these nations with political independence.⁹⁹ Thus the focus was more on positively constructing the primary education which would be free and compulsory and the statute was enforced on those lines.¹⁰⁰ Further, as the regions also made provision to increase the school facilities¹⁰¹, the enrollment in primary section

⁹⁷ *Ibid.*

⁹⁸ UNESCO 1946 - 1971, IN THE MINDS OF MEN 203 (1972), <https://unesdoc.unesco.org/ark:/48223/pf0000002246>.

⁹⁹ UNESCO, REPORT ON THE NEEDS OF ASIA IN PRIMARY EDUCATION – A WORKING PLAN AND PROGRAMME OF ACTION FOR THE PROVISION OF COMPULSORY PRIMARY EDUCATION, 11 C/ PRG/ 3, PARIS, 2 (1960), <http://unesdoc.unesco.org/images/0016/001605/160563eb.pdf>.

¹⁰⁰ *Ibid.*

¹⁰¹ Attempts were made to widen the primary education objectives so as to adopt good teaching techniques and steps were taken to recruit qualified teachers, improvement made in their service conditions and classroom accommodation and equipment were made better.

reflected a drastic increase comparing the years of 1950 and 1960 that rose from 38.7 million to 66.2 million respectively.¹⁰²

To know the situation of compulsory education prevailing in the region; to locate the magnitude of problems influencing provision of compulsory education; to discuss international assistance for meeting the needs of compulsory education and to overcome the difficulty, necessity of planning was expressed at a regional conference.¹⁰³ This led UNESCO to initiate a major project on the extension of compulsory primary education in Asian countries.¹⁰⁴ This included conducting of the surveys¹⁰⁵, discussions and

¹⁰² *Ibid.*

¹⁰³ UNESCO, REPORT ON THE REGIONAL CONFERENCE ON FREE AND COMPULSORY EDUCATION IN SOUTH ASIA AND THE PACIFIC, UNESCO/ED/125, BOMBAY, 2 (1952), <http://unesdoc.unesco.org/images/0012/001261/126115EB.pdf>.

¹⁰⁴ Approved at the tenth session (Paris, 1958) of the General Conference of UNESCO. *Supra* note 99.

¹⁰⁵ It was conducted in fifteen countries which included Afghanistan, Burma, Cambodia, Ceylon, India, Indonesia, Iran, Korea, Laos, Malaya, Nepal, Pakistan, Philippines, Thailand and Viet-Nam. The estimated population in whole in the year 1960 was 774.2 million whereas in 1980 it was to increase to 1,185 million.

The reports further reflected the proportion of children in the age group of five to fourteen years which was conducted in Cambodia, India, Indonesia, Philippines and Thailand. The total population in these countries in 1980 was expected to be seventy-one percent of the population of the Asian region. The proportion of children to the total population was expected to be 24. Further it was estimated that enrollment in schools would be 19.2 percent of the total population. The projected figure as to enrollment in Primary schools in fifteen countries of Asia in 1950-1951 was 38,702,949 (5.96 percent to total population) and estimated enrollment in 1960-61 was assumed to be 66,178,700 (8.55 percent to the total population). Thus the desired target would be twenty percent by 1980 which projected a considerable increase.

Estimates were made of the total teachers required based on pupil teacher ratio; enrollment of students in teacher training institutions; requirements of administrative personnel; other material requirements which included buildings for primary schools, teaching aids, furniture, literature for students and teachers, teacher quarters.

The survey further projected a financial plan. Expenditure on primary education consisted of recurring expenditure on primary schools; administration; direction and supervision and on teacher training. The total recurring cost of primary schools for the years (1960 -1965) was to be 3,371.3 million U.S. dollars whereas of the years (1975 - 1980) was to be 17,858.7 million U.S. dollars. The total recurring cost of administration and supervision for the years (1960 -1965) was to be 169 million U.S. dollars whereas of the years (1975 - 1980) was to be 893 million U.S. dollars. The total recurring cost of teacher training for the years (1960 -1965) was to be 504 million U.S. dollars whereas of the years (1975 - 1980) was to be 1,807.5 million U.S. dollars. The financial plan also constituted non-recurring expenditure on construction of buildings for primary schools, equipment's required, construction of teachers quarters and provision of buildings and equipment for teacher training institutions. The total non-recurring expenditure on school buildings for the years (1960-1965) would be 1,124 million U.S. dollars whereas for the years (1975-1980) would be 1,868 million U.S. dollars. The total non-recurring expenditure on equipment's for the years (1960-1965) would be 374.6 million U.S. dollars whereas for the years (1975-1980) would be 622.6 million U.S. dollars. The total non-recurring expenditure on teacher's quarters especially in rural areas and for women teachers for the years (1960-1965) would be 452 million U.S. dollars whereas for the years (1975-1980) would be 2,154 million U.S. dollars. The total non-recurring expenditure on provision of buildings and equipment for teacher training institutions for the years (1960-1965) would be 805 million U.S. dollars whereas for the years (1975-1980) would be 406.5 million U.S. dollars. Thus the total cost for the years (1960-1965) would be 6,799.9 million U.S. dollars whereas for the years (1975-1980) would be much higher i.e. 56,217 million U.S. dollars.

consultations between the member states and the final outcome¹⁰⁶ was placed before a regional meeting on Primary and Compulsory Education at Karachi that was scheduled from 28th December 1959 to 9th January 1960 and the meeting was of representatives of the Asian member states.¹⁰⁷ The meeting constituted the presence of 17 member states, UN representatives, International Labour Organisation (ILO) and UN Children's Fund (UNICEF), Ford Foundation, Asia Foundation and All Pakistan's Women's Association.¹⁰⁸

The regional meeting¹⁰⁹ gave due recognition to the principle of right to education enumerated in the UDHR and the 1959 Declaration¹¹⁰ of the Rights of the Child adopted by the UN General Assembly. Recommendations of the 1952 Regional Conference on Free and Compulsory Primary Education in South Asia and the Pacific in Bombay were also considered.¹¹¹ The objectives of the regional meeting were to give priority to educational planning, development and financing at the national level in Asian member states and at the Asian regional level; secondly, the problem could be solved by mobilizing the states resources and communities of the region and seeking assistance of the economically advanced countries and of agencies of international co-operation working on bilateral, multilateral or international basis.¹¹² The result was, for the region

¹⁰⁶ Total fifteen countries of the region were surveyed which reflected a figure of around 87 million children who were devoid of any educational facilities and a large number of the 65 million school going children were offered limited education under conditions of poverty and hardships.

¹⁰⁷ UNESCO, REPORT ON THE NEEDS OF ASIA IN PRIMARY EDUCATION – A WORKING PLAN AND PROGRAMME OF ACTION FOR THE PROVISION OF COMPULSORY PRIMARY EDUCATION, 11 C/PRG/3, PARIS, 8 – 27 (1960), <http://unesdoc.unesco.org/images/0016/001605/160563eb.pdf>.

¹⁰⁸ *Supra* note 99.

¹⁰⁹ UNESCO, REPORT ON THE NEEDS OF ASIA IN PRIMARY EDUCATION – A WORKING PLAN AND PROGRAMME OF ACTION FOR THE PROVISION OF COMPULSORY PRIMARY EDUCATION, 11 C/PRG/3, PARIS, 3 and 5 (1960), <http://unesdoc.unesco.org/images/0016/001605/160563eb.pdf>.

¹¹⁰ Declaration of the Rights of the Child, 1959 Principle: (7) The child is entitled to receive education, which shall be free and compulsory, at least in the elementary stages. He shall be given an education which will promote his general culture and enable him, on a basis of equal opportunity, to develop his abilities, his individual judgement, and his sense of moral and social responsibility, and to become a useful member of society. The best interests of the child shall be the guiding principle of those responsible for his education and guidance; that responsibility lies in the first place with his parents. The child shall have full opportunity for play and recreation, which should be directed to the same purposes as education; society and the public authorities shall endeavor to promote the enjoyment of this right.

¹¹¹ UNESCO, REPORT ON THE NEEDS OF ASIA IN PRIMARY EDUCATION – A WORKING PLAN AND PROGRAMME OF ACTION FOR THE PROVISION OF COMPULSORY PRIMARY EDUCATION, 11 C/PRG/3, PARIS, 5 (1960), <http://unesdoc.unesco.org/images/0016/001605/160563eb.pdf>.

¹¹² *Ibid.*

a working plan was drawn, a resolution adopted in the arena of primary education to stimulate the action by member states with the co-operation of international organizations specially UNESCO and other agencies functioning in the region and recommendations were directed towards action to be taken at national, regional and international levels.¹¹³ It was at the Regional Conference of National Commissions for UNESCO in Asia, held at Manila¹¹⁴ which proved to be an apt platform for placing the documents.¹¹⁵ However, on specific aspects the details of the plan were directed to be revised.¹¹⁶

It is significant to emphasise that the working plan¹¹⁷ drawn at the Regional Meeting at Karachi recommended attainment of universal, compulsory and free primary education¹¹⁸ within twenty-year period (1960 – 1980), which proved to be a landmark in the annals of right to education in Asia.¹¹⁹

Focusing on the educational innovation which would be the means to attain development, the first inter-country project in the world titled, The Asian Programme of Educational Innovation for Development (APEID) was brought into operation that was backed by UNESCO.¹²⁰ The programme commenced in the year 1973 and was to remain in operation for twenty years with an objective to analyse the prevailing educational needs of the region and to launch new educational patterns which would satisfy the needs through exchanging information and experiences at the inter-country

¹¹³ *Ibid.*

¹¹⁴ Scheduled from 18th to 23rd January 1960.

¹¹⁵ UNESCO, REPORT ON THE NEEDS OF ASIA IN PRIMARY EDUCATION – A WORKING PLAN AND PROGRAMME OF ACTION FOR THE PROVISION OF COMPULSORY PRIMARY EDUCATION, 11 C/PRG/3, PARIS, 6 (1960), <http://unesdoc.unesco.org/images/0016/001605/160563eb.pdf>.

¹¹⁶ This included further examination of population statistics, school estimates, financial requirements and targets in the plan by the Member States concerned, by June 1960. *Ibid.*

¹¹⁷ UNESCO, REPORT ON THE NEEDS OF ASIA IN PRIMARY EDUCATION – A WORKING PLAN AND PROGRAMME OF ACTION FOR THE PROVISION OF COMPULSORY PRIMARY EDUCATION, 11 C/PRG/3, PARIS, 8 - 29 (1960), <http://unesdoc.unesco.org/images/0016/001605/160563eb.pdf>.

¹¹⁸ In view of the disparity in the age period of compulsory education in Asian member states which varied from minimum of four years to a maximum of eight years, the total duration of primary course was approved as seven years or more, but liberty was given to the countries to define this period as suited to their local conditions.

¹¹⁹ *Supra* note 117.

¹²⁰ The programme was approved by the UNESCO General Conference at seventeenth session, Paris 1972. UNESCO, REPORT ON THE ASIAN PROGRAMME OF EDUCATIONAL INNOVATION FOR DEVELOPMENT (APEID), ROEA-77/MINEDASO/Prep./5, BANGKOK, 3 (1977), <https://unesdoc.unesco.org/ark:/48223/pf0000030405>.

level in the region.¹²¹ One of the activity which has consistently reflected as an area of priority in the tenure of programme was meeting the basic learning needs which included universalisation of education at the basic or primary level.¹²² The next major step taken by the Asian region to move towards development was by joining hands towards Education For All programme which has been dealt later in this Chapter.

2.4.2 Progress of education in African Region

At the time the African countries were liberated, their education systems were in a nascent stage.¹²³ Its population had to be made literate and educational institutions had to be built from scratch.¹²⁴ It was realized that education is crucial for the development of Africa at the socio – economic as well as cultural forefront. For this, UNESCO was and has always been instrumental in nurturing, aiding and fostering the development of education systems in Africa for progress of the region.

From the year of 1950, under the Expanded Programme of Technical Assistance (EPTA), UNESCO sponsored projects on education to African countries.¹²⁵ In 1959, UNESCO conducted an enquiry to meet the educational needs of tropical African countries in the fields of primary, secondary, technical and vocational education, the result of which culminated in the form of a provisional report.¹²⁶ This report was placed before the Conference of Ministers or Directors of Education of tropical African Countries held in 1960 at Addis Ababa.¹²⁷ Subsequently 1961 Conference proceeded

¹²¹ *Bulletin of the UNESCO Regional Office for Education in ASIA and the Pacific, UNESCO in Asia and the Pacific: 40 YEARS ON*, UNESCO (June. 21, 2021 11:00 PM), <https://unesdoc.unesco.org/ark:/48223/pf0000072552>.

¹²² *Ibid.*

¹²³ *UNESCO in Sub – Saharan Africa*, (Nov. 5, 2016, 9:17 PM), <http://www.unesco.org/education/nfsunesco/brochure/E12.PDF>.

¹²⁴ *Ibid.*

¹²⁵ UNESCO 1946 - 1971, IN THE MINDS OF MEN 303 (1972), <https://unesdoc.unesco.org/ark:/48223/pf0000002246>.

This was when Liberia joined the organization (1947), followed by Gold Coast (Ghana), Sierra Leone and Nigeria and received assistance in the field of education. *UNESCO in Sub – Saharan Africa*, (Nov. 5, 2016, 9:17 PM), <http://www.unesco.org/education/nfsunesco/brochure/E12.PDF>.

¹²⁶ UNESCO, PROVISIONAL REPORT ON THE NEEDS OF TROPICAL AFRICA IN THE FIELD OF PRIMARY AND SECONDARY EDUCATION, UNESCO/ED/AFRICA/2, PARIS, 3 (1960), <http://unesdoc.unesco.org/images/0014/001440/144063eb.pdf>.

¹²⁷ There were Resolutions laid down constituting long term and short term programme of action at the conference that was organized by UNESCO in collaboration with the government of Ethiopia. Governments of tropical African countries were urged to make an effort to expand education quantitatively and qualitatively particularly at the primary level, develop secondary schools, provide

to adopt Addis Ababa Plan where one of its objective was to establish universal primary education along with quantitative and qualitative educational goals and targets both for a short (1961 – 1965) and a long (1961 – 1980) period for the African educational development.¹²⁸ A skeleton of African educational development plan was adopted by the conference that projected five percent increase in enrollment rate of students pursuing compulsory education; a considerable increase in enrollment at the secondary level from three percent in 1961 to nine percent in 1966 and with this a remarkable elevation in Gross National Product (GNP) exclusively in the field of education from three percent in 1961 to four percent in 1965, to five percent in 1970 and in 1980 it was to be six percent.¹²⁹

As a follow-up to the 1961 Conference, the year 1962 saw the light of Tananarive Conference, that considered the very fact of long – term requirement of the African countries for adapting higher education as per their socio – economic, cultural, and technological needs.¹³⁰ The 1962 Conference proceeded with its task to study the shortcomings required to overcome and thereby meet the targets set in 1961, and efforts were made by laying measures to lessen the secondary educational cost, and suggestions were made for establishment as well as reformation of new and existing educational planning bodies respectively.¹³¹ There were many pilot projects funded which were inclusive of literacy projects with an urge to eradicate mass illiteracy from 1965 onwards.¹³² This was under the Experimental World Literacy Programme

teachers at all levels with appropriate service conditions as to encourage students to take up vocation of teaching, focus on girls education, recognize importance of teachers organization, seek assistance of international and regional organizations, establish monitoring bodies through effective planning, seek aid from UNESCO to develop regional institutions and such other purposes as would facilitate sound educational planning. *Id.* at 3 – 22.

¹²⁸ UNESCO, UN ECONOMIC COMMISSION FOR AFRICA, CONFERENCE OF AFRICAN STATES ON THE DEVELOPMENT OF EDUCATION IN AFRICA ADDIS ABABA FINAL REPORT, UNESCO/ED/181, V, VI, 3 – 5 (1961), <http://unesdoc.unesco.org/images/0007/000774/077416E.pdf>.

¹²⁹ UNESCO 1946 - 1971, IN THE MINDS OF MEN 159 (1972), <https://unesdoc.unesco.org/ark:/48223/pf0000002246>.

¹³⁰ UNESCO, CONFERENCE ON THE DEVELOPMENT OF HIGHER EDUCATION IN AFRICA REPORT, UNESCO/CHEA/REPORT, (1962), <http://unesdoc.unesco.org/images/0014/001428/142840eb.pdf>.

¹³¹ *Supra* note 129.

¹³² UNESCO, THE EXPERIMENTAL WORLD LITERACY PROGRAMME AND ITS GLOBAL EVALUATION INTERIM REPORT, 18 C/68, (1974), <http://unesdoc.unesco.org/images/0001/000122/012286eb.pdf>.

(EWLP)¹³³ which was established to test the economic and social returns of literacy and to study the relationship that exists between the working population and their development after undergoing literacy training.¹³⁴

The 1960 civil war show cased a dark phase for Democratic Republic of the Congo and this affected its educational system due to withdrawal of Belgians.¹³⁵ UNESCO rushed to provide emergency aid to Congo with an aim to reconstruct its education structure.¹³⁶ This led to complete reformation of education system which transformed primary education, increased the number of Secondary schools, established higher educational institutions and educational administrators were trained in their respective fields to cater towards development.¹³⁷

Maintaining the Addis Ababa targets as general objectives, the 1968 Nairobi Conference stressed on the qualitative as well as quantitative proliferation of education even in rural areas in tune with national development plans.¹³⁸ The conference stressed on improvising primary and secondary education; women's education; creation of adult education; equip teacher training institutes in various fields including science and technology; prevent brain drain by providing incentives and ensure adequate supply of trained personnel in critical fields as university, research, industrial and agricultural development.¹³⁹ This paved the way towards educational progress even in rural areas through commencement of non – formal training techniques and expansion of basic education; reformation of science and technological education; and others.¹⁴⁰

¹³³ This was set up through adoption of General Conference resolution 13 C/1.271 and World Congress of Ministers of Education meeting on the Eradication of Illiteracy (Teheran, 1965). *Ibid.*

¹³⁴ *Supra* note 132.

¹³⁵ UNESCO 1946 - 1971, IN THE MINDS OF MEN 157 (1972), <https://unesdoc.unesco.org/ark:/48223/pf0000002246>.

¹³⁶ The recruitment number of teachers in secondary schools increased in 1963/64. Thus from twenty-nine nationalities around 800 teachers were recruited in Congo. Monetary aid of \$310,000 was provided by UNESCO to member states and associate members of Africa for the development of Congo. Few remarkable results in the arena of education would be, increase in enrollment rate of secondary schools from 28,900 in 1959/60 to approximately 90,000 in 1963/64; The National Institute of Education became functional from 1961 with seventy – five students. *Id.* at 157 – 158.

¹³⁷ *Supra* note 135.

¹³⁸ UNESCO, ORGANISATION OF AFRICAN UNITY, CONFERENCE ON EDUCATION AND SCIENTIFIC AND TECHNICAL TRAINING IN RELATION TO DEVELOPMENT IN AFRICA NAIROBI FINAL REPORT, UNESCO-OAU/CESTA/10, PARIS, 12 (1968), <https://unesdoc.unesco.org/ark:/48223/pf0000059926>.

¹³⁹ *Id.* at 12-13

¹⁴⁰ *Ibid.*

To address educational planning issues in South Africa of the Sahara, in 1970 UNESCO established a new largest regional office for education in Africa at Dakar.¹⁴¹ Further, the African Member States invited UNESCO to establish Network of Educational Innovation for Development in Africa (NEIDA)¹⁴² as they recognised that, only by sharing educational innovations, regional institutions would be benefited which would cater to progress of Africa.¹⁴³ There was a need felt to organize training programmes at the National level in order to augment effective planning and administration in education.¹⁴⁴ Thus, in order to stimulate research at the National level and enhance training services, a project titled¹⁴⁵, Regional Technical Co-operation for Training and Research in Educational Planning and Administration was implemented.¹⁴⁶

Though African countries with international assistance were determined to develop the region through the methodology of unprecedented expansion of education, the 1980 crisis¹⁴⁷ turned out to be a major setback.¹⁴⁸ Proliferation of education was taken to task

¹⁴¹ *About UNESCO Multisectoral Regional Office in Dakar*, UNESCO (Mar. 31, 2017, 12:54 PM), http://www.unesco.org/new/en/dakar/about-this-office/single-view/news/unescos_regional_office_in_dakar_breda_moves_to_ngor/.

¹⁴² This programme was approved by UNESCO General Conference held at Nairobi in 1976 at its nineteenth session and was launched in 1978. *NEIDA Network of Educational Innovation for Development in Africa, Interlearning on Educational Innovation*, UNESCO (Apr. 1, 12:51 PM) <http://unesdoc.unesco.org/images/0021/002154/215470eo.pdf>.

¹⁴³ *NEIDA Network of Educational Innovation for Development in Africa, Interlearning on Educational Innovation*, UNESCO (Apr. 1, 12:51 PM) <http://unesdoc.unesco.org/images/0021/002154/215470eo.pdf>.

¹⁴⁴ II J.C. AGGARWAL & S.P.AGRAWAL, DOCUMENTATION ENCYCLOPAEDIA OF UNESCO AND EDUCATION 435 (S.P.Agrawal, 1991), [https://books.google.co.in/books?id=hSkiHzVigZ0C&pg=PA434&lpg=PA434&dq=unesco+Regional+Office+for+Education+in+Africa+\(BREDA\)+1970&source=bl&ots=BFjNfs1Zvl&sig=kESpyVRFwKqZbJecS8iPHTj41Kw&hl=en&sa=X&ved=0ahUKEwi6jMvs3ILTahWKTbwKHazzCTIQ6AEINDAF#v=onepage&q=unesco%20Regional%20Office%20for%20Education%20in%20Africa%20\(BREDA\)%201970&f=false](https://books.google.co.in/books?id=hSkiHzVigZ0C&pg=PA434&lpg=PA434&dq=unesco+Regional+Office+for+Education+in+Africa+(BREDA)+1970&source=bl&ots=BFjNfs1Zvl&sig=kESpyVRFwKqZbJecS8iPHTj41Kw&hl=en&sa=X&ved=0ahUKEwi6jMvs3ILTahWKTbwKHazzCTIQ6AEINDAF#v=onepage&q=unesco%20Regional%20Office%20for%20Education%20in%20Africa%20(BREDA)%201970&f=false).

¹⁴⁵ Popularly known under the name CORFORPA.

¹⁴⁶ II J.C. AGGARWAL & S.P.AGRAWAL, DOCUMENTATION ENCYCLOPAEDIA OF UNESCO AND EDUCATION 434 - 435 (S.P.Agrawal, 1991), [https://books.google.co.in/books?id=hSkiHzVigZ0C&pg=PA434&lpg=PA434&dq=unesco+Regional+Office+for+Education+in+Africa+\(BREDA\)+1970&source=bl&ots=BFjNfs1Zvl&sig=kESpyVRFwKqZbJecS8iPHTj41Kw&hl=en&sa=X&ved=0ahUKEwi6jMvs3ILTahWKTbwKHazzCTIQ6AEINDAF#v=onepage&q=unesco%20Regional%20Office%20for%20Education%20in%20Africa%20\(BREDA\)%201970&f=false](https://books.google.co.in/books?id=hSkiHzVigZ0C&pg=PA434&lpg=PA434&dq=unesco+Regional+Office+for+Education+in+Africa+(BREDA)+1970&source=bl&ots=BFjNfs1Zvl&sig=kESpyVRFwKqZbJecS8iPHTj41Kw&hl=en&sa=X&ved=0ahUKEwi6jMvs3ILTahWKTbwKHazzCTIQ6AEINDAF#v=onepage&q=unesco%20Regional%20Office%20for%20Education%20in%20Africa%20(BREDA)%201970&f=false).

¹⁴⁷ Comparing the other third world regions, the crisis led to deterioration of health, mortality and adult – literacy in Sub – Sahara. Further its regional GNP per capita decreased tremendously. These factors affected the lives of millions of African population.

¹⁴⁸ Giovanni Arrighi, *The African Crisis, World Systematic and Regional Aspects*, 5 New Left Review, 5 (2002), http://krieger.jhu.edu/arrighi/wp-content/uploads/sites/29/2012/08/2002_Arrighi_African_Crisis.pdf.

in Africa which solicited the attention of their government and international community for rehabilitating the region.¹⁴⁹

UNESCO's Priority: Africa programme¹⁵⁰ initiated in the year 1990 with a view to implement United Nations Programme of Action for African Economic Recovery and Development (UNPAAERD) in the African region stressed on the need of mobilizing human and financial resources at the national levels with the aid of international organizations, financial bodies and governments with the support of UNESCO.¹⁵¹ UNESCO thus has played a major role towards catering to Africa's development by undertaking various initiatives in the line of education and elevation.

Africa having received a major setback in the situation of crisis and also being less developed, had to uplift its region and also its population and therefore, took a major initiative in actively participating in the Education for All (EFA)¹⁵² movement at the international level which has been covered in the later part of the chapter.

2.4.3 Progress of Education in Latin American Region

UNESCO on a world – wide campaign in favour of free and compulsory education expressed the concern for expansion, development and improvement of primary education at the regional level which led to organizing a Conference in the year 1956 on free and compulsory education in Latin America.¹⁵³ Various activities undertaken by Organisation of American States (OAS) in association with UNESCO led to culmination of the conference.¹⁵⁴ The difficulties relating to primary education were

¹⁴⁹ *Id.* at 9.

¹⁵⁰ Adopted by General Conference resolution at its twenty fifth session held at Tanzania from 24 to 28 September.

¹⁵¹ AFRICA AT THE MILLENIUM, AN AGENDA FOR MATURE DEVELOPMENT 249 – 250 (Bakut tswah Bakut and Sagarika Dutt, 2000), https://books.google.co.in/books?id=JK0YDAAAQBAJ&pg=PA249&lpg=PA249&dq=%E2%80%98Priority:+Africa%E2%80%99+programme+in+1990&source=bl&ots=3IEePX_jlJ&sig=z3pNLZOvXL7xwZQ4J-29CtteVWM&hl=en&sa=X&ved=0ahUKEwiwv5rpnYPTAhWBPY8KHVg-DkQQ6AEIOjAG#v=onepage&q=%E2%80%98Priority%3A%20Africa%E2%80%99%20programme%20in%201990&f=false.

¹⁵² For details See, sub-chapter 2.5.1.

¹⁵³ This was wide resolution adopted by the UNESCO General Conference at its eight session. *Supra* note 75.

¹⁵⁴ *Ibid.*

analysed by holding seminars¹⁵⁵, and recommendations were laid down to be enforced by the government in association with inter – American co –operation.¹⁵⁶

Focusing on the bonding between education and socio - economic development, a Major Project¹⁵⁷ for improvising primary education in Latin America was approved by UNESCO.¹⁵⁸ The result of the project was implemented at national level after co-ordinating with member states.¹⁵⁹ For the purpose of coordinating the project UNESCO office was created in Havana, Cuba in 1950 and shifted in 1962 to Santiago, Chile.¹⁶⁰ From 1967 onwards the coordinating centre was actively involved in teacher training, education for rural and secondary level and in formulating education plan.¹⁶¹

It was analysed through experiments that unless political and administrative systems are structured and a rational society built, educational planning cannot gain utility value.¹⁶² A consensus was drawn that essential factors catering to this progress is based on development of science technology, planned educational investment and trainers as professional teachers who have to be offered good facilities and incentives for their continuous service in the profession.¹⁶³

The future planning with regard to education to be considered as means for development was the concept discussed at the Lima Conference that was revised at the

¹⁵⁵ Inter – American Seminars of Caracas 1948, Rio de Janeiro 1949 and Montevideo 1950.

¹⁵⁶ *Supra* note 75.

¹⁵⁷ The period of project was eight years and it expired in the year 1966.

¹⁵⁸ The project got approved at the General Conference in New Delhi in 1956. There was a considerable increase in primary enrollment of pupils in the year 1965 as compared to 1956. This increase was by 12,091,000 children seeking admission in primary section in schools in Latin America. There was also proportional increase in the number of schools established in 1965 as compared to 1957 which was an increase by 84,000. The estimates further reflect the education budget to rise from fifteen percent to seventeen percent between 1957 and 1965. UNESCO 1946 - 1971, IN THE MINDS OF MEN 185 - 186 (1972), <https://unesdoc.unesco.org/ark:/48223/pf0000002246>.

¹⁵⁹ The result was, aided countries to frame National Plans of Action and their execution; organize workshops at the regional or sub – regional level for formulating strategies of action and sharing experiences; at the National or subsidiary level promote international co-operation; implementing recommendations of regional intergovernmental meetings pertaining to the education project. *UNESCO Regional Office for Education in Latin America and the Caribbean – OREALC*, June. 25, 1984 (Nov. 5, 2017, 9:17 PM), <http://unesdoc.unesco.org/images/0018/001888/188845eb.pdf>.

¹⁶⁰ *UNESCO Regional Office for Education in Latin America and the Caribbean – OREALC*, June. 25, 1984 (Nov. 5, 2017, 9:17 PM), <http://unesdoc.unesco.org/images/0018/001888/188845eb.pdf>.

¹⁶¹ UNESCO 1946 - 1971, IN THE MINDS OF MEN 163 - 165 (1972), <https://unesdoc.unesco.org/ark:/48223/pf0000002246>.

¹⁶² *Id.* at 185.

¹⁶³ *Id.* at 186 – 187.

1962 Conference¹⁶⁴ held at Santiago de Chile.¹⁶⁵ The discussion was on developing the criteria to analyse the arena of education and how expenditure on the same could be an effective investment of the country.¹⁶⁶

Education received much broader outlook in the region by implementation of the Education Programme through recommendations of the Conference¹⁶⁷ on Education and Economic and Social Development in Latin America, which were to serve as guidelines for education policy in Latin America.¹⁶⁸

The focus being upgradation of quality education, the recommendations of the Regional Conference of Ministers held at Buenos Aires in 1966 and the progress of the Major Project¹⁶⁹ on primary education in Latin America were promoted for the purpose of effective implementation.¹⁷⁰

Implementation of the Major Project in education for Latin America and Caribbean has also been done in 1980s which marshaled the education policies of the regions for two decades.¹⁷¹ The participating countries were committed to meet the objectives by the year 2000 as to minimum schooling for children of eight to ten years; eradicate illiteracy and extend the adult educational facilities, and through reforms develop the quality and efficiency of the education system.¹⁷² This was at the time of Regional Meeting of Ministers of Education and others involved in economic planning of member states, in Latin America and the Caribbean.¹⁷³ Keeping with the goal of securing quality

¹⁶⁴ It was convened by Unesco and the United Nations Economic Commission for Latin America (ECLA).

¹⁶⁵ UNESCO 1946 - 1971, IN THE MINDS OF MEN 196 (1972), <https://unesdoc.unesco.org/ark:/48223/pf0000002246>.

¹⁶⁶ *Ibid.*

¹⁶⁷ This was convened by UNESCO in collaboration with ECLA, OAS, Food and Agriculture Organisation (FAO) and ILO from 5th to 19th March 1962 in Santiago, Chile.

¹⁶⁸ ACC Sub – Committee on Education and Training, UNESCO, *Educational Planning and Social and Economic Development in Latin America*, New York, Jan., 4 – 5, 1962, (Apr. 6, 2017, 12:40 AM), <http://unesdoc.unesco.org/images/0018/001846/184699eb.pdf>.

¹⁶⁹ *Supra* note 157 and 158.

¹⁷⁰ *Supra* note 160.

¹⁷¹ UNESCO, REPORT BY THE INTERGOVERNMENTAL REGIONAL COMMITTEE FOR THE MAJOR PROJECT IN THE FIELD OF EDUCATION IN LATIN AMERICA AND THE CARIBBEAN, 31 C/REP/5, PARIS, 1 (2001), <https://unesdoc.unesco.org/ark:/48223/pf0000123546?posInSet=33&queryId=36ac46bf-5f2b-4d97-9613-8ca11d19004c>.

¹⁷² *Ibid.*

¹⁷³ This was done through cooperation of countries, collaboration with members states, organizations at the sub – regional level (e.g. OAS, ECLA). Few of its actions include formulation and

education, the participating countries requested UNESCO to permit the continuity of the project.¹⁷⁴

With an objective to eradicate illiteracy and democratize education so as to overcome the economic crisis of Latin American region in 1980s, UNESCO provided its support to overcome the problems in education.¹⁷⁵ The outcome of this was establishment of educational centres, one of which was CREFAL.¹⁷⁶ The CREFAL regional project in Mexico turned out to be an interdisciplinary programme.¹⁷⁷ Initially it focused on fundamental education, later shifted its attention towards community living through conducting sessions for teachers training and finally changed its outlook in sensing education as training for life of an individual.¹⁷⁸

Simultaneously, the UNESCO office OREALC provided by the Chile government tirelessly toiled towards improvising education in the region.¹⁷⁹ This involved training of teachers¹⁸⁰ and education personnel¹⁸¹; organise workshops at the regional and sub

implementations of National Plans of Action; organizing workshops; organizing meetings (Regional Meeting on Priorities for Educational Research Peru 1982, Seminar Workshop on Socio- Educational Policies and Programming in Urban – Marginal Areas Argentina 1983, Workshop on Regional Statistics on Education Colombia 1982) at the country level for constructing framework for implementing programmes dealing with the educational objective and its follow up work; disseminating information in the quarterly bulletin, titled “Statistical Educational Information and Quantitative Analysis” published since 1972. *Supra* note 160.

¹⁷⁴ UNESCO, REPORT BY THE INTERGOVERNMENTAL REGIONAL COMMITTEE FOR THE MAJOR PROJECT IN THE FIELD OF EDUCATION IN LATIN AMERICA AND THE CARIBBEAN, 31 C/REP/5, PARIS, 3 (2001), <https://unesdoc.unesco.org/ark:/48223/pf0000123546?posInSet=33&queryId=36ac46bf-5f2b-4d97-9613-8ca11d19004c>.

¹⁷⁵ *Supra* note 171.

¹⁷⁶ UNESCO 1946 - 1971, IN THE MINDS OF MEN 183 - 184 (1972), <https://unesdoc.unesco.org/ark:/48223/pf0000002246>.

¹⁷⁷ *Ibid.*

¹⁷⁸ *Ibid.*

¹⁷⁹ Agreement 1969 between UNESCO and the Chile government conferred privileges on the UNESCO office in the region. The financial support accorded by the government was US dollars 50,000 since 1981 as compared to 35,000 per year in the past. The office coordinates with bodies (OAS, SECAB of the Andres Bello Convention etc) at the regional, sub regional level and other UNESCO sponsored centres, regional offices of specialized agencies for the exchange of information in the educational arena. Even for education projects financed by UNICEF, office seeks technical assistance of UNESCO. *Supra* note 101.

¹⁸⁰ This was at the basic and middle education level. In 1980 – 1983 two workshops at sub – regional level was organized which were for Andean countries in Bogota for urban marginal groups and Central American and Caribbean countries in Venezuela for rural sector. The workshops were concerning teacher training to get specialists in the educational field. As an addendum to these workshops in 1983 a regional workshop was also organized that would foster developing teachers as training guides further with a follow up action with specific emphasis to teachers working in marginal areas.

¹⁸¹ Training was provided with the aid of members states in 1970s to the education specialists to take prompt actions in the sector of rural development.

– regional level¹⁸²; members states to be provided advisory services with regard to framing and implementing educational plans;¹⁸³ recommendations of Conferences of Ministers of Education convened by UNESCO to be implemented; UNESCO projects and experts to be provided technical support; to study problems and research on the educational trends existing in the region;¹⁸⁴ take follow - up actions¹⁸⁵ and other services¹⁸⁶ as required to be provided to educational research centres or trainers or education ministers.¹⁸⁷

Development of adult education that was recommended at the General Conference in 1976, aimed to obtain democratization of education, resolve social difficulties, elevate literacy and adult education inclusive of underprivileged¹⁸⁸ and women.¹⁸⁹ OREALC had also been instrumental to stress on the aspect of enhancing school infrastructure, facilities and equipment's used during non – formal education.¹⁹⁰

Pre – School education for children of below six years of age was the initiative of 1984 Colombia workshop.¹⁹¹ There was an urge expressed by member states to give equal education for all which included special education for disabled persons, which was accepted on priority basis by OREALC through training programmes.¹⁹² This was taken up primarily in 1981 at the Cuenca Declaration.¹⁹³ Also, under the auspices of UNESCO, in the year 1981, CARNEID¹⁹⁴ was established with an objective of

¹⁸² In 1980 – 1983 three workshops were held in Central America and one in Guyana with an objective designed for curriculum framework and its application in schools.

¹⁸³ The efficacy of service by the regional office increased during 1981 – 1983 through expansion of its structure. Sub – regional advisors in education for Caribbean, Haiti, Central America, Panama and Andean countries were set up. Further, an additional unit was established with its headquarters at Quito, Ecuador for the Major Project on Education.

¹⁸⁴ Technical assistance was provided to the projects which were in operation in Bolivia, Chile and Peru.

¹⁸⁵ This was through projects done at Guatemala, Honduras, Ecuador and Dominion Republic for studying the methodology related to effective implementation of curriculum frame work in schools taken up at workshops organized at sub regional level in Central America and Guyana.

¹⁸⁶ The Regional Office provides clearing house service and bibliographic support in the field of education.

¹⁸⁷ *Supra* note 160.

¹⁸⁸ This included indigenous groups, rural – urban migrants etc.

¹⁸⁹ *Supra* note 160.

¹⁹⁰ *Ibid.*

¹⁹¹ It was conducted in association with the Bernard Van Leer Foundation of Holland and UNICEF. *Ibid.*

¹⁹² *Supra* note 160.

¹⁹³ *Ibid.*

¹⁹⁴ Caribbean Network of Educational Innovation for Development.

networking with the countries of the Caribbean region to foster educational innovation and change.¹⁹⁵

The urge for advancement of education, culture, science and technology was inevitable to cater to the needs of the people demanding higher standards of life in the Latin American countries. To attain this purpose at the international level, Andres Bello Convention that was brought into force in 1995, obligated its member states to give continuity to the primary, secondary and higher education with an object to award certificates and degrees accredited to it.¹⁹⁶

Thus Latin American region being committed to the cause of global development was instrumental in fostering the progress of education in its region at all levels and with this motive accepted its pledge towards EFA framework which has been dealt now in the Chapter.

2.5 Move towards universal education

The urge for global development affirmed the need to alter the structure of the education system maximum times. The desire to expand its coverage both quantitatively and qualitatively lead to reconstructing the roles of the education monitoring bodies at the national as well as international level. The education was consistently structured to meet the expectations of the population strata efficiently considering the prevailing situation then and the future needs.

2.5.1 Jomtein Conference on Education for All (EFA)

At the global level there was a consistent perseverance to overcome the threats that had arisen due to sufferings of war, increase in crime rate, economic stagnation,

¹⁹⁵ UNESCO, *The Caribbean Network of Educational Innovation for Development (CARNEID), Project Findings and Recommendations*, Serial No. FMR/ED/SCM/88/233 (UNDP), UNDP/RLA/81/004, (Feb. 2, 2021, 9:06 PM), <https://unesdoc.unesco.org/ark:/48223/pf0000082545?posInSet=1&queryId=1a5656e8-e761-4675-a2d2-907ee94c23a1>.

¹⁹⁶ Andres Bello Convention concerning Educational, Scientific, Technological and Cultural Integration, art. 4, Nov. 27, 1990, https://www.jus.uio.no/english/services/library/treaties/12/12-02/andres_bello.xml.

environmental deterioration and population expansion.¹⁹⁷ These problems which had affected all nations at the beginning of the 21st century in some form or the other inhibited the growth of the individual thereby affecting national progress. At the international level there was a consensus expressed on the aspect of extending basic education for the sustainable socio economic elevation of a nation.¹⁹⁸

Achieving education at the universal level was a pledge taken by the international community which included governments, NGOs and the development agencies. In order to solicit the attention of the Nations towards significance of the basic education, the executive heads of UNESCO, UNICEF, United Nations Development Programme (UNDP) and the World Bank convened in 1990 World Conference on EFA at Thailand.¹⁹⁹ The participating governments vowed to provide all children primary education and also reduce adult illiteracy.²⁰⁰ Simultaneously, UN declared 1990 as the International Literacy Year²⁰¹ which bloomed with the Jomtein Conference as key event. It was by the year 2000, all the countries at the 1990 conference were to tirelessly continue in achieving their commitment.²⁰²

As a follow – up to the Jomtein Conference 1990 under the guidance of the International Consultative Forum on EFA, a world-wide review of the progress towards EFA was conducted at the international level.²⁰³ It was the Amman Affirmation²⁰⁴, that examined its progress in 1996 at the Mid-Decade Meeting of the International Consultative Forum on EFA held at Amman, Jordan.²⁰⁵ There were specific issues which had to be looked into which included balancing quality learning and giving attention to years of

¹⁹⁷ UNESCO, *World Declaration on Education For All: Meeting Basic Learning Needs*, Jomtein, Thailand, Mar., 1990, (Nov. 5, 2016, 12:54 PM), <http://unesdoc.unesco.org/images/0009/000975/097552e.pdf>.

¹⁹⁸ *Ibid.*

¹⁹⁹ *Ibid.*

²⁰⁰ 1 Dr. DIGUMARTI BHASKARA RAO, EDUCATION FOR ALL ACHIEVING THE GOAL, (Dr. Digumurti Bhaskara Rao, 2000).

²⁰¹ This was by resolution adopted by the UN General Assembly dated 7th December 1987. UN, *International Literacy Year*, A/RES/42/104, (Apr. 12, 2016, 9:55 PM), <http://un-documents.net/a42r104.htm>.

²⁰² *Supra* note 197.

²⁰³ UNESCO, *Global Synthesis, Education for All 2000 Assessment*, World Education Forum, Dakar, Senegal, 26 – 28 Apr., 2000, (Apr. 14, 2017, 11:18 PM), <http://unesdoc.unesco.org/images/0012/001200/120058e.pdf>.

²⁰⁴ Education For All: Achieving the Goal.

²⁰⁵ UNESCO Institute of Statistics, *Facts and Figures 2000*, (Apr. 14, 2017, 7:07 PM), <http://unesdoc.unesco.org/images/0012/001221/122121E.pdf>.

schooling, activities of non – governmental organizations had to be recognized and EFA momentum at the regional and country level had to be recorded.²⁰⁶

The International estimates between 1980 to 1997 reflected that education expenditure world - wide on an average was around five percent of GNP for more developed countries²⁰⁷ and four percent for less developed countries which included Sub – Saharan Africa, Latin America and the Caribbean, Eastern Asia and the Pacific, South and Western Asia and the Arab States and North Africa.²⁰⁸ Considering the year of 1997, a comparative view indicated that, per pupil the more developed countries had spent twenty eight times, than that spent by less developed countries.²⁰⁹ Educational aid from bilateral donors fell from US \$ 3.64 billion to US \$ 3.55 billion in cash between 1990 to 1997, that was a seven years period.²¹⁰ Even the World Bank dropped its contribution in educational progress by nearly forty percent in the same period.²¹¹ Few estimates projected that, in order to educate all children for the following decade, the world would have to spend on average an additional \$ 7 billion per year.²¹²

Thus overcoming hurdles at the economic as well as social level was a major concern but the march towards achieving universal education had to be kept alive which led to the birth of Dakar Framework for Action.

2.5.2 Dakar Framework for Action and Millennium Development Goals (MDGs)

The EFA goal was at a distance from being achieved. For this reason, the world governments on one side were committed to the pledge of development in different dimensions and on the other side poverty was one of the biggest hurdle. In order to address this issue a broad vision was framed at the beginning of the new millennium, in the year 2000, where the world leaders adopted the United Nations Millennium Declaration.²¹³ There were series of targets set which had to be achieved by 2015.

²⁰⁶ *Ibid.*

²⁰⁷ North America and Western Europe (excluding Cyprus and Malta), Australia, Japan and New Zealand.

²⁰⁸ *Supra* note 205.

²⁰⁹ *Ibid.*

²¹⁰ *Ibid.*

²¹¹ *Ibid.*

²¹² *Ibid.*

²¹³ This was at the Millennium Summit at the UN headquarters, New York and which lasted from 6th to 8th September 2000. UN, Conferences Environment and sustainable development, Millennium

Thus, the Dakar Framework for Action was adopted in April 2000 at the World Education Forum in Dakar, Senegal. Special consideration was given to girl's education.²¹⁴ The participants at the forum committed themselves to specific goals which constituted: early childhood care and educational development and expansion, especially for most vulnerable; access to quality free and compulsory primary education for all children by 2015 especially for girls and disadvantaged; gender equality in education by 2015 and eradicating gender inequalities at the primary and secondary level by 2005; equitable access of young and adults to learning needs and life skill programmes; improving adult literacy by 2015, especially for women and finally to refine quality education.²¹⁵

On the other hand, the unprecedented efforts of framing MDGs to be achieved by 2015 resulted in commendable achievements. Sub – Saharan Africa got the best record with regard to primary education, where there was twenty percent increase in the school enrollment rate from 2000 to 2015 as compared to the years 1999 to 2000 where the increase was just by eight percent.²¹⁶ In developing regions the primary school enrollment comparing the years 2000 to 2015 had reached from eighty three percent to ninety one percent respectively.²¹⁷ The estimates also reflected a great improvement in lessening gender inequality and empowering women.²¹⁸ Still efforts were required to be made to touch the lives of disadvantaged and the most vulnerable people.²¹⁹

2.5.3 Sustainable Development Agenda

The communities at the international level were at crossroads as the framework of MDGs met the deadline. Economic transformation was must and new ambitions had to be embraced hence 193 heads of the state met at a summit at UN headquarters in New

Summit, 6-8 September, New York, <https://www.un.org/en/conferences/environment/newyork2000> (last visited June. 29, 2021).

²¹⁴ UNESCO, *The Dakar Framework for Action*, World Education Forum, Dakar, Senegal, 26 – 28 Apr., 2000, ED-2000/WS/27, (Apr. 14, 2017, 11:18 PM), https://www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/Dakar_Framework_for_Action_2000_en.pdf.

²¹⁵ *Ibid.*

²¹⁶ UN, THE MILLENIUM DEVELOPMENT GOALS REPORT 2015, NEW YORK, 4 (2015), [http://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%20\(July%201\).pdf](http://www.un.org/millenniumgoals/2015_MDG_Report/pdf/MDG%202015%20rev%20(July%201).pdf).

²¹⁷ *Ibid.*

²¹⁸ *Id.* at 5.

²¹⁹ *Ibid.*

York and adopted on 1st January 2015 an agenda for sustainable development.²²⁰ Though education is not the only path to achieve sustainable development but without education reaching towards the Sustainable Development Goals (SDGs) would be cumbersome. This agenda was an ambitious step further to the MDGs which projects seventeen goals to be achieved by developed as well as developing countries in a period of fifteen years i.e. by 2030, few of which includes achieving universal primary education; women empowerment and gender equality, and keeping in mind development, to build global partnership at the international level.²²¹

UNICEF is one of the prime contributors, working to meet the agenda of SDGs through education and also extends its aid towards early childhood care, emergencies and technical and political support.²²² It works with UN agencies, governments and other partners for achieving a better future for every child.²²³

2.5.4 Incheon Declaration and move of third world countries

In another milestone event, education was looked from the angle of new perspective by 184 UNESCO member states by adopting 2030 Incheon Declaration for Education.²²⁴ Prior to adopting this declaration, in 2014 the Global Education for All (EFA) meeting at Muscat, Sultanate of Oman, assessed and reviewed the targets set in the progress road of 2015 year.²²⁵ The Muscat agreement strongly supported that for global development, education is primarily important, hence the participants committed, to ensure equitable and quality education and lifelong learning for all by 2030 with the

²²⁰UN, Sustainable Development Goals, See, Sustainable Development Goals, <http://www.un.org/sustainabledevelopment/blog/2015/12/sustainable-development-goals-kick-off-with-start-of-new-year/> (last visited June. 29, 2021).

²²¹ *Ibid.*

²²²UNICEF, Education, Every child has a right to learn, https://www.unicef.org/education/index_44870.html (last visited June. 29, 2021).

²²³ UNICEF, UNICEF and the Sustainable Development Goals, Investing in children and young people to achieve a more equitable, just and sustainable world for all, <https://www.unicef.org/agenda2030/> (last visited June. 29, 2021).

²²⁴ UNESCO, *Education 2030, Incheon Declaration and Framework for action for the implementation of Sustainable Development Goal 4*, ED-2016/WS/28, (Apr. 13, 2017, 9:45 PM), http://uis.unesco.org/sites/default/files/documents/education-2030-incheon-framework-for-action-implementation-of-sdg4-2016-en_2.pdf.

²²⁵ *Ibid.*

help of international community.²²⁶ This led to organizing the World Education Forum 2015 at Incheon, Republic of Korea by UNESCO in association with others.²²⁷

The 2030 Declaration strongly affirmed that the world governments have the core responsibility to effectively implement the agenda and the realization of the vision envisaged cannot be fulfilled unless the public expenditure on education is hiked.²²⁸ In low and lower middle income countries, for reaching towards universal quality education at all stages up to the secondary level, the finance required in the period of fifteen years i.e. between the years 2015 to 2030 is reflected to average \$ US 39 billion and this projects a cavity between the actual domestic resources and the amount needed to meet this end.²²⁹ In low income countries, the gap is forty two percent of the total annual costs.²³⁰ Therefore, the expenditure has to be as per the needs of the country striving to achieve quality education at all levels.²³¹ In this context there has to be minimum allocation of four to six percent of the GDP or fifteen to twenty percent of the public expenditure on education.²³² Considering this, the developed countries, donors and the international financing bodies have been requested to provide monetary support and to co-ordinate with the developing and least developed countries struggling to implement the agenda as per their needs.²³³

²²⁶ It relates to Sustainable Development Goal 4. Promotion has been given to accessibility of education which ensures free, publicly funded, equitable quality education for period of twelve years at the primary and secondary level and which includes pursuing of nine years of this education compulsorily. Further provisions are also made for children at pre – primary level, early childhood care and development, training out – of – school children and adolescents. The concept of equity focuses on reducing disparities, stressing on disadvantaged section and disabled children. Recognition is given for eliminating gender bias and violence in schools. Quality education has been focused which includes professional teachers at the school level. Commitment is also given for promoting lifelong learning opportunities which relates to quality education being made available and accessible at all levels. Thus the vision of the forum supports development of education system not only for children but also for youth, adults and other victims of crisis and violence. *Ibid.*

²²⁷ The collaborators included UNICEF, World Bank, United Nations Population Fund (UNFPA), UNDP, UN Women and United Nations High Commissioner for Refugees (UNHCR) and the Forum was organized from 19th to 22nd May in the year 2015. *Ibid.*

²²⁸ *Supra* note 224.

²²⁹ UNESCO, *Education for All Global Monitoring Report, Policy Paper 18, July 2015 update, Pricing the right to education: The cost of reaching new targets by 2030*, (Apr. 14, 5:01 PM), <http://unesdoc.unesco.org/images/0023/002321/232197E.pdf>.

²³⁰ *Ibid.*

²³¹ *Supra* note 224.

²³² *Ibid.*

²³³ *Ibid.*

Though the 2015 Forum affirmed remarkable progress having done in preceding conferences in the arena of education, the vision sketched and committed by the international community in 1990 and 2000 conferences were yet to be achieved. Therefore, the EFA movement initiated in Jomtein, Thailand 1990 and further succeeded in the year 2000 at Dakar, Senegal was reaffirmed by the World Education Forum 2015.

Few of the statistical indicators reflect that, the estimated out of school children in the year 2013 at the primary and the lower secondary stage were 59 million and 65 million respectively.²³⁴ In 126 countries, the average percentage of primary schools with adequate sanitation facilities rose from fifty nine percent in 2008 to sixty eight percent in 2012 and in least developed and low income countries from the years 2008 to 2012 it rose from thirty five percent to fifty percent respectively.²³⁵ On average in 2012, the countries allocated five percent of the GDP and 13.7 percent of the public expenditure to education.²³⁶ The least developed countries were much backward with regard to financing on education. It is pertinent to note that the average cost of achieving universal education up till secondary stage would reflect an increase from US \$ 149 billion in 2012 to US \$ 340 billion from 2015 to 2030 that would be fifteen years span, especially in low and lower middle income countries.²³⁷

For effective implementation of Education 2030, there are allied efforts taken at the regional and the sub – regional level.²³⁸ Few of such frameworks in the third world countries and other nations include African Union’s Agenda 2063: The Africa We Want and the Continental Education Strategy for Africa 2016–2025; the Regional Education Project for Education in Latin America and the Caribbean; the Association of Southeast Asian Nations Community Vision 2025; the Arab League Educational, Cultural and Scientific Organization education strategy; and the European Union’s Europe 2020 strategy.²³⁹ Thus these regions and their countries are committed to the common cause of achieving education for all at the universal level.

²³⁴ *Ibid.*

²³⁵ UNICEF, WATER, SANITATION AND HYGIENE, ANNUAL REPORT, NEW YORK, 18 (2012), <http://mwawater.org/wp-content/uploads/2012/03/UNICEF-2012.pdf>.

²³⁶ *Supra* note 224.

²³⁷ *Ibid.*

²³⁸ *Ibid.*

²³⁹ *Ibid.*

2.5.5 Oslo Summit

Another summit on education was the Oslo Summit on Education for Development 2015 which was convened by the Norway government to aid 58 million children who are denied the right to education and further to enhance the learning outcomes for children and young people of all ages.²⁴⁰ The major highlights of the summit has been financial aid required to bridge the huge education gaps in developing countries; establishment of new high – level commission to finance girls education, quality education and providing education in emergencies and support from the World Bank for meeting the demands of education.²⁴¹ This summit is expected to facilitate the action further to reach to the 2030 SDGs just like the 2030 Incheon Declaration.

2.6. Conclusion

Education has acted as a driving force in transforming society and curbing major evils such as illiteracy, poverty, economic instability and the like. Through the medium of education, the nations through perseverance and consistency have built well founded international solidarity and this has set an example for the developing countries to make accessible to people the inalienable right to education for its progress.

Keeping with the objective of empowerment and sustainability and where the world is characterized by diversity and pluralism, the global community by unlocking potential resources must accept a positive and honest global commitment to realize the right to education.

²⁴⁰The World Bank, Oslo Summit: Financing Education in Developing Countries, <http://www.worldbank.org/en/news/feature/2015/07/09/oslo-summit-financing-education-in-developing-countries> (last visited June. 29, 2021).

²⁴¹ Over \$ 4 billion in education is invested by the World Bank in education for the year 2015. *Ibid.*

CHAPTER - III

EVOLUTION

OF

RIGHT TO EDUCATION

IN INDIA

3. Introduction

The germination of education has been subjected to radical changes in all ages of times. Education has been sensed with divergent perspectives in the era of ancient, medieval and modern age. With the ancient era education was tied with religion.²⁴² One can see hinduism and buddhism to be more prominent in ancient age but with regard to medieval times, muslim kings were more determined to put forth a mark of muslim religion through education.²⁴³

Ironical to say but if it had not been the European rule especially the British rule over India, the masses wouldn't have had witnessed the learning of english language and the proliferation of secondary and university education.²⁴⁴ It is the Britishers who linked education to employment.²⁴⁵ Gradually masses realized the need of basic education which led to raising voice not only for freedom but also a law on education.²⁴⁶

Even with India's independence, the education pyramid was incomplete. The government in power tried to lay strong edifice in the educational regime through policies and programmes. Some turned out to be successful whereas others did not progress much. The must awaited dream of public at large was fulfilled after fifty-three long years of struggle as it was only post promulgation of Constitution of India, the right to education was recognized as a fundamental right.

The Chapter devolves to the evolution and recognition of this right to education.

3.1 Education in Ancient India

Ancient India in the vedic age²⁴⁷ depicts the existence of Aryans specially the hindu period and the rituals governing hindu life and these rituals were linked with education.²⁴⁸ Admission to pursue vedic education was marked by birth.²⁴⁹ It is

²⁴² T.N. SIQUEIRA, MODERN INDIAN EDUCATION 10 – 11 (OXFORD UNIVERSITY PRESS 1960).

²⁴³ *Id.* at 12 – 14.

²⁴⁴ *Id.* at 30, 33.

²⁴⁵ *Id.* at 94.

²⁴⁶ *Id.* at 103 – 104 and 125 - 127.

²⁴⁷ Upto 2000 B.C.

²⁴⁸ A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 1,4 (1934).

²⁴⁹ *Id.* at 4.

necessary to mention that hindu community was divided into four classes, which were Brahmanas, Kshatriyas, Vaishyas and Shudras and in course of time the educational colloquy or the profession pursued was linked with the class.²⁵⁰

It will be pertinent to note as to how education was introduced through *sanskara* or rituals and in later times expanded to include even higher education.

3.1.1 Upanayana

The introduction of vedic education in an Aryan young boy's life began upon performance of *Upanayana* ritual, that was referred to as thread ceremony in English.²⁵¹ The ritual was associated with Brahmanas and Kshatriyas and later amongst Vaishyas and performed at the age of eighth, eleventh and twelfth year respectively.²⁵² Thus it can be inferred that Brahmana's pursued this education for a longer duration as compared to other casts.

The ritual of *Upanayana* meant acceptance of a pupil by the teacher, where student had a simple living, high thinking and more so begging for their alms removed the barrier between the rich and the poor.²⁵³ Further, student's reiterated sacred hymns in Sanskrit language which was a part of Aryan literature and this required elementary study which developed grammar and lead to evolution of art of writing.²⁵⁴

The ritual aided to build students intellect, sharpen their memory and also implanted traits of discipline and self-reliance within him before venturing into struggles of life.²⁵⁵

Vedic people believed in spiritual world and that any wrong committed by them would be taken to task, hence focus was on correct pronunciations of vedas; reiteration and memorizing of sacred hymns to please the nature.²⁵⁶ Considering the seriousness in studying vedic language, in later times there was another *sanskara* performed referred to as *Vidyarambha*.²⁵⁷

²⁵⁰ A.S.ALTEKAR, EDUCATION IN ANCIENT INDIA 12 (FIFTH EDITION 1957).

²⁵¹ A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 5 (1934).

²⁵² *Id.* at 15.

²⁵³ *Id.* at 26.

²⁵⁴ *Id.* at 4, 14.

²⁵⁵ *Id.* at 5 - 27.

²⁵⁶ A.S.ALTEKAR, EDUCATION IN ANCIENT INDIA 37 – 39 (FIFTH EDITION 1957).

²⁵⁷ A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 201 - 202 (1934).

3.1.2 Vidyarambha and Primary Education

The *Vidyarambha* ritual was executed at the fifth year of age which marked the beginning of primary education in students' life, where upon instructions of *Guru*²⁵⁸, student used to write alphabets on rice, present gifts to the *Guru* and upon completion of the ritual was entrusted to the *Guru*.²⁵⁹

The duration of elementary study was between five to eight years and the curriculum included grammar, metrics and phonology which was pursued by students prior to Vedic education.²⁶⁰ Wooden boards and pens were used for writing and at times the students used fingers to write.²⁶¹ The learning practice was such that, the teacher used to write the alphabet and the students used to reiterate the words and write and this practice prevailed for quite a long time where even public educational institutions did not exist.²⁶²

The children at this age were set at liberty so that they develop physically and mentally and they did not undergo a disciplined life.²⁶³

3.1.3 Other rituals and evolution of Secondary and Higher education

Eventually *Upanayana* marked the beginning of secondary education as the age limit for its performance was accepted between eight and sixteen.²⁶⁴ Unlike the priestly class, where fathers usually played the role of *Guru*'s, eighth year of age was convenient to complete primary education and start with secondary education.²⁶⁵ Whereas, in case of other classes of Hindu community, eighth year was unsuitable as the students had to migrate outside their home to pursue vedic education.²⁶⁶ As *Upanayana* slowly withered from the Kshatriya and Vaishya section, spread of primary education was hampered amongst the non-Brahmanas.

²⁵⁸ Teacher or tutor.

²⁵⁹ A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 1 – 2, 201 - 207 (1934).

²⁶⁰ *Ibid.*

²⁶¹ *Ibid.*

²⁶² *Ibid.*

²⁶³ *Ibid.*

²⁶⁴ *Id.* at 16.

²⁶⁵ *Id.* at 17 – 18.

²⁶⁶ *Ibid.*

The duration of Vedic education was twelve years which was to be pursued during *Brahmacharya* which means pre marriage phase but, it was realized that completion of education in *Brahmacharya* phase was impossible hence scholars would study even post marriage.²⁶⁷

It was through the ritual known as *Upakarma or Sravani* the knowledge gained had to be revised by both teachers and students so that the possession of valuable education would not be lost.²⁶⁸ It was through performance of *Upakarma*, post college annual education could be pursued which was not restrictive to *Brahmacharya* phase.²⁶⁹ The study duration was just five to six months and the students or the scholar who used to be of the age of twenty four or twenty five subsequently left for their home.²⁷⁰

Finally, it was through *Utsarjana* ritual annual education of the student terminated.²⁷¹ In course of time essential education like education in medical and military line also sprouted.²⁷² One of the ritual that was focused by Kshatriyas was the performance of *Dhanurvedic Upanayana*, where a weapon was offered to the student at the commencement of the military education.²⁷³

With the expansion of education the duration of *Utsarjana* extended throughout the year and the yearly sessions continued for a long period prior to Christian era.²⁷⁴

Samavartana or *Snana* which was an ageless ritual depicted the proper completion of educational course during *Brahmacharya* and it was at this stage *Gurudakshina* referred to as honorarium, as was affordable to student was given to the teacher.²⁷⁵ The student through *Samavartana* was set free from discipline, was at liberty to relish luxuries and would be titled as competent scholar by the *Guru*.²⁷⁶

²⁶⁷ The education was extended to include religious literature and other branches of learning which included grammar, philosophy, mathematics, astronomy, etc. *Id.* at 107 – 113.

²⁶⁸ *Id.* at 27 – 35.

²⁶⁹ *Ibid.*

²⁷⁰ *Ibid.*

²⁷¹ *Id.* at 35 – 36.

²⁷² *Ibid.*

²⁷³ *Id.* at 44 – 45.

²⁷⁴ *Id.* at 44-45, 102-103.

²⁷⁵ *Id.* at 38 – 42.

²⁷⁶ *Ibid.*

3.1.4 Growth of Professional and Liberal Education

It was during 1000 B.C. to 1 A.D., professional and liberal education flourished which was usually administered by Brahmanas.²⁷⁷ Besides major branches of knowledge which included law, agriculture and cattle breeding, administrative training, mathematics, accountancy; the students were also taught practical aspects namely snake charming, magic, military training, medicine, treasure hunt.²⁷⁸ Unlike Sudras, Vaishhyas on account of their inter-marriages, association with lower class and considering their profession were completely restrained from procuring Vedic education.²⁷⁹ As Kshatriyas were focused on military training, they faced difficulties to devote time for Vedic education, hence their knowledge also became limited in this field.²⁸⁰

Period from 250 B.C. to 800 A.D. vocations of architecture, painting and sculpture especially on stones, coining, were also in progressive line.²⁸¹ Central India and Andhra was known for its plastic art.²⁸² On the cultural forefront painting, music and dance arts were usually confined to royal families and training was given to both sexes by teacher belonging to any class of Hindu Community.²⁸³ Concept of *Ayurveda* was also inducted in medical education.²⁸⁴

Students also joined as apprentice to acquire knowledge in the field of carpentry, as miner and goldsmith, where training and shelter was cost free, but in lieu of an agreement with the trainee that he would work with the teacher for specific years connected to the profession.²⁸⁵ The apprenticeship period varied with the course undertaken to study.²⁸⁶ If the teacher did not abide by the agreement, the student was set at liberty to leave the teacher and the state would impose penalty on the tutor.²⁸⁷ In case there was breach on part of trainee, he would be forcefully brought back to fulfill

²⁷⁷ *Id.* at 125.

²⁷⁸ Practical training was given at Takshasila. *Id.* at 125 – 127.

²⁷⁹ *Id.* at 136.

²⁸⁰ *Id.* at 161.

²⁸¹ *Id.* at 184.

²⁸² This included Ajantha, Ellora, Amaraoti, Nalanda, Peshawar. *Ibid.*

²⁸³ *Id.* at 185 – 186.

²⁸⁴ *Id.* at 179.

²⁸⁵ *Id.* 186 – 187.

²⁸⁶ *Id.* at 187.

²⁸⁷ *Id.* at 188 – 190.

the obligations.²⁸⁸ As per the agreement the student had to surrender his wages and upon termination of the contract, he could continue to work with his teacher on wages or start independent business.²⁸⁹ Principle of honesty and spirituality were part of the curriculum of moral education for these students.

Professions turned out to be hereditary, as guidance could be given to young blood by the elderly section, and this constructed a rigid caste system and the same continued till 17th century A.D.²⁹⁰ In course of time unless there were exceptional exigencies within the family the young boy used to undergo training at his home.²⁹¹ Majority of the artisans and workmen became illiterate by the end of the period.²⁹²

3.1.5 Female education

In the educational field up to 800 B.C. women were generally backward during the vedic period but the elementary art which they were free to learn were music and dance.²⁹³ It was from 800 to 200 B.C. women from higher section only learnt the basic *Mantras* as it was the need of the hour to perform the routine rituals and in course of time girls belonging to higher community either pursued education for a long time to become expertise in field of literature, religion and philosophy or terminated their education when their matrimonial was fixed.²⁹⁴

There was no sign of higher education for women as they were not encouraged to stay with *Guru* and only the elder male in the family would teach them as they could not be even sent to beg for alms.²⁹⁵ It was towards the end of 250 B.C. the status of women to pursue Vedic knowledge completely changed as they were brought to the cadre of Shudras and were restricted from studying and this situation continued till 1200 A.D. 3with the exception of those belonging to higher families.²⁹⁶

²⁸⁸ *Ibid.*

²⁸⁹ *Ibid.*

²⁹⁰ *Id.* at 195.

²⁹¹ *Ibid.*

²⁹² *Id.* at 198.

²⁹³ A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 210 (FIFTH EDITION 1957).

²⁹⁴ *Id.* at 223 – 225.

²⁹⁵ A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 228 - 230 (1934).

²⁹⁶ This was on account of intercaste marriages between Aryan bride with non-Aryan. Another reason was girls also got married at early age. *Id.* at 230 – 231.

Girls from royal background especially Kshatriya families however received administrative and military training so that they could utilize these skills at times of need and this continued even during beginning of British rule.²⁹⁷

It can be inferred that education for women was not considered as means to make them economically self-sufficient. However, in later times hand spinning and weaving was taken up by women to help in case of subsistence of her family.²⁹⁸

3.1.6 Teacher student bond and establishment of Public Educational Institutions

Till the beginning of the 4th century A.D. public educational institutions did not exist and the bond between teacher and taught was direct.²⁹⁹ Buddhism education flourished in around 5th century A.D. and the established centre's of learning included Nalanda, Valabhi, Vikramasila and others, where teaching instructions were imparted by monks until 13 century A.D.³⁰⁰ Even after 5th century A.D. there were no organized institutions imparting commercial education.³⁰¹

Post *Upanayana*, around ten to fifteen students used to live with his *Guru* under one roof which was referred as *Gurukula* system or *Asramas* to pursue higher education which included literary or professional education.³⁰²

A qualified student could not be denied admission nor once admitted could be expelled even on the ground of nonpayment of the fees, and students' education begun within one year from the date of admission.³⁰³ Students who were morally or intellectually incapacitated were disqualified from being admitted as teaching was primarily based on memorizing sacred hymns and texts.³⁰⁴

The teachers were obliged to impart education without any expectation of honorarium from poor students and a teacher at times even aided students with regard to shelter and clothing.³⁰⁵ However, a student had to appropriate part of his alms with his distressed

²⁹⁷ A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 219 - 220 (FIFTH EDITION 1957).

²⁹⁸ *Id.* at 225 – 226.

²⁹⁹ *Id.* at 54.

³⁰⁰ A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 246, 279 - 280 (1934).

³⁰¹ *Id.* at 196 – 197.

³⁰² *Id.* at 76, 92 – 93, 100.

³⁰³ *Id.* at 63 – 64.

³⁰⁴ *Id.* at 65.

³⁰⁵ *Id.* at 63.

teacher.³⁰⁶ As there was no fixed fee structure prescribed for the students, education could be pursued without financial constraints.³⁰⁷ Usually upon completion of the course, students offered *Gurudakshina* to the teacher and in cases of inability to do so on account of poverty, students would do their household or field work or raise funds towards fee payment.³⁰⁸ However, in order to cope up with the study, night classes were conducted for those involved in doing household or field work of their teachers.³⁰⁹ This was the routine followed even in Buddhist colleges.³¹⁰

The students used to begin with their day very early in the morning, offer prayers and attend school which usually used to be three to four hours a day.³¹¹ The students resumed with their study course immediately post noon which continued till evening.³¹² The physical exercise provided to them was collecting firewood from forests in the evening and the practice was prevalent up till 600 B.C.³¹³ Besides academics, a teacher also imparted value education, implanted discipline³¹⁴ and health conscious living and inculcated sense of what is right and wrong in the life of its pupil.³¹⁵

For several centuries Brahmanas used to discharge the function of teaching as a religious duty.³¹⁶ The centres of education in Ancient India were the Tirthas, temples, Agrahara³¹⁷ Villages, monasteries and even the capitals³¹⁸ of wealthy kingdoms.³¹⁹ This was especially because endowment received by the temples or the monasteries would be used for the purpose of growth of education.³²⁰ Hindu temples became centers for higher education in 10th century.³²¹ The educational institutions facilitated spread of education by giving scholarship to students in kind and also paying remuneration to the

³⁰⁶ *Id.* at 88.

³⁰⁷ *Id.* at 66.

³⁰⁸ However, all gifts received by the students while pursuing the course rightfully belonged to the teacher. *Id.* at 69 – 70.

³⁰⁹ *Id.* at 79.

³¹⁰ *Id.* at 141.

³¹¹ *Id.* at 83 – 84.

³¹² *Ibid.*

³¹³ *Ibid.*

³¹⁴ At times mischievous students were to be controlled and corrected using physical force.

³¹⁵ A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 32 – 33 (FIFTH EDITION 1957).

³¹⁶ A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 99 (1934).

³¹⁷ They were the places of settlement for Brahmanas which in turn supported their maintenance. For instance Kadiyur Village referred to as Kalas, Sarvajnapura named as Arsikere in Mysore.

³¹⁸ These places were the ones in Northern, central and Southern India which included Takshasila, Kanauj, Mithila, Benares, Ujjayini, Dhara, Kalyani, Malkhed and Paithan.

³¹⁹ *Supra* note 316.

³²⁰ A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 293 (1934).

³²¹ *Id.* at 283.

teaching fraternity.³²² The scholarship, salary and facilities provided differed from institution to institution.³²³

In course of time some educational institutions made arrangements for boarding provisions. To mention, in the 11th century, the educational institutions at Salotgi in District of Bijapur, Ennayiram in South India and Nalanda offered cost free boarding to students on basis of endowments received by them.³²⁴ In 1062 A.D. provisions were also made for the students to avail of medical benefits where the institution in Tirukkudal provided both hostel and hospital facilities.³²⁵ Students used to stay even in temple out houses, if institutions were attached to the temples.³²⁶ Takshasila was another well-known centre of education where students used to visit to quench their literary thirst.³²⁷

The teaching pedagogy in all educational institutions to impart Vedic education and subject³²⁸ wise education, was oral which was mainly based on rote learning, memorizing hymns with correct pronunciation.³²⁹ There were also sessions engaged to explain and discuss exhaustively the Vedic texts.³³⁰ Though Sanskrit was the language of learning, prior to end of Hindu period,³³¹ even primary education in some schools and colleges were taught in local vernacular language.³³²

The education system was based on continuous evaluation and in order to obtain mastery over the matter taught, the students had to answer examination consistently and their performances lead to promotion at specific intervals.³³³ Thus completion of educational course was based on students' individual capability and intelligence to grasp the subject matter.

³²² A.S.ALTEKAR, EDUCATION IN ANCIENT INDIA 105 – 141 (FIFTH EDITION 1957).

³²³ *Ibid.*

³²⁴ A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 86, 98 - 99 (1934).

³²⁵ *Id.* at 288 – 289.

³²⁶ A.S.ALTEKAR, EDUCATION IN ANCIENT INDIA 138 – 139 (FIFTH EDITION 1957).

³²⁷ A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 248 (1934).

³²⁸ This included law, philosophy, logic along with religion.

³²⁹ A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 146, 148 (1934).

³³⁰ *Ibid.*

³³¹ This was 1200 A.D.

³³² A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 353 – 354 (1934).

³³³ *Id.* at 152.

Samavartana ceremony was followed by a presentation before local learned assembly where knowledge of the presenter could be tested by asking questions.³³⁴ In ancient India, degrees were not conferred on such students and that they were tested on basis of discussions held on updated knowledge.³³⁵

With the growth of education the Hindu and Buddhist centres of learning started maintaining libraries.³³⁶ Due to the absence of printing press, the books had to be copied.³³⁷ Educational expenses were supported by wealthy families, society and royal emperors as government.³³⁸ Taxes on lands paid to state were purposely kept low for the Brahmanas as they constituted the teaching fraternity.³³⁹ The scholars were given special position in Kings Court or in administration or were given consideration in kind or cash based on the knowledge achieved.³⁴⁰

Though India was ruled by big emperors, there were small feudal chiefs and at the village level village headman or panchayat that used to organize military and defence training to the students.³⁴¹ This had become a profession where subsequently trained soldiers were handed over to the royal army for good consideration.³⁴²

Education was mostly free for quite a long time despite foreign rule which Brahmanas were obliged to give to deserving students. This applied to ancient so also medieval period in India. Ancient education system aimed to make students self-reliant, preserve culture, and make them responsible to perform religious and social obligations in steps of life but girls were not advantageous to pursue education like boys. Further, teaching vocation was associated with only Brahmanas which created monopoly and eventually this led to rigidity of caste system and profession carried out by the individual determined the person's caste.

It was 1200 A.D. which marked the end of the Hindu period.³⁴³

³³⁴ *Id.* at 156.

³³⁵ *Id.* at 157.

³³⁶ A.S.ALTEKAR, EDUCATION IN ANCIENT INDIA 159 – 160 (FIFTH EDITION 1957).

³³⁷ *Ibid.*

³³⁸ *Id.* at 83, 96 – 97.

³³⁹ *Id.* at 98 – 101.

³⁴⁰ *Id.* at 100 – 101.

³⁴¹ A.S. ALTEKAR, EDUCATION IN ANCIENT INDIA 196 (1934).

³⁴² *Id.* at 197.

³⁴³ *Id.* at 217.

3.2 Education during Muslim Rule in Medieval Period

In between the end of the Hindu period and the advent of the Britishers prevailed the Muslim rule.³⁴⁴ Primary and higher education supported by the state was withdrawn which considerably reduced the literacy rate of Hindu community.³⁴⁵ Schools not attached to the Muslim religious institutions became defunct.³⁴⁶ It was only between 8th to 16th century, *Madrassas*³⁴⁷, *Maktabs*³⁴⁸ and higher education of Muslims was boosted.³⁴⁹ Also, the gifts and religious endowments in the legacy of Muslims kings were used by them for educational purposes.³⁵⁰ Further, Urdu literature through Persian language was introduced by the Lodi kings on their subjects irrespective of religion.³⁵¹ Village schools in small states were constituted which promoted religious education along with general learning.³⁵²

3.2.1 Education Policy

Education policy was much organized during the reign of Mughal emperors. However, the perspective towards the development of education differed with rulers. For the benefit of the Muslim community students, ancient Hindu literary texts³⁵³ were translated in Persian language; besides learning other activities such as painting, music and calligraphy were also promoted; no distinction was made between the religious communities of Hindus and Muslims when it came up to education; State institutions³⁵⁴ and private owned schools³⁵⁵ were the centers of learning and imparting of the

³⁴⁴ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 14 (1960).

³⁴⁵ *Id.* at 22.

³⁴⁶ This happened during the rule of Taimur in 1398. *Id.* at 16.

³⁴⁷ Referred to as High Schools

³⁴⁸ Referred to as Primary Schools

³⁴⁹ A huge University was established at Ghazni by Muhammad of Ghazni. Pathsalas were replaced by Muslim primary and high schools by Muhammad of Ghor and the system prevailed and continued further with the successors of Ghor. *Madrassa* were also established by Humayun and Sher Shah at Delhi and Narnaul respectively. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 15 (1960).

³⁵⁰ Reference can be made of Alauddin. Also, Firoz Tughlak who continued the tradition during his reign (1325 – 1413) is known for establishing 30 colleges attached to mosques, constructing a residential university at Delhi supported by government for the betterment of students and professors. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 15 - 16 (1960).

³⁵¹ This was during the tenure of Sikandar Lodi between 1414 – 1526. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 16 (1960).

³⁵² T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 14 - 15 (1960).

³⁵³ This included Hindu epics, Vedas, *Lilavati* and other works.

³⁵⁴ Such institutions were Residential *Madrassas* at Fatehpur Sikri, Agra and Gujarat.

³⁵⁵ Mir Ali Beg's Academy at Delhi which imparted education in music, painting, philosophy and mathematics.

education was through the aid of learned men who were invited without any barrier of boundary or religion during the rule of Akbar as the king despite being illiterate had interest in the field of education.³⁵⁶ Successors of Akbar paved the way in the arena of education in their individual way.³⁵⁷

However, during the rule of Aurangzeb, weightage was given to Muslim education and Hindu schools were demolished; further for the upliftment of backward community in the field of education, teachers were appointed and even monetary aid was provided to pauper students; educational institutions either belonged to the state or private owners and they functioned simultaneously.³⁵⁸ Education in the field of astronomy was given a great push during the rule of Muhammad Shah.³⁵⁹

Muslim invasion in India also depicts instances where libraries constituting huge collection of precious books were robbed outside the country.³⁶⁰ Thus the promotion of education during Muslim rule differed and was solely based on the interest of the ruler in that field; was more religion based; imparting education was at individual level or to minor group of students; further goal to pursue education was not earning and there was no systematic approach adopted in imparting elementary education either by the parents nor by the rulers.

3.2.2 Female Education

During the reign of Muslims, female literacy was hampered as there were no schools for them and this affected the average masses.³⁶¹

³⁵⁶ Advanced education was given to students at a higher level and religious education was also imparted to students based on the community to which they belonged. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 17 - 18 (1960).

³⁵⁷ Learned men irrespective of religion were invited to impart teaching in Agra during the reign of Jahangir. It was Shah Jahan, son of Jahangir who established Imperial College in Delhi and both rulers are known for restructuring the educational institutions prevailing during their tenure. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 18 - 19 (1960).

³⁵⁸ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 19 - 20 (1960).

³⁵⁹ This was on account of Jantar Mantar at Delhi between the period of 1719 – 48. “Modern Indian Education”, T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 21 (1960).

³⁶⁰ Nadir Shah during the rule of Muhammad Shah and Ghulam Qadir have done such acts. “Modern Indian Education”, T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 21 (1960).

³⁶¹ Dr. BINODE KUMAR SAHAY, EDUCATION AND LEARNING UNDER THE GREAT MUGHALS 1526 – 1707 A.D. 103.

Female education was mostly confined to rich sections of society and specially through establishment of *Maktabas* as private tutors, education in religious and secular form was imparted to them.³⁶²

The state of education for girls turned out to be poor till the beginning of the 19th century.³⁶³

3.3 Education during Early British and other European Rule in India

With an objective of building commercial relation the traders from western region in 15th century A.D. started settling in India when the Muslim rule was almost on the verge of disintegration.³⁶⁴ In course of time the traders which included Portuguese, French people and the East India trading company strengthened their military and proprietary rights and education directly or indirectly followed their existence.³⁶⁵

The British traders through the means of education were prominent in spreading the principles of Christian missionary in India.³⁶⁶ Schools recognized by the government and backed by the monetary support of the trading company were established for the children of the European employees and gradually local children were permitted to pursue education in these institutions.³⁶⁷ The languages which the traders were comfortable with were used as medium of instruction in such schools.³⁶⁸

The Indians gradually desired to be employed by the English trading company, hence few students from the higher caste³⁶⁹ got admitted in English schools.³⁷⁰ However company equally aimed to build scholars in Indian law for the proper administration of justice.³⁷¹ Therefore with the monetary support of the company, *Madrassa*³⁷² was

³⁶² *Id.* at 104, 112 – 119.

³⁶³ *Id.* at 107.

³⁶⁴ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 23 (1960).

³⁶⁵ *Ibid.*

³⁶⁶ *Id.* at 24 – 25.

³⁶⁷ *Supra* note 364.

³⁶⁸ It included Portuguese, French, English. *Ibid.*

³⁶⁹ This included Brahmans.

³⁷⁰ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 28 (1960).

³⁷¹ *Ibid.*

³⁷² It was built in 1784 for Muslim boys. The medium of instruction was Arabic and besides general mathematics, grammar, natural philosophy, religious Quran law was also taught.

established at Calcutta and Sanskrit higher educational institution³⁷³ at Banaras.³⁷⁴ With restricted objective to provide training to Company's servants in Hindu and Muslim law and also for them to get accustomed to Indian languages a special college was also established at Calcutta.³⁷⁵

The Portuguese stepped in India not only with an intention to trade but also to spread Christianity and established their rule too.³⁷⁶ They established schools, where learning to read and write in local language were taught, and such educational institutions were one of the medium to popularize Christianity amongst Indian converts.³⁷⁷

The missionaries of Portuguese Catholic, Dutch Protestants, German and London Society established schools for Local Muslim and Christian Children.³⁷⁸ Tamil was used as the medium of instruction in the schools established in south eastern region of India.³⁷⁹ While the Jesuit missionaries established the first printing press near Cochin³⁸⁰; on the other hand Dutch missionaries came up with a Tamil dictionary.³⁸¹ The missionary bodies were also instrumental in establishing schools for the European orphans and abandoned children.³⁸²

Also, French traders had constructed elementary and secondary schools where admission was open to all without any barrier of religion.³⁸³ The difference between the

³⁷³ The institution taught principles of Manu to the students who mainly belonged to higher castes and was built in 1791.

³⁷⁴ Governor-General Warren Hastings was instrumental in establishing the institutions. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 28 - 29 (1960).

³⁷⁵ This was by Lord Wellesley in 1800. Such training eventually gave birth to Civil Service Exams. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 29 (1960).

³⁷⁶ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 23 - 24 (1960).

³⁷⁷ Schools were established in 16th century at Goa, Daman, Diu, Hoogly, Cochin and other parts of India. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 24 (1960).

³⁷⁸ The schools were established in Madras, Tanjore, Cuddalore, Palamcottah, Trichinopoly and Serampore between 1727 – 1804. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 25 – 26 (1960).

³⁷⁹ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 26 (1960).

³⁸⁰ This was in 1577.

³⁸¹ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 26 - 27 (1960).

³⁸² Such Charitable schools were built by Anglican Missionaries in 1729 were based at Calcutta. Later school was kept open for admission of Anglo Indian orphan children. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 29 (1960).

³⁸³ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 24 (1960).

two levels was, in elementary schools education was imparted by Indian teachers in mother tongue whereas French was taught in secondary schools.³⁸⁴

In some of the non-Christian schools reading and writing material, clothing and food was also provided to children and the monetary support was backed by the trading company.³⁸⁵ Thus efforts were made by the traders and the missionaries to raise the level of literacy which touched the heart of Indians.

3.3.1 Education in Provinces

Gradually the British trading company was successful in transforming its trading powers into rule making power over the inhabitants of British territories in India. The education budget was handled by General Committee of Public Instructions which focused more on Oriental studies³⁸⁶ in comparison with Anglicists which referred to imparting education through English.³⁸⁷

The 1813 Charter imposed duty on the East India Company to impart education amongst the inhabitants in India by setting a yearly budget of minimum one lac rupees and also published books in Indian languages.³⁸⁸

The period projects, existence of vernacular, missionary³⁸⁹ and government³⁹⁰ schools.³⁹¹ It would be apt to note that Calcutta Vidyalaya³⁹² was the first English medium higher educational institution imparting education to Indians.³⁹³ Preference was given by the students to learning in English medium in comparison to Sanskrit at the higher educational level.³⁹⁴

³⁸⁴ Elementary schools were based at Mahe, Chandernagore and Yanam, whereas at Pondicherry there were elementary and secondary schools. *Ibid.*

³⁸⁵ *Supra* note 383.

³⁸⁶ It refers to the study of European literature and science in Sanskrit or Arabic to be taught in oriental colleges.

³⁸⁷ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 31 - 32 (1960).

³⁸⁸ Government Press became functional in 1824. *Id.* at 31.

³⁸⁹ Children admitted in such schools were taught in English.

³⁹⁰ They were East India Company schools where learning was either in English or Vernacular.

³⁹¹ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 30 (1960).

³⁹² It was also referred to as Hindu College which was established in 1816 and in a period of three years by 1819 became Government College in India.

³⁹³ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 32 (1960).

³⁹⁴ *Id.* at 33.

An effective Public Education policy was laid down in 1834 by Lord Macaulay in India who was the promoter of English education.³⁹⁵ The policy clearly stated that natives could pursue education in English, Sanskrit or Arabic but that English education would expose Indians to western science and literature as compared to the others.³⁹⁶

In 1835, through this policy Lord William Bentick promoted public education.³⁹⁷ To promote European education, learning in English was preferred and funds were utilized for the same.³⁹⁸ However, keeping in view the interest of the locals, educational institutions of native learning were not shunted.³⁹⁹ English teaching Government schools and colleges were established which had influx of large number of students without barrier of religion, caste, creed and descent.⁴⁰⁰

Though all schools were allowed to function simultaneously, more so the Governor General Lord Auckland in his tenure drew attention towards development of vernacular literature in the schools in the interest of the Indians; the budget for oriental studies was demarcated but scholarship education was inducted through Competitive examination.⁴⁰¹ However in course of time English educational institutions⁴⁰² flourished over vernacular schools.⁴⁰³ Subsequently, it was proclaimed to give preferential employment opportunity in public offices to candidates of English educational institutions by the Government.⁴⁰⁴ Thus a knot was tied between education and employment in Government sector.

It is also pertinent to mention that attempts were made by Government to spread rural vernacular education.⁴⁰⁵ Primary, high and middle schools were established at village,

³⁹⁵ SURESH CHANDRA GHOSH, THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007 30 - 31 (3d ed. 2009).

³⁹⁶ *Ibid.* 31 – 32.

³⁹⁷ *Id.* at 33.

³⁹⁸ *Ibid.* 33.

³⁹⁹ *Id.* at 33 – 34.

⁴⁰⁰ Hoogly College on such lines was built in 1836. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 38 (1960).

⁴⁰¹ This was introduced by Lord Auckland in 1839. SURESH CHANDRA GHOSH, THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007 47 (3d ed. 2009).

⁴⁰² This included Government or Private.

⁴⁰³ By 1850 more than half of vernacular schools established by Lord Hardinge in 1844 became defunct in Bengal. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 42 (1960).

⁴⁰⁴ *Id.* at 42 – 43.

⁴⁰⁵ Between 1843 – 53 Lieut – Governor Rev. C. Thompson established 897 schools in the North – Western region and became one of the promoter of the native learning. People's choice was considered to appoint teachers for imparting education in rural schools. *Id.* at 45 – 46.

zilla and subdivision level respectively.⁴⁰⁶ Education in primary schools was free and compulsory and was a joint duty of Government and land holders.⁴⁰⁷ School buildings were established in such a way that child could seek admission in neighbourhood school.⁴⁰⁸

The British Company came up with a different educational policy in Bombay where government interference in the education system was restrictive and indirect,⁴⁰⁹ though it would be the duty of the government to provide means to pursue elementary study.⁴¹⁰ Thus all village vernacular schools were monetarily backed by the Government whereas English education was not aided.⁴¹¹ This led to increase of Government vernacular schools over English schools. This was opposed by local Hindus by constructing a private English Elphinstone educational institution which constituted European tutors.⁴¹² Also, there were educational institutions in specific expertise during this phase.⁴¹³

The primary educational institutions of the Missionaries⁴¹⁴ were known for providing education for the pauper in the Province of Madras.⁴¹⁵ There were government high schools too but less students were enrolled due to the involvement of cost, hence a genuine attempt was made to proceed with Madras University imparting English education which initiated with a learning school and a high school.⁴¹⁶

There was no centralized education. A uniform pattern of educational policy was not followed in all provinces and also implementation of policy differed at times in the same province, as it was agreeable and acceptable to the British government. The Missionaries, Hindus and Muslims continued with primary education which was native

⁴⁰⁶ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 46 (1960).

⁴⁰⁷ The Schools maintenance cost was procured from the mandatory tax levied under the land revenue settlement. *Ibid.*

⁴⁰⁸ *Supra* note 406.

⁴⁰⁹ Competitive Examination, scholarships and certificates were to be managed by the Government. This system of education was laid down by Mountstuart Elphinstone.

⁴¹⁰ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 47 (1960).

⁴¹¹ *Ibid.*

⁴¹² *Id.* at 48.

⁴¹³ There was a Hindu college at Poona in 1821, Engineering College and also Medical School. *Supra* note 410.

⁴¹⁴ Catholic and the Church Missionary.

⁴¹⁵ The Governor of the province was Sir Thomas Munro. "Modern Indian Education", T.N.Siqueira, S.J. Oxford University Press 1960. SURESH CHANDRA GHOSH, THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007 55 - 56 (3d ed. 2009).

⁴¹⁶ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 49 - 50 (1960).

learning based.⁴¹⁷ There was growth of secondary education which was a blend of vernacular middle and English high school.⁴¹⁸ Further, Post 1854 paved the way towards European education.⁴¹⁹

3.3.2 Female Education

The most unpopular education that existed during British times was the female education. Hindus and Mohammedans were against educating girls and women hence Government was also reluctant to lay down any policy relating to studies of females.⁴²⁰

It was Governor General Dalhousie who was an avid supporter of female literacy despite there being gender bias.⁴²¹ He promoted the growth of J.E.D. Benthune's female school at Calcutta.⁴²²

Subsequently girls schools mostly confined to higher castes, were set at Barasat, Uttarpara, Neebudhia and other places.⁴²³

3.3.3 Development of Schools and Higher Education Institutions

The phase signifies the foundation stone laid for University education in the presidency towns of Calcutta, Madras and Bombay.⁴²⁴ The colleges⁴²⁵ in these provinces were affiliated to their respective Universities with government permission.⁴²⁶ Though teaching was at the college level, these Universities carried out academic duties

⁴¹⁷ *Id.* at 50.

⁴¹⁸ *Id.* at 50 – 51.

⁴¹⁹ *Id.* at 51.

⁴²⁰ *Id.* at 129; SURESH CHANDRA GHOSH, THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007 68 - 69 (3d ed. 2009).

⁴²¹ His tenure in India was between 1848-1856. SURESH CHANDRA GHOSH, THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007 70 (3d ed. 2009).

⁴²² School was established in 1849 by member of Dalhousie's council and President of Council of Education named Benthune to impart secular education. SURESH CHANDRA GHOSH, THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007 70 (3d ed. 2009).

⁴²³ SURESH CHANDRA GHOSH, THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007 70 (3d ed. 2009).

⁴²⁴ These Universities resembled London University and were established in 1857. Gradually colleges in other states of India functioned as Universities e.g. Punjab and Allahabad University which started in 1878 and 1887 respectively. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 53 - 54 (1960).

⁴²⁵ They were either Government or Private or supported by Missionaries and were graded based on the degree that would be conferred on the students. Such degrees included Bachelor's degree which was four years course or First Arts which was a two years course or Intermediate Examination.

⁴²⁶ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 54 - 56 (1960).

pertaining to admitting students⁴²⁷ in desired courses, conducting examinations and conferring degrees.⁴²⁸ There were chairs in the Universities to promote vernaculars too.⁴²⁹ These higher educational institutions that had an administrative authority framed regulations for the smooth functioning of these Universities.⁴³⁰ The University income was based on the admitted student fees.⁴³¹ Tutorials in Universities were conducted in English, hence students who had not pursued education in English teaching schools faced difficulty in learning.⁴³² Hence learning in English was emphasized by the Government despite there being Vernacular schools.⁴³³ Colleges were also more staffed with Europeans.⁴³⁴

Setting up of private colleges was encouraged by the Government as they were more efficient and did not financially burden the State, thus arts colleges flourished and there were engineering⁴³⁵ and medical⁴³⁶ colleges too.⁴³⁷ Seeking employment was the main goal behind pursuing education.

When it came up to school education, the government opined that it is impossible to introduce and impose a specific religious study in such heterogeneous state schools.⁴³⁸ Hence religious education was given a neutral approach by the British Company not only learning wise but also when it came up to providing grants to such educational institutions.⁴³⁹ Primary education at the elementary stage was at rise in Bengal, Assam and Central Provinces.⁴⁴⁰ Government in the year 1881 expended annually 5 lac rupees on primary education.⁴⁴¹ However education cess was levied on villagers of Madras,

⁴²⁷ Admission was through Matriculation. At the first level there was entrance examination. Further, students had to answer another examination to obtain Master of Arts degree.

⁴²⁸ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 55 (1960).

⁴²⁹ *Id.* at 54.

⁴³⁰ *Id.* at 54 – 55.

⁴³¹ *Supra* note 429.

⁴³² T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 56 (1960).

⁴³³ *Id.* at 58.

⁴³⁴ *Id.* at 57.

⁴³⁵ There were only two such colleges in India at Rurki and Sibpur at Calcutta established in 1847 and 1856 respectively.

⁴³⁶ Such colleges were there in each of the provinces of Calcutta, Bombay and Madras.

⁴³⁷ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 55 – 56 (1960).

⁴³⁸ Hierarchy of the school in the ascending order was Lower Primary (3 years study), then Upper Primary (5 years study), then Middle Vernacular or Middle English and finally High School. *Id.* at 52, 62 – 63.

⁴³⁹ *Id.* at 52.

⁴⁴⁰ The school system was initiated in 1860 by Sir Peter Grant. *Id.* at 59 – 60.

⁴⁴¹ It was Government of Sir George Campbell. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 60 – 61 (1960).

Bombay and North western province.⁴⁴² Subsequently, the primary and middle schools of Bengal, Punjab, North western and Central provinces were either State owned or aided and there was no independent education cess levied but the same was part of state tax on land.⁴⁴³

Before 1868 Vernacular primary schools in Madras were managed by Missionary bodies but post 1868 the influx of the students for admission in State owned and private primary schools increased as education cess was levied on land.⁴⁴⁴

Primary education in Bombay developed in 1882 where Government not only demarcated a fixed sum for primary education but also undertook the responsibility of paying the teachers and books.⁴⁴⁵

State control over the primary schools was direct if the schools were State owned and indirect where only aid was provided by the State.⁴⁴⁶ Private primary schools proved to be superior in both quantity and quality in comparison with state and aided schools but the cost of aided schools was higher than state schools.⁴⁴⁷ In 1882 the education budget included the government cess, student fees and other resources.⁴⁴⁸ Hindu *Patshalas* and Muslim *Maktabs* faced problem to maintain the cost of education as they stopped receiving grants from public funds and in no form they could compete new schools for getting the students in employment arena after completion of their studies.⁴⁴⁹ Withering of old Hindu and Muslim schools gave way to Christian schools to become prominent as they were managed by Missionary bodies.⁴⁵⁰ Religious education was imparted by Missionary schools to propagate Christianity but they were not completely successful in doing so as there were students from other religions who used to pursue education in such schools.⁴⁵¹ On the other hand European Missionaries were unhappy with the State or Government schools as they did not impart religious instructions.⁴⁵² However

⁴⁴² T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 61 (1960).

⁴⁴³ This was in 1869. *Ibid.*

⁴⁴⁴ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 60 – 61 (1960).

⁴⁴⁵ *Id.* at 62.

⁴⁴⁶ In Bombay and North Western Provinces State had complete monopoly whereas in Madras, Assam and Bengal it was not so. *Ibid.*

⁴⁴⁷ *Supra* note 445.

⁴⁴⁸ The amount spent on primary education was raised to 80 lac rupees. *Supra* note 445.

⁴⁴⁹ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 63 – 64 (1960).

⁴⁵⁰ *Id.* at 63.

⁴⁵¹ *Id.* at 64.

⁴⁵² *Id.* at 64 – 65.

schools run by Missionaries were more efficient and of less cost as compared to Government schools.⁴⁵³

3.3.4 Indian Education Commission and period thereafter

Provision of grants in aid to private institutions and State elementary schools were one of the striking features of 1854 Education Dispatch.⁴⁵⁴ In order to study and restructure the educational arena, in 1882 Indian Education Commission was constituted.⁴⁵⁵ Few of the great Indian leaders demanded before the Commission to have state aided free and compulsory education for children until specific years of age.⁴⁵⁶ There were various recommendations laid down by the Commission. Few of them were, to focus more on the growth of elementary study which included primary education where practical subjects were part of regular curriculum that would cater to the whole education of the child; old schools were to be developed and sanctioned; grants in aid provision were to be made for secondary education in English, provided it was supported by natives; high schools students upon completion of their study could pursue University education or venture into commercial or practical study; for better administration and supervision of schools, authorities had to be constituted and with this the power of the provincial government would be given to school board above which would be local board and further this even included deciding on budget and grants; to reduce public funds, and make higher education affordable; Government and Private Colleges were to be brought at par in case of fee structure.⁴⁵⁷ One drawback of the recommendation was that inefficient colleges started flourishing on one side as they received government grants and also on account of low fees solicited students and earned profit on the capital.⁴⁵⁸

⁴⁵³ *Supra* note 451.

⁴⁵⁴ Northbrook who was the secretary to Charles Wood, President of the Board of Control, was the man behind the draft of the Dispatch. But upon the direction of the British Company the general scheme of education was prepared by Charles Wood who later took the credit of the Dispatch. SURESH CHANDRA GHOSH, *THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007* 75 – 76 (3d ed. 2009); T.N. SIQUEIRA, S.J., *MODERN INDIAN EDUCATION* 65 (1960).

⁴⁵⁵ Sir William Hunter was the President of the Commission. The powers of the commission included inspection of schools and colleges too. T.N. SIQUEIRA, S.J., *MODERN INDIAN EDUCATION* 65 (1960).

⁴⁵⁶ SYED NURULLAH AND J.P. NAIK, *A STUDENTS' HISTORY OF EDUCATION IN INDIA (1800 – 1965)*, (5 ed. 1964).

⁴⁵⁷ SYED NARULLAH AND J.P. NAIK, *A STUDENTS' HISTORY OF EDUCATION IN INDIA (1800 – 1965)* 192 – 197 (5th ed. 1964).

⁴⁵⁸ T.N. SIQUEIRA, S.J., *MODERN INDIAN EDUCATION* 73 (1960).

The 1882 Education did not make religious study mandatory for the students admitted in educational institutions.⁴⁵⁹ The said Commission made local bodies obligatory to impart primary education to all and this education was free for poor students.⁴⁶⁰ Students were taught in vernacular in all primary schools⁴⁶¹ and middle and high school class were made part of the concerned English school.⁴⁶² The Local and Provincial Government somehow raised money for the growth of primary education either through its revenues or collecting cess on land or otherwise.⁴⁶³ The primary schools were run by Government, Private bodies, Municipalities and in villages by District Boards.⁴⁶⁴ From amongst these, Government schools were less in number as compared to the others.⁴⁶⁵

The reality of 1887 – 1892 period is the number of secondary English schools considerably reduced whereas aided, private and unaided educational institutions started mushrooming.⁴⁶⁶ In order to make secondary school student conversant with other subjects of ordinary importance in life there was School Final Examination conducted along with Matriculation Examination by the Education Department which gained popularity as employment sector was kept open by the government for the students having answered the said examination.⁴⁶⁷ Thus the secondary school student could pursue University education only after learning the essential basic aptitude of life which was inclusive of commercial and technical study besides literary education which the University education was devoid of.⁴⁶⁸ However the system of School Final Examination did not work as there was no uniformity in schools and these educational

⁴⁵⁹ SYED NARULLAH AND J.P. NAIK, A STUDENTS' HISTORY OF EDUCATION IN INDIA (1800 – 1965) 141 (5th ed. 1964).

⁴⁶⁰ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 72, 99 (1960).

⁴⁶¹ These primary schools constituted 3 lower and 2 higher classes respectively. *Id.* at 90, 99.

⁴⁶² T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 99 (1960).

⁴⁶³ *Id.* at 75, 99 – 100.

⁴⁶⁴ SYED NARULLAH AND J.P. NAIK, A STUDENTS' HISTORY OF EDUCATION IN INDIA (1800 – 1965) 147 (5th ed. 1964).

⁴⁶⁵ This was in the period 1891 – 92. In the course of time aided schools run by Missionaries were more in number in Madras as it was difficult to divert the Government revenue on other schools for the purpose of education. However the condition was not the same in other Provinces. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 100 - 101 (1960).

⁴⁶⁶ Province of Bengal had the highest number of secondary schools. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 93 (1960).

⁴⁶⁷ Subjects included book keeping, short hand, drawing besides others. Province of Madras developed the best practice relating to this examination. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 94 (1960).

⁴⁶⁸ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 94 (1960).

institutions had to revert to Matriculation Examination.⁴⁶⁹ Therefore, a need was felt for reorganizing the secondary education.

In India it was only Boroda ruler Maharaja Sayaji Rao Gaekwad who had implemented compulsory elementary level of education before 1904.⁴⁷⁰ Outreach of elementary schooling as one of the prime duty and responsibility of the State, was accepted by Government of India post 1904 and to implement this, education budget also had to be sanctioned.⁴⁷¹ Those Private schools imparting religious instructions, receiving government grants and run by Missionaries, increased, however there was not major change in the literacy rate.⁴⁷² The Government maintained the structure of the primary classes set up as specified in 1882 commission in the interest of the students who were unable to pursue secondary education.⁴⁷³ The system of providing government grants to the schools also differed province wise and was solely based on the average attendance regularity of the students at the primary level and the employment of the teachers in schools.⁴⁷⁴

3.3.5 Subsequent development of Higher Educational Institutions

The Act of 1906 proved to be a turning point to improvise University education in India.⁴⁷⁵ The standards in colleges had to adhere to the regulations laid down without which affiliation was denied.⁴⁷⁶ The government undertook the responsibility of carrying out regular inspections, increasing the facility of funds and grants to expand the staff of the high schools and colleges.⁴⁷⁷ It was realized that agricultural and industrial growth can increase the economic potential of India all over the world hence at the University level Faculty of Science was introduced.⁴⁷⁸ This era shows a lot of

⁴⁶⁹ *Id.* at 95 – 96.

⁴⁷⁰ SYED NARULLAH AND J.P. NAIK, A STUDENTS' HISTORY OF EDUCATION IN INDIA (1800 – 1965) 201, 252 (5th ed. 1964).

⁴⁷¹ It was Lord Curzon Resolution that made the Government to undertake this step. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 101 – 102 (1960).

⁴⁷² T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 102 (1960).

⁴⁷³ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 101 - 102 (1960).

⁴⁷⁴ *Supra* note 472.

⁴⁷⁵ Lord Curzon has played a major role in this sector. Other higher educational institutions that were functional were Rangoon University of 1917, Delhi University of 1922 and others. For the progress of linguistic culture there were Universities established within Presidencies for e.g. Andhra University of 1920 for Telugu region; Residential teaching University of Chidambaram in Tamil region. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 79 – 80, 85 - 86 (1960).

⁴⁷⁶ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 80 (1960).

⁴⁷⁷ *Ibid.*

⁴⁷⁸ The course was inducted first at the Presidency College in Calcutta. *Id.* at 80 – 81.

socio political strife. Educated unemployed youth increased who expressed their resentment towards the education policy due to unemployment but the quest for western education continued.⁴⁷⁹ With an objective of meeting the demands of the people the Government proliferated higher education.⁴⁸⁰

The Sadler University Commission brought lot of changes with regard to the affairs of University which included constituting authorities⁴⁸¹ and bodies⁴⁸² assigned with defined powers that would cater to the needs of larger area of people and the same was suggested by the Government of India to be implemented at the Provincial level.⁴⁸³ It will be pertinent to point out that the University Acts in India have adopted the recommendations given by the commission.⁴⁸⁴

The Central government under its control by issuing grants also tried to satisfy the urge of the religious communities to lay foundation of Universities in a town which led to building of Hindu Banaras University and Aligarh Muslim University.⁴⁸⁵

Education was again transferred to the Provincial Governments under 1919 Act⁴⁸⁶ where each of the Universities developed independently, but the quality was not up to the standard.⁴⁸⁷

3.3.6 Foundation stone for Law on Elementary Education in India

For the progress of the Nation there is a need to have a law on education, and that was realized in 1910 by Gopal Krishna Gokhale who put a step forward to introduce bill in the Imperial Legislative Council on elementary study which would be free and

⁴⁷⁹ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 81 (1960).

⁴⁸⁰ Education was brought under independent department and was transferred from Home Department in 1910. The budget and grants were considerably increased. *Id.* at 81 – 82.

⁴⁸¹ Chancellor and Vice Chancellor.

⁴⁸² University Court, Executive Council and Academic Council.

⁴⁸³ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 83 - 84 (1960).

⁴⁸⁴ The first university to accept and adopt the recommendations was Dacca University. Other higher educational institutions having followed it were Lucknow University established in 1920 with regard to Intermediate Educational course; Calcutta University with regard to its teaching and research in the development of post graduate study. *Id.* at 83 – 85.

⁴⁸⁵ These Universities were centers for specialised learning of Sanskrit and Arabic based on their establishment by religious communities. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 84 - 85 (1960).

⁴⁸⁶ Montagu-Chelmsford reforms.

⁴⁸⁷ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 88 - 89 (1960).

compulsory at the age of six to ten years.⁴⁸⁸ However, nothing materialized in this area as Gokhale withdrew his step and education in the same year was brought under the charge of Executive Council of Viceroy.⁴⁸⁹ As the urge to implement education at the elementary level was alive, in 1911 a fresh bill was introduced by Gokhale where he stressed to have elementary schooling compulsory, free and uniform in its implementation but the bill was rejected.⁴⁹⁰

It would be pertinent to note that gradually, barring the Presidencies of Bombay, Madras and Bengal, cost free education at the elementary level was inducted in other provinces.⁴⁹¹ There was a major change brought in the arena of primary education by 1913 Resolution of the Government, such as, preference was given to board schools over aided private schools; teachers imparting education were to be trained; pay scale and pupil teacher ratio was to be decided.⁴⁹²

Finally it was between 1917 – 32 Acts on Education were notified by Provincial Governments.⁴⁹³ Primary level education was made free and compulsory in Provincial areas and power was entrusted to District and Municipality Boards.⁴⁹⁴ An early step to bring into force Primary Education Act was taken by Bombay in 1918 for age group of six to eleven years of children.⁴⁹⁵

⁴⁸⁸ This education would be gender bias i.e. only for boys. Further, making it mandatory was to be left to the discretion of the local boards as these bodies finally had to manage the education funds in association with government in a specific ratio. SURESH CHANDRA GHOSH, *THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007* 137 - 138 (2009).

⁴⁸⁹ SURESH CHANDRA GHOSH, *THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007* 137 - 138 (3d ed. 2009).

⁴⁹⁰ This proposal included elementary level education for both genders. Also, local boards before making it mandatory in their respective areas had to seek prior approval of Viceroy and Governor. *Ibid.*

⁴⁹¹ T.N. SIQUEIRA, S.J., *MODERN INDIAN EDUCATION* 105 (1960).

⁴⁹² It was decided to have maximum 50 students per teacher. Changes were brought by implementing the Resolution in United, Central and North West Frontier Provinces and in Punjab and Bombay. T.N. SIQUEIRA, S.J., *MODERN INDIAN EDUCATION* 106 (1960); SURESH CHANDRA GHOSH, *THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007* 142 - 143 (3d. ed. 2009).

⁴⁹³ This step was taken as it was notified under the Government of India Act 1918. The Acts included Bengal Act No. IV of 1919; Punjab Act No. VII of 1919; United Provinces Acts No. IV of 1919; Madras Act No. VIII of 1920; Bihar and Orissa Act No. I of 1919; Central Provinces Act No. III of 1920; Assam Act No. V of 1926. T.N. SIQUEIRA, S.J., *MODERN INDIAN EDUCATION* 106 - 116 (1960).

⁴⁹⁴ T.N. SIQUEIRA, S.J., *MODERN INDIAN EDUCATION* 106 – 107 (1960).

⁴⁹⁵ *Ibid.*

3.4 Pre Independence Education in India

The Government of India Act 1935 empowered both Centre⁴⁹⁶ and State⁴⁹⁷ to administer education.⁴⁹⁸ Barring religion based Universities of Benares and Aligarh, education for Defence Forces and centrally administered regions were with federal administration, rest all matters relating to education was brought under provincial subjects which were under State supervision.⁴⁹⁹ Study was oriented in the direction of resolutions of Central Advisory Board of Education to prepare the students for general education followed by University level courses which would finally be in the direction of vocations.⁵⁰⁰ The education pyramid was structured at the lowest level for Primary, at the second stage Lower Secondary and top level Higher Secondary.⁵⁰¹

Mahatma Gandhi proposed the view of making students self-reliant through the scheme of Basic Education.⁵⁰² At Wardha the First Conference on National Education was convened in 1937, where it was resolved to impart free and compulsory primary education for a period of seven years; teaching was to be through mother tongue; educational course was also to cover the teacher's salary; Basic education was applicable to the age group of six to eleven at the junior level and twelve to fourteen at the senior level.⁵⁰³

The Gandhi scheme known as Wardha Scheme was perceived from the educational point of view and was implemented in seven provinces of British India where congress was in power.⁵⁰⁴ In few years the Congress lost its power in the provinces in India and a comprehensive scheme of National Education designed on the educational structure

⁴⁹⁶ This included the federal government.

⁴⁹⁷ This included the provincial government.

⁴⁹⁸ SURESH CHANDRA GHOSH, THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007 162 (3d ed. 2009).

⁴⁹⁹ *Ibid.*

⁵⁰⁰ Occupations included field of agriculture, teaching in rural regions and lower administrative work in both government and non-government sector. *Id.* at 162 – 163.

⁵⁰¹ *Supra* note 498.

⁵⁰² J.C. AGGARWAL, PROGRESS OF EDUCATION IN FREE INDIA (CURRENT PROBLEMS OF INDIAN EDUCATION) 79, 81 (1966).

⁵⁰³ *Id.* at 77 – 78.

⁵⁰⁴ SURESH CHANDRA GHOSH, THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007 165 - 166 (3d ed. 2009).

of contemporary England model was produced through Sargent Plan⁵⁰⁵ which was accepted by the Central Advisory Board on Education and published in 1944.⁵⁰⁶

The prominent areas of the Sargent plan were, education at the pre-primary level for the children of the age between three to six years; primary education that would be free and compulsory for age between six to fourteen years which was divided at two levels: for the age of six to eleven years at the junior basic study to be compulsory and further from twelve to fourteen years for the senior basic study for students who would drop pursuing high school education; special education for disabled class and provision of mid-day meals; high school study would be imparted in mother tongue, course of learning was to be gender equal and the curriculum would be divided into two parts which was to include arts, science at the academic forefront and commerce and industry related subjects at the technical level; intermediate courses were shunted; University activities that would be beneficial for the development and growth of industrial and commercial sector in India were to be coordinated by an All India body; focus was also on adult education between the age of 10-40 years for both genders; with regard to the teachers there were to be provision of training and pay scale was also to be decided accordingly; pupil teachers ratio at the school level of education was determined; induction of physical education was up till fourteen years; creation of employment avenues for students was through employment bureau; administration of education by departments was to be at the central and state level; University and Higher technical study was to be countered on All India basis and the Provincial level education was to be under supervision of provinces.⁵⁰⁷

By 1946 the Central Government proceeded to execute the 1944 plan and accordingly Provincial Government was directed to work out their 5 years programme.⁵⁰⁸ Immediately before India's independence there was progressive proliferation of literacy at the primary, secondary, University and even at the technical and professional level and expenditure on education also simultaneously increased.⁵⁰⁹

⁵⁰⁵ Sir John Sargent was the Advisor on Education to the Government of India who was the brain child behind the plan and he had kept a period of 40 years for its effective implementation in India.

⁵⁰⁶ SURESH CHANDRA GHOSH, *THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007* 170 (3d ed. 2009).

⁵⁰⁷ SURESH CHANDRA GHOSH, *THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007* 170 - 173 (3d ed. 2009).

⁵⁰⁸ *Id.* at 174 – 175.

⁵⁰⁹ *Id.* at 176.

Adult education was never realized in India till the outbreak of war but introductory knowledge in the area of agriculture, hygiene, animal husbandry, sanitation and related matters were to be given to workmen and farmers especially in rural villages.⁵¹⁰ At times government officials played the role of tutors to educate the villagers on certain prime issues of rural enhancement which was honorary.⁵¹¹ Nominal grants were sanctioned by the government for adult education unlike education for other levels.⁵¹² It was noted that the economic decline and poverty could be overcome only with education for which the nation had to be literate and with this adult literacy commenced.

3.5 Education post-independence in India – Modern Education

The literacy rate in 1947 was low in British India and eventually it started increasing.⁵¹³ In the year 1951 the literacy rate rose to 17.2 percent.⁵¹⁴ Primary education was better developed under the supervision of Department of Education of the Government than the local bodies which constituted boards and education councils during British India.⁵¹⁵ There was also an Assessment Committee constituted in 1955 to look into the matter of teacher training, course curriculum including the study material and other incidental matters.⁵¹⁶ Besides this to advise the Government for the betterment and expansion of education an All India Council for Elementary Education was also constituted.⁵¹⁷ Primary level was transformed to five or seven year of schooling.⁵¹⁸ The Government of India approved the concept of Basic education where learning ran parallel to other productive activities⁵¹⁹ and this course work of education was put forth by Mahatma Gandhi in 1937 under Wardha Scheme.⁵²⁰

⁵¹⁰ In 1904, Madras mills open night school for workers and that was an initiative of welfare committee. Further, in 1937 education centers for adults were established in Calcutta. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 127, 157 - 158 (1960).

⁵¹¹ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 157 - 158 (1960).

⁵¹² *Id.* at 159 – 160.

⁵¹³ SYED NURULLAH AND J.P. NAIK, A STUDENTS' HISTORY OF EDUCATION IN INDIA (1800 – 1965), (5 ed. 1964).

⁵¹⁴ GOVERNMENT OF INDIA, PLANNING COMMISSION, *1st Five Year Plan* (May, 13, 2021, 11.55 AM), <https://niti.gov.in/planningcommission.gov.in/docs/plans/planrel/fiveyr/index1.html>.

⁵¹⁵ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 125 (1960).

⁵¹⁶ *Id.* at 126.

⁵¹⁷ *Id.* at 127.

⁵¹⁸ *Supra* note 515.

⁵¹⁹ This includes Spinning and weaving, Carpentry, crafts, sewing and other such related activities.

⁵²⁰ *Supra* note 516.

The secondary education also reflected major change not only in the curriculum but also in terms of literacy rate. No doubt attempts were made by the Government of India not to restrict the education only to literary type but also to induct technical subjects in the study before students opted to pursue University learning.⁵²¹ However, structural change in the secondary education was possible due to the suggestions forwarded in 1953 by the Secondary Education Commission.⁵²² With a view to advise the Government for the betterment and expansion of education an All India Council of Secondary Education was also constituted.⁵²³ Subjects relating to vocational, technical, art, humanities were inducted in the course.⁵²⁴ English was no doubt an internationally recognised language but learning of two other languages was made mandatory which included the National language of the country and mother tongue.⁵²⁵

There were National level bodies constituted by the Government to address the secondary education which included National Council of Educational Research and Training (NCERT), Central Board of Secondary Education (CBSE), National Institute of Open Schooling (NIOS), Navodaya Vidyalaya Samiti (NVS), Kendriya Vidyalaya Sangathan (KVS) and Central Tibetan School Administration (CTSA).⁵²⁶ Schemes of Central government with regards to this education referred to the Scheme of Boarding and Hostel Facilities for Girl Students of Secondary and Higher Secondary Schools; Integrated Education for Disabled Children, Information and Communication Technology in Schools and Quality Improvement in Schools.⁵²⁷

With an objective to co-ordinate and determine the standards of higher learning an autonomous corporate body was constituted as University Grants Commission (UGC) upon the suggestion of University Education Commission.⁵²⁸ There were other institutes of higher learning besides Universities too.⁵²⁹ Simultaneously education in

⁵²¹ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 122 - 123 (1960).

⁵²² SYED NURULLAH AND J.P.NAIK, A STUDENTS' HISTORY OF EDUCATION IN INDIA (1800 - 1965) 388 - 389 (5h ed. 1964).

⁵²³ *Id.* at 390.

⁵²⁴ *Id.* at 389.

⁵²⁵ T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 124 (1960).

⁵²⁶ Dr. KULDIP KAUR, EDUCATION IN INDIA (1781 - 1985) POLICIES PLANNING AND IMPLEMENTATION, (Oct. 1985).

⁵²⁷ *Ibid.*

⁵²⁸ The Commission was constituted in 1953 by government of India and was given legal status under the Central law of University Grants Commission Act 1956. SYED NURULLAH AND J.P.NAIK, A STUDENTS' HISTORY OF EDUCATION IN INDIA (1800 - 1965) 383 (5h ed. 1964).

⁵²⁹ This included Indian Institute of Science at Bangalore, Jamia Millia at Delhi and others. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 120 (1960).

faculty of science also flourished along with post graduate study and this technical learning in 1958 was brought under All India Council for Technical Education.⁵³⁰ Education in remote areas was also indispensable and for the growth of rural institutes conferring Diploma and Certificate Courses, National Council for Higher Education in Rural Areas was constituted.⁵³¹

3.5.1 Commissions and National Policies on Education

With independence the Nation was on the move to restructure its educational foundation that would satisfy the country's needs and aspirations. It was imperative to lay emphasis on primary education as attempts were made not only by freedom fighters but also the masses in the pre independence era to make provision for free and compulsory elementary education. Hence, the Constitution that was adopted by Republic India on 26th January 1949 made an explicit provision under the Directive Principle of State Policy (DPSP) to provide education that would be free and compulsory to children upto the age of fourteen years in a period of ten years.⁵³² Thus, this was a determined State endeavour and the government was to attain this goal by 1960. Education in Republic India was a State subject then.

It is pertinent to note the Commissions constituted and the Education Policies framed by the government.

3.5.2 Radhakrishnan Commission

Along with education there were varieties of problems which the Government had to address. Considering the need for the socio economic development of the country, in 1948 Radhakrishnan Commission⁵³³ was appointed to review the University education which referred to higher studies.⁵³⁴

⁵³⁰ In 1951 the first post graduate institution was based at Khargpur which was the Indian Institute of Technology. Such institutes were later established in Bombay, Madras and other parts of India. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 120 (1960).

⁵³¹ The Council as body was set up upon the recommendation of UGC. T.N. SIQUEIRA, S.J., MODERN INDIAN EDUCATION 121 (1960).

⁵³² Article 45 prior to the Constitution (Eighty-Sixth Amendment) Act, 2002.

⁵³³ The Commission is also known as University Education Commission appointed under the chairmanship of Dr. S. Radhakrishnan.

⁵³⁴ MINISTRY OF EDUCATION, GOVERNMENT OF INDIA, THE REPORT OF THE UNIVERSITY EDUCATION COMMISSION (DECEMBER 1948 – AUGUST 1949), VOLUME I, (1962), <http://academics-india.com/Radhakrishnan%20Commission%20Report%20of%201948-49.pdf>.

The recommendations made by the Commission related to twelve years of study at the pre-university level; growth of research, change in courses and professional studies; increase in teacher's salary; student scholarships; induction of regional, federal and English languages; establishment of rural Universities for advancement of rural life; UGC to have more defined powers and duties; University degree to be made essential for administrative services and University education to be brought under Concurrent list.⁵³⁵

3.5.3 Central Planning Commission

In order to proceed with the future plans on education and the overall National development a Central Planning Commission was constituted in March 1950 by Government of India resolution to draw five year plans.⁵³⁶

The planning commission subsequently in the year 2015 was replaced by the National Institution for Transforming India (NITI Aayog) which is a premier policy of the Indian Government that strategizes long term policies and programmes.⁵³⁷

3.5.4 Mudaliar Commission

The Radhakrishnan Commission had put forth the view for development of University education based on restructuring of secondary education.⁵³⁸ In 1952 Mudaliar Commission⁵³⁹ was appointed for reviewing the secondary education and the recommendations of the commission included reduction of school course by 1 year i.e. from twelve to eleven years; setting Boards of secondary education to supervise secondary school examination which was earlier under the control of Universities; revise the higher secondary curriculum that would educate students not only in general subjects but also technology and to lay the foundation for students to pursue their further studies based on their talent, skill and aptitude.⁵⁴⁰

⁵³⁵ *Ibid.*

⁵³⁶ Government of India, Planning Commission, History, <https://niti.gov.in/planningcommission.gov.in/docs/aboutus/history/index.php?about=aboutbdy.htm> (last visited May, 13, 2021).

⁵³⁷ Government of India, NITI Aayog, <https://niti.gov.in/content/overview> (last visited May, 13, 2021).

⁵³⁸ *Supra* note 534.

⁵³⁹ This commission is also referred to as Secondary Education Commission which was constituted under the Chairmanship of Dr. A.L.Mudaliar.

⁵⁴⁰ MINISTRY OF EDUCATION, GOVERNMENT OF INDIA, REPORT OF THE SECONDARY EDUCATION COMMISSION, MUDALIAR COMMISSION REPORT 192 – 194 (OCTOBER

3.5.5 Kothari Commission and the 1968 Policy on Education

Though Radhakrishnan and Mudaliar Commission attempted to revitalize the educational skeleton, a national system of education was far from being achieved. Besides this there were other educational issues that had to be catered to such as, adult education and literacy as a whole. For the development of education at all stages and to advise the government on policies relating to education, in 1964, Kothari Commission⁵⁴¹ was appointed.

The report of the Commission completely reformed the educational set up. Few of the recommendations that reflected included quality and quantity education that would be accessible to all; inducting science as a subject in school curriculum; vocational study to be kept open to students of the age between eleven to sixteen years so also at the higher secondary level; general education was oriented to teach work experience, social service, love and respect towards Nation and develop the inner fundamental values of students; equal accessibility of children from all strata to common school system; learn all modern Indian languages; keeping in consonance with the education pertaining to languages as recommended by Radhakrishnan Commission, the Kothari Commission report retained study of three languages at lower educational level and two of these languages as compulsory subjects at the higher secondary stage; utilising the resources and making the educational facilities available for the students that had to be initiated by upgrading atleast one educational institution at all levels as a model case; uniformity in pay scales of teachers so that along with the services, best candidates from educational arena get attracted towards teaching vocation; secondary and higher secondary stage was to be 10+2 following the degree course of duration of minimum three years and part time courses of one year for drop outs of age eleven to fourteen years.⁵⁴²

1952 TO JUNE 1953), http://www.educationforallindia.com/1953%20Secondary_Education_Commission_Report.pdf.

⁵⁴¹ This was an Education Commission constituted under the chairmanship of Dr. D.S. Kothari when Union Minister for Education was M.C. Chagla.

⁵⁴² MINISTRY OF EDUCATION, GOVERNMENT OF INDIA, REPORT OF THE EDUCATION COMMISSION, EDUCATION & NATIONAL DEVELOPMENT 613 – 672 (1964-66), <https://archive.org/stream/ReportOfTheEducationCommission1964-66D.S.KothariReport/48.Jp-ReportOfTheEducationCommission1964-66d.s.kothari#page/n1/mode/2up>.

It was perceived by the Kothari commission that with effective imparting of education at all stages along with the enhancement of educational budget, there would be hike in the enrollment statistics.⁵⁴³ The report of the commission reflected education expenses to exceed six percent of the National income by year end of 1992 which was the Seventh Five Year Plan.⁵⁴⁴

Considering the deliberations and discussions on the Kothari Commission report before the Parliament and to keep up with the public expectations, the Government of India came up in 1968 with the First National Policy on Education.⁵⁴⁵ This policy on education did not keep up to the expectation of the masses and its implementation was formal with a very casual approach.

3.5.6 National Policy on Education 1986 and the Programme of Action 1992

The 1968 education policy remained active till birth of 1986 National Policy on Education. In 1990 Acharya Ramamurti committee reviewed the educational policy.⁵⁴⁶ Subsequently, the implementation of 1986 education policy along with Programme of Action was relooked at by P.V. Narasimha Rao government and a Revised Programme of Action 1992 was documented.⁵⁴⁷ Considering the existing developments in the field of education, new proposals were set up in the 1986 Educational policy.

The policy mentioned about learning, inclusive of early childhood care and education; focus need to be laid on universal quality elementary education and retention upto fourteen years of age; target years were set, as per the plan, by 1990, children of eleven years would have five years schooling and by 1995, there would be provision of free and compulsory education upto fourteen years of age.⁵⁴⁸ Secondary level study would be inclusive of innovations and vocational learning that would either follow secondary

⁵⁴³ MINISTRY OF EDUCATION, GOVERNMENT OF INDIA, REPORT OF THE EDUCATION COMMISSION, EDUCATION & NATIONAL DEVELOPMENT (1964-66), <https://archive.org/stream/ReportOfTheEducationCommission1964-66D.S.KothariReport/48.Jp-ReportoftheEducationCommission1964-66d.s.kothari#page/n1/mode/2up>.

⁵⁴⁴ *Ibid.*

⁵⁴⁵ National Policy on Education, 1968 (Apr., 24, 2021, 6.34 PM) http://mhrd.gov.in/sites/upload_files/mhrd/files/document-reports/NPE-1968.pdf.

⁵⁴⁶ Government of India, Department of Education, MHRD, National Policy on Education 1986 (As modified in 1992) (Apr., 24, 2021, 6.34 PM) http://mhrd.gov.in/sites/upload_files/mhrd/files/document-reports/NPE86-mod92.pdf.

⁵⁴⁷ SURESH CHANDRA GHOSH, THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007 205 (3d ed. 2009).

⁵⁴⁸ *Supra* note 546.

education or would be included in secondary curriculum itself and that, vocational study would train the students to accept specific vocations.⁵⁴⁹ Autonomous departments in Universities and autonomous colleges were to be promoted.⁵⁵⁰ Research related activities in any field specially science and technology or management to be encouraged; at the higher educational level, to set up Open University and Rural University to encourage and change rural education in tune with Gandhi's thinking; orientation of the education towards growth of industry and commerce, science and social environment; review examination system and emphasis were to be laid on value and physical education, library and books as source of learning besides other general subjects that would lead to progress of student.⁵⁵¹

The 1986 education policy emphasized on teacher's service conditions being the source of teaching; students service; institutional facilities and standards and lastly performance appraisal system of institutions as per the National and State level norms.⁵⁵²

With an objective to achieve a progressive development in educational arena Indian Constitution was amended in 1976 which transferred education subject from state list to concurrent list.⁵⁵³ This made the central and the state government accountable in managing the educational affairs for country's development in partnership with each other. Educational expenditure was to be carefully hiked till it uniformly exceeded six percent of the National Income.⁵⁵⁴

With the increase in the population there were challenging socio political issues faced by the country and that the 1986 policy failed to live to the needs and aspirations of the educated youth. The issues that needed to be tackled were unemployment, loss of ethics and values amongst educated youth and disintegration of democratic goals.

Pursuant to the 1986 policy there were myriad educational programmes at all levels that were implemented in India. The educational schemes included Operation

⁵⁴⁹ *Ibid.*

⁵⁵⁰ *Ibid.*

⁵⁵¹ *Ibid.*

⁵⁵² *Ibid.*

⁵⁵³ The Constitution (Forty – Second Amendment Act), 1976.

⁵⁵⁴ *Supra* note 546.

Blackboard⁵⁵⁵; restructuring and reorganization of Teacher Education⁵⁵⁶; setting up of District Institutes of Education and Training (DIET); mushrooming of Vocational and Technical study, establishment of Navodaya Vidyalaya schools in country, implementation of Non – Formal Education schemes; free education for girls upto higher secondary level was implemented by the government, at the higher educational level bodies like National Assessment and Accreditation Council (NAAC), National Council of Higher Education, National Council of Teacher education, All India Council of Technical Education were also established.⁵⁵⁷

Also, to vouch the universalization of study at the elementary stage, few of the Indian states⁵⁵⁸ took up the education projects with an objective of attaining female literacy especially in backward areas and for the outreach of primary education.⁵⁵⁹

3.5.7 National Education Policy (NEP) 2020

Keeping the commitment of the SDG4 Agenda, through NEP 2020 India seeks to achieve in the next ten year period, education that would be inclusive, equity based, and besides quality, would also support learning opportunities for life to all.⁵⁶⁰ This policy has been designed to target the unachieved aims of the preceding policy that emphasized more on access and equity.⁵⁶¹ Also the gap between the earlier and current policy saw the light of implementation of RTE 2009 statute that aims to achieve universalization of education at elementary stage.

The policy document focusses on creating skilled workforce, empowering teachers, promoting collaborative research, imparting knowledge on arts and humanities, as India

⁵⁵⁵ This scheme was initiated in 1987-88. It focuses on building infrastructural inputs in primary schools which is inclusive of teaching staff and teaching learning aid. Education for all in India, <https://educationforallinindia.com/operation-blackboard/> (last visited Aug., 7, 2021).

⁵⁵⁶ This scheme relates to providing teacher training programmes at the elementary and secondary school level and establishing training institutes which was launched in 1987. The scheme was revised under the Xth five year plan and subsequently in the year 2009. Government of India, Ministry of Education, Centrally Sponsored Scheme on Teacher Education, https://www.education.gov.in/en/scheme_te (last visited Aug., 7, 2021).

⁵⁵⁷ SURESH CHANDRA GHOSH, *THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007* 196 (3d ed. 2009).

⁵⁵⁸ Maharashtra, Karnataka, Tamil Nadu, Kerala, Madhya Pradesh and others.

⁵⁵⁹ SURESH CHANDRA GHOSH, *THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007* 206 (3d ed. 2009).

⁵⁶⁰ Government of India, MHRD, National Education Policy 2020 (Aug., 7, 2021 10:51 AM) https://www.education.gov.in/sites/upload_files/mhrd/files/NEP_Final_English.pdf.

⁵⁶¹ *Ibid.*

struggles to achieve the status of developed nation.⁵⁶² By revamping and revising the education system, it centers around learning through critical thinking, aligning education with employment and finally in building a good individual with values.⁵⁶³ Therefore, the policy gives education at all stages prime importance, right from early childhood care till the higher education.

The school level education would be restructured covering age group of three to eighteen years that would comprise following levels of study inclusive of foundation⁵⁶⁴, preparatory⁵⁶⁵, middle⁵⁶⁶ and secondary⁵⁶⁷; pupil teacher ratio to be implemented; drop outs to be curtailed; devise holistic curriculum; identify socio-economically disadvantaged groups (SEDGs) for an inclusive education; excellence in school education through self-assessment to be enforced at the school level are few of the highlights.⁵⁶⁸ The policy document has also emphasized on non-commercialization of education.⁵⁶⁹ Then, Higher education, teacher education, vocational education, adult education, induction of technology and research in educational stream, online education, raising the GDP to six percent on education as was decided during the 1968 education policy and empowering the bodies constituted at the state and the central level for effective operation of the policy are the other major indicators reflected in the policy document.⁵⁷⁰

3.6 Judicial Contribution towards Right to Education

The Indian Government has always prioritised education in the interest of Nation. The responsibility of the Government equally increased following the 1990 global declaration on basic education held at Jomtein, Thailand.⁵⁷¹ There is no doubt that every government tried to bring radical change in the education system of the country but the dream of the masses as committed in the constitutional pledge of Republic India turned

⁵⁶² *Ibid.*

⁵⁶³ *Ibid.*

⁵⁶⁴ This would include Preschool, Class I and II where the age group would be three to eight years.

⁵⁶⁵ This would include Class III to V where the age group would be eight to eleven years.

⁵⁶⁶ This would include Class VI and VIII where the age group would be eleven to fourteen years.

⁵⁶⁷ This would include Class IX and XII where the age group would be fourteen to eighteen years.

⁵⁶⁸ *Supra* note 560.

⁵⁶⁹ *Ibid.*

⁵⁷⁰ *Ibid.*

⁵⁷¹ For more details See, Chapter II subsection 2.5.1.

into reality when Supreme Court of India explicitly tried to bring Right to Education under Part III of the Indian Constitution.

In *Mohini Jain v. State of Karnataka and Ors.*⁵⁷², the Supreme Court observed and emphasized that the right to life under Article 21 of the Constitution of India comprises of the right to education and this assures dignity of an individual. The court held that, Article 41 that speaks of right to education should be made reality in the interest of the masses and for the realization of fundamental rights in the benefit of all, specially the illiterates, and further added that right to education is associated with the fundamental rights under Part III of the Constitution of India.⁵⁷³

The Five Judges Bench of Supreme Court in *Unni Krishnan, J.P. and Ors. v. State of Andhra Pradesh and Ors.*⁵⁷⁴, went a step further and held that, the fundamental right to education is part of Article 21 of the Constitution of India and this right of a citizen is not absolute as it is bound by Articles 45 and 41. Also, this right is freely available to every child or citizen until the age of fourteen years and at the subsequent age the right to pursue education is subject to economic capacity of the state.⁵⁷⁵

3.6.1 Move towards Right to Education

The government in power in India was determined to remain committed to universalisation of elementary education. In the year 1996 Saikia Committee was appointed under the chairmanship of Minister of State Education Muhi Ram Saikia and the committee in its report categorically mentioned the key to keep up the commitment by 2000 A.D.⁵⁷⁶ It was stated that to achieve the goal by the target year, parents and children have to be encouraged by government, support of community should be gathered and public opinion in this field is mandatory, besides making education compulsory.⁵⁷⁷ Further, the committee supported the proposal of the Government to amend the Indian Constitution thereby making elementary education upto fourteen

⁵⁷² A.I.R 1992 S.C. 1858 (India): 1992 S.C.R. (3) 658 (India).

⁵⁷³ *Ibid.*

⁵⁷⁴ A.I.R. 1993 2178 (India):1993 S.C.R. (1) 594 (India).

⁵⁷⁵ *Ibid.*

⁵⁷⁶ SURESH CHANDRA GHOSH, THE HISTORY OF EDUCATION IN MODERN INDIA 1757–2007 206 – 207 (3d ed. 2009).

⁵⁷⁷ *Ibid.*

years fundamental right.⁵⁷⁸ It was further added that a fundamental duty has to be incorporated in the Indian Constitution on the parents, as Indian Citizen, to provide opportunities of elementary education to such age group children.⁵⁷⁹ As the government collapsed the Bill on the subject introduced before the Parliament could not acquire legal sanctity.⁵⁸⁰

The 1998 Conference of the Ministry of Education in India suggested elimination of illiteracy supporting EFA through the aid of youth power; free and compulsory education upto fifth class; accessibility to education on principle of equality; focus on quality learning; provide financial support from government and non-government to satisfy the educational needs; implement educational reforms; support growth in the field of Information Technology.⁵⁸¹ However, the 1992 Revised Programme of Action was already in motion of implementation and expansion.⁵⁸² The government was also instrumental in establishing National Elementary Education Mission (NEEM), and the constitution of Commission on Elementary Education and National Information System on Education.⁵⁸³

The documentation of the 1998 conference also reflected the expenditure on education incurred by the Government to reach to the estimated six percent of GDP.⁵⁸⁴

3.6.2 Programmes on Elementary Education

Being a signatory to the Dakar Declaration in the year 2000, the government was compelled to march with its goal of universalization of elementary stage of education.⁵⁸⁵ Soon the first National flagship programme on elementary study was launched, referred to as SSA to keep in consonance with the EFA goal.⁵⁸⁶ The SSA

⁵⁷⁸ *Ibid.*

⁵⁷⁹ *Ibid.*

⁵⁸⁰ *Ibid.*

⁵⁸¹ *Id.* at 208 – 209.

⁵⁸² *Id.* at 209.

⁵⁸³ *Ibid.*

⁵⁸⁴ *Id.* at 218.

⁵⁸⁵ For more details See, chapter II.

⁵⁸⁶ KHUMTIYA DEBBARMA, FISCAL POLICY INSTITUTE, PROJECT REPORT, CHALLENGES IN IMPLEMENTATION OF RIGHT TO FREE AND COMPULSORY EDUCATION ACT, 2009, A CRITICAL ANALYSIS OF INDIA WITH SPECIAL FOCUS ON KARNATAKA 18 (2011) <https://fpibengaluru.karnataka.gov.in/storage/pdf-files/Academic%20reports/Khumtiya%20Debbarma%20-%20ORTE%20.pdf>.

programme provided the means of imparting elementary education to all children.⁵⁸⁷ It is a partnership programme between the government at the Central and the State level where 3/4th expenditure is borne by the Centre.⁵⁸⁸ The theme underlying the programme was quality education and community participation for improving the school based mechanism. Prior to SSA there were various programmes on elementary education, few of which are, District Primary Education Programme (DPEP)⁵⁸⁹, Mid-Day Meal Scheme (MDMS)⁵⁹⁰, Teacher Education Scheme⁵⁹¹, Janshala Programme⁵⁹² and Integrated education scheme for the disabled children⁵⁹³.

In the year 2004 Kasturba Gandhi Balika Vidyalaya (KGBV) was launched to emphasize learning in educationally backwards areas so as to enhance female literacy and to create gender balance.⁵⁹⁴ This programme has been beneficial to Scheduled Caste (SC), Scheduled Tribes (ST), Other Backward Castes (OBC) and minority girls who are devoid of education.⁵⁹⁵ Also there were schemes of National Programme for education of Girls at Elementary Level (NPEGEL) that were launched in July 2003 and

⁵⁸⁷ *Ibid.*

⁵⁸⁸ *Ibid.*

⁵⁸⁹ It is a National level programme that was launched in 1994 with an aim to achieve universal access to education for all. Districts in India where there was less female literacy were chosen for levying the programme. DIGUMARTI BHASKARA RAO, DISTRICT PRIMARY EDUCATION PROGRAMME 496 (1998) <https://www.edukalia.net/download/district-primary-education-programme/>.

⁵⁹⁰ This scheme was launched by the Centre in August 1995 titled as the National Programme of Nutritional Support to Primary Education (NP-NSPE) and revised in September 2004, then in July 2006 and further in April 2008 not only to back the universalisation of elementary education but also to enhance and develop the nutritional status of children of such age. The programme ensures enrollment, attendance and social equity amongst the children. The name of the scheme was changed from NP-NSPE to National Programme of Mid Day Meal in Schools in October 2007 as the ambit of the programme was extended to cover children of upper primary classes (from VI to VIII). Government of India, Department of School Education & Literacy, MHRD, Mid-Day Meal Scheme, <https://www.education.gov.in/en/mid-day-meal> (last visited Aug., 7, 2021).

⁵⁹¹ *Supra* note 556.

⁵⁹² It is a primary education programme for children from marginalized community, children with special needs and specially the girls. The programme started in 1998 and is an effort of Indian Government and UN agencies. Government of India, Department of Elementary Education & Literacy, MHRD, Janshala (Joint GOI – UN System Education) Programme, *A promising Start, Processes and Interventions of the Janshala Programme* (May, 31, 2021, 9.25 AM) http://www.newconceptinfo.com/sites/default/files/A_Promising_Start-Janshala.pdf.

⁵⁹³ The scheme was launched in 1974 by the Department of Social Welfare and was transferred to the Department of Education in 1982. It speaks of inclusive education for children with disability and their admission in regular schools. Scheme of Integrated Education for the Disabled children, <https://enabled.in/wp/scheme-of-integrated-education-for-the-disabled-children/> (last visited May, 31, 2021).

⁵⁹⁴ *Kasturba Gandhi Balika Vidyalaya* (May, 31, 2021, 11.17 PM) <http://www.upefa.com/upefaweb/KGBV//KGBVRevGL.pdf>.

⁵⁹⁵ *Ibid.*

made learning available and accessible to disadvantaged, backward and underprivileged girls.⁵⁹⁶

In order to make the secondary education accessible universally and to enhance its quality, a scheme was launched in 2009 referred to as Rashtriya Madhyamik Shiksha Abhiyan (RMSA).⁵⁹⁷ The scheme also seeks to achieve establishment of secondary schools, making compliance of prescribed norms mandatory for such schools, remove gender bias, other socio-economic barriers and by 2020 achieve universal retention.⁵⁹⁸ Further, even the quality of foundational learning of classes first and second was emphasized through the scheme Padhe Bharat Badhe Bharat.⁵⁹⁹

3.6.3 Right to Education as a Fundamental Right

The Constitution Eighty-third Amendment Bill 1997 on Right to free and Compulsory Education underwent changes and was reintroduced as Constitution Ninety-third Amendment Bill 2001 in the Parliament.⁶⁰⁰ This Bill became the Eighty-sixth Constitution Amendment Act 2002, where Article 21A was inserted below Article 21 of the Indian Constitution.⁶⁰¹ Article 21A entrusted responsibility on the State to enforce law that would implement the Right to Education of Children.⁶⁰²

Thus this Chapter mentions a whole lot of factors that have contributed towards the birth of Article 21 – A which in turn finally casted a compelling duty on the State to provide a law which led to the notification of RTE legislation.

⁵⁹⁶ Government of Odisha, Odisha School Education Programme Authority, NPEGEL, <http://osepa.odisha.gov.in/?p=submenupagecontent&pg=2> (last visited Aug., 7, 2021).

⁵⁹⁷ Government of India, Department of School Education & Literacy, MHRD, Rashtriya Madhyamik Shiksha Abhiyan (RMSA), <https://mhrd.gov.in/rmsa> (last visited Apr., 29, 2019).

⁵⁹⁸ *Ibid.*

⁵⁹⁹ The scheme was introduced on 26th August, 2014. GOVERNMENT OF INDIA, MINISTRY OF HUMAN RESOURCE DEVELOPMENT, 200 DAYS NEW VISION NEW APPROACH e-view https://mhrd.gov.in/sites/upload_files/mhrd/files/book.pdf.

⁶⁰⁰ KHUMTIYA DEBBARMA, FISCAL POLICY INSTITUTE, PROJECT REPORT, CHALLENGES IN IMPLEMENTATION OF RIGHT TO FREE AND COMPULSORY EDUCATION ACT, 2009, A CRITICAL ANALYSIS OF INDIA WITH SPECIAL FOCUS ON KARNATAKA 10-11 (2011) <https://fpibengaluru.karnataka.gov.in/storage/pdf-files/Academic%20reports/Khumtiya%20Debbarma%20-%20RTE%20.pdf>.

⁶⁰¹ *Ibid.*

⁶⁰² INDIA CONST. art. 21-A. Right to education. - The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

3.6.4 Concluding Statistical analysis on Right to Education

The First Five year plan reflected 17.2 percent to be the literacy rate.⁶⁰³ There was a major burden on the government considering the constitutional directive for attaining free and compulsory education within ten years from the adoption of the India Constitution. The different educational needs that were considered by the plan included re-orienting educational pyramid inclusive of basic, secondary, vocational and technical education; higher education for rural areas; expansion of women's education; teacher training and revision of their pay scales and monetary aid to backward states.⁶⁰⁴ Likewise there have been eleven more Five years plans structured on the socio economic development of the Nation.

In the years to come literacy increased from fifty two percent in 1991 to sixty five percent in 2001.⁶⁰⁵ The Tenth Plan focused on universalisation of elementary education.⁶⁰⁶ It is more so because the Central Programme of SSA was launched towards the end of Ninth Plan supporting universalisation of elementary education.⁶⁰⁷

From the year 1950 – 51 to 2004 – 05, educational institutions at the primary and upper primary, secondary and higher secondary level increased by 3.66 times and 20 times respectively.⁶⁰⁸ Similarly for the years 1950 – 51 to 2004 – 05, the GER at the elementary level of education which is inclusive of primary and upper primary stages increased from 31.1 percent to 93.5 percent respectively.⁶⁰⁹

Further the Eleventh Plan gave prime importance to education by addressing the issue of accessibility of education to all there by bringing societal equality and also catering to the yearning demands of growing economy.⁶¹⁰

⁶⁰³ *Supra* note 514.

⁶⁰⁴ *Ibid.*

⁶⁰⁵ GOVERNMENT OF INDIA, PLANNING COMMISSION, *Tenth Five Year Plan, 2002 – 2007*, Volume-II (May, 13, 2021, 11:55 AM), https://niti.gov.in/planningcommission.gov.in/docs/plans/planrel/fiveyr/10th/volume2/10th_vol2.pdf.

⁶⁰⁶ *Ibid.*

⁶⁰⁷ *Ibid.*

⁶⁰⁸ GOVERNMENT OF INDIA, DEPARTMENT OF HIGHER EDUCATION, STATISTICS DIV. MHRD, *SELECTED EDUCATIONAL STATISTICS II (2004-2005)*, <http://educationforallindia.com/SES2004-05.pdf>.

⁶⁰⁹ *Id.* at XIII.

⁶¹⁰ GOVERNMENT OF INDIA, PLANNING COMMISSION, *Eleventh Five Year Plan, 2007 – 2012*, Volume-I (June, 1, 2021, 8:27 PM), https://niti.gov.in/planningcommission.gov.in/docs/plans/planrel/fiveyr/11th/11_v1/11th_vol1.pdf.

The educational expenditure was 1.2 percent in the early 1950s which gradually increased in 2001-02 to 4.2 percent of GNP.⁶¹¹ The period of 2004-05 projected the educational expenses to be 3.3 percent of the GDP.⁶¹² With regard to budget allocation for education six percent of GDP was fixed by the Indian Government in all the Educational Policies of the country but the actual public expenditure on education is around 4.43 percent of GDP.⁶¹³

The Twelfth Year Plan has created a vision of attaining universalisation of primary education on account of SSA and RTE.⁶¹⁴ And that the, government through its subsequent national plans, attempts to improvise school education in tune with its central scheme and 2009 legislation.⁶¹⁵ In the subsequent Chapter IV legal provisions on Right to Education notified in India and the State of Goa will be discussed.

⁶¹¹ NATIONAL CENTER ON EDUCATION AND THE ECONOMY (NCEE), INDIA EDUCATION REPORT 13 (2005) <http://www.ncee.org/wp-content/uploads/2013/10/India-Education-Report.pdf>.

⁶¹² NATIONAL UNIVERSITY OF EDUCATIONAL PLANNING AND ADMINISTRATION, GOVERNMENT OF INDIA, MHRD, EDUCATION FOR ALL TOWARDS QUALITY WITH EQUITY 3 (2014), https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/EFA-Review-Report-final.pdf.

⁶¹³ *Supra* note 560.

⁶¹⁴ NATIONAL UNIVERSITY OF EDUCATIONAL PLANNING AND ADMINISTRATION, GOVERNMENT OF INDIA, MHRD, EDUCATION FOR ALL TOWARDS QUALITY WITH EQUITY 8 (2014), https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/EFA-Review-Report-final.pdf.

⁶¹⁵ GOVERNMENT OF INDIA, NITI AAYOG, INDIA THREE YEAR ACTION AGENDA (2017 – 18 TO 2019 – 20), https://niti.gov.in/sites/default/files/2018-12/India_ActionAgenda.pdf (last visited Aug., 7, 2021).

CHAPTER - IV

**CENTRAL
LEGISLATION ON
RIGHT TO EDUCATION
IN INDIA**

4. Introduction

There are myriad factors that have contributed in the journey of Right to Education in India. The Constitution of India since its inception has guaranteed this right to its people subject to certain limitations. The said right was worded *prima facie* as a non-justiciable right as a constitutional commitment under the DPSP⁶¹⁶ but it subsequently culminated as a fundamental right⁶¹⁷.

The steps towards universalization of elementary education was and has been taken by implementing the National Policy on Education 1986, the 1992 revised programme of action and the NEP 2020 too.⁶¹⁸ Meanwhile the Constitution Forty-second Amendment Act 1976 was a hallmark as Education subject was shifted from List II to List III, whereby Union Government in partnership with the State Government accepted a greater responsibility to build a literate India. There were several central as well as state level schemes on education that were implemented and are still active which aided in laying the foundation stone of elementary education in the country.⁶¹⁹ Introduction of Article 21 - A which identify the fundamental right of children to pursue education was laid down by Apex court in *Unni Krishnan, J.P. and Ors Etc v. State of Andhra Pradesh and Ors.*⁶²⁰ On the other hand India was globally committed to reach to the goal of universalisation of elementary education which boosted the progress of the journey of Right to Education in the country.⁶²¹

4.1 Constitutional Commitment for education

The preamble of the Constitution of India aims to secure through State one of the cherished objects of the Constitution and this is, socio, economic and political justice to the Indian citizens. The phraseology of Article 38 of the Constitution is worded in

⁶¹⁶ INDIA CONST. art. 45 prior to the (Eighty-sixth Amendment Act) of 2002: Provision for free and compulsory education for children The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

⁶¹⁷ *Supra* note 602.

⁶¹⁸ For details See, sub-chapter 3.5.6 and 3.5.7.

⁶¹⁹ For more details See, Chapter III.

⁶²⁰ A.I.R. 1993 2178 (India):1993 S.C.R. (1) 594 (India). Referred in *Society for Un-aided Private Schools of Rajasthan v. U.O.I. & Anr.* 2012 S.C. 236 (India).

⁶²¹ For more details See, Chapter II.

the direction of achieving this social justice, which can be attained only through education.⁶²²

The Constitution also casts an obligation on the State where, at the primary stage of study, the State shall endeavor to provide adequate facilities for instruction in the mother tongue, to children belonging to linguistic minority.⁶²³ However linguistic minority primary schools cannot be compelled by the State through the constitutional provision to choose the State mother tongue only as a medium of instruction as this would violate the fundamental right of minority communities to establish and administer educational institutions as guaranteed under Article 30(1) of the Indian Constitution.⁶²⁴

In 1992 by virtue of Seventy-third Amendment Act, eleventh Schedule was added to the Indian Constitution and the schedule constitutes twenty nine subjects inclusive of education, technical training and vocational education, adult and non-formal education.⁶²⁵

4.1.1 Education expressed through constitutional provisions

The then Indian Government in the year 1950 when Constitution of India was enforced, made a hopeful scenario for Indians to remove illiteracy by giving a timeframe of ten years by inducting Articles 41 and 45 in the Constitution.⁶²⁶ It was through these provisions that the State was obliged to ensure Right to Education and other rights for

⁶²² INDIA CONST. art. 38. State to secure a social order for the promotion of welfare of the people (1) The State shall strive to promote the Welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

⁶²³ INDIA CONST. art. 350 A.

⁶²⁴ State of Karnataka & Anr. v Associated Management of (Government Recognised Unaided English Medium) Primary & Secondary Schools & Ors. 2014 S.C. 1107 (India).

⁶²⁵ Eleventh Schedule (Article 243 G) (June, 9, 2021, 12.17 PM), <https://www.mea.gov.in/Images/pdf1/S11.pdf>.

⁶²⁶ INDIA CONST. art. 41. Right to work, to education and to public assistance in certain cases, The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of underserved want.
Supra note 616.

the people of India. For instance, any employment in hazardous occupation is prohibited for children below the age of fourteen years.⁶²⁷ Also, State is obliged through its policies to protect the child from any form of abuse and also not to compel its citizens to enter any employment that would not fit their age.⁶²⁸ In addition to this, keeping in view the freedom and dignity of a child, the State has to facilitate the child to develop in a healthy atmosphere free from any sort of exploitation.⁶²⁹ Thus such provisions speak in favour of children as vulnerable section of society.

4.1.2 Education and Fundamental Rights

It is pertinent to note that fundamental rights enshrined in Part III of the Indian Constitution cannot be appreciated nor enjoyed fully unless citizen is educated and is conscious of individualistic dignity. To mention about Article 14, its provisions envisages equality before law but paradoxical though permits rational discrimination.⁶³⁰ Special benefits conferred on particular person or group of persons for rational reasons satisfying test of reasonableness and classification is couched in the aspect of equality under the Indian Constitution. Thus the provision provides protection against any arbitrary, unfair and unjust state action which would amount to denial of right to equality.

Adhering to the principles of equality, Article 15(3) of the Constitution protects the interest of specific section of society through special provisions which a State is empowered to make and implement for women and children.⁶³¹ Further, the said Article also permits the state to take affirmative steps and measures for the advancement of socially and educationally backward classes and economically weaker sections of citizens.⁶³² The Ninety-third and 103rd Amendment Act of 2005 and 2019 respectively,

⁶²⁷ INDIA CONST. art. 24.

⁶²⁸ INDIA CONST. art. 39, cl. (e).

⁶²⁹ INDIA CONST. art. 39, cl. (f).

⁶³⁰ INDIA CONST. art. 14. Equality before law The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

⁶³¹ INDIA CONST. art. 15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

⁶³² INDIA CONST. art. 15, cl. (4) Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

further added clauses to the said Article where special provisions can be made by State in the interest of the aforementioned classes for securing their admission in all educational institutions except minority institutions.⁶³³ Bombay High Court in *St. Xaviers College and Ors. case*⁶³⁴ quashed the circular issued by the University to implement the Maharashtra Government reservation policy which provided 50% reservation of seats for students of backward classes for admission in minority colleges. The circular was held to be violative of Article 30(1) read with Article 15(5) of the constitution.⁶³⁵

Provision that would promote the educational and economic interests of weaker sections of the people so as to protect them from any kind of social injustice was already inducted by the founding fathers in Article 46 Part IV of the Constitution.⁶³⁶

Right to choose the medium of instruction at the primary level in schools falls within the purview of freedom of speech and expression, and is available to the child or on his behalf his parent or guardian under Article 19(1)(a), but not under Article 21 or 21A of the Constitution, was held by the Constitution bench in *Associated Management Unaided Schools Case*.⁶³⁷ The concept of education was brought within the purview of

⁶³³ INDIA CONST. art. 15, cl. (5). Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30. See, *Ashok Kumar Thakur v. Union of India* (2008) 6 S.C.C. 1 (India); *Pramati Educational and Cultural Trust v. Union of India* 2014 S.C. 166 (India).

INDIA CONST. art. 15, cl. (6). Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making,

- (a) any special provision for the advancement of any economically weaker section of citizens other than the classes mentioned in clauses (4) and (5); and
- (b) any special provision for the advancement of any economically weaker section of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten percent of the total seats in each category.

⁶³⁴ *St. Xaviers College and Ors. v. University of Mumbai and Ors.* 2017 BOM 619 (India).

⁶³⁵ *Ibid.*

⁶³⁶ INDIA CONST. art. 46. Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

⁶³⁷ *Supra* note 624.

term occupation in Article 19(1)(g) and occupation constitutes running of an educational establishment was held in *T.M.A. Pai Foundation & Ors. v. State of Karnataka & Ors.*⁶³⁸

The court recognized education as the head of the charity and thereby brought the term education within the purview of charitable purposes under Article 26(a) in *T.M.A Pai Case*.⁶³⁹ It was further added that as Articles 29(1) and 30(1) gives right under special categories to establish and maintain religious and educational institutions, the rest inclusive of the majority religious community would have this right under Article 26(a) of the Indian Constitution.⁶⁴⁰ Also, Articles 29 and 30 deal with the educational and cultural rights of the specific section of citizens and minorities. The court further stated, the right to conserve the language, script or culture through education by setting up of educational institutions is given by virtue of Article 29 to any section of citizens irrespective whether they belong to minority or majority religion & Article 30(1) envisages that religious and linguistic minorities have right to establish and administer educational institutions of their choice.⁶⁴¹ However the right to administer which includes managing and conducting the affairs of the institution under Article 30(1) will not include right to mal-administer and therefore can be regulated by the State and such regulatory measures must be reasonable and must not distort the minority character of the educational institution and further the compliance of these measures is mandatory for grant of or retaining the affiliation or recognition and also for the excellence in the standards of education.⁶⁴²

For children studying in class first to fourth, medium of instruction in mother tongue as a condition for recognition of minority, as well as private unaided schools violates their fundamental rights under Articles 29(1) & 30(1) and 19(1)(g) respectively of the Indian

⁶³⁸ 2002 8 (S.C.C.) 481 (India). See also, *Modern Dental College & Research Centre & Ors. v. State Of Madhya Pradesh & Ors.* 2016 4 (M.L.J.) 62 (India).

⁶³⁹ 2002 8(S.C.C.) 481 (India). See also, *State of Bombay v. R.M.D. Chamarbaugwala*, A.I.R. 1957 S.C. 699 (India).

⁶⁴⁰ *T.M.A. Pai Foundation & Ors. v. State of Karnataka & Ors.* 2002 8(S.C.C.) 481 (India).

⁶⁴¹ *Ibid*; See, *Kerala Education Bill Case* 1958 S.C. 230 (India); See also observations made by the Supreme Court in *State of Kerala, Etc. v. Very Rev. Mother Provincial, Etc* (1971) 1 S.C.R. 734 (India); *D.A.V. College Case* 1971 (Supp.) S.C.R. 688 (India).

⁶⁴² See, *Kerala Education Bill Case* 1958 S.C. 230 (India); In *T.M.A.Pai Foundation & Ors vs State Of Karnataka & Ors* 2002 8(S.C.C.) 481 (India). See also *Modern Dental College & Research Centre & Ors. v. State Of Madhya Pradesh & Ors.* 2016 4 (M.L.J.) 62 (India).

Constitution was held by the Apex Court in *Associated Management Unaided Schools Case*.⁶⁴³

The court in *T.M.A. Pai case*⁶⁴⁴ interpreted Article 29(2) that allows admission on merit to citizens which would be non-minority class to a reasonable extent in state maintained or aided educational institutions whether established by the government or the majority or minority community on grounds only of religion, race, caste or language.⁶⁴⁵ However, the Apex court disapproved the ceiling of 50% intake affixed in *St. Stephens case*⁶⁴⁶ for admitting the minority community in aided minority educational institutions and held that the seats allocated for minority community students shall depend upon the type of the institution and the nature of education but there has to be due compliance of the regulations to promote academic excellence and standards and inter se merit among the eligible minority community students.⁶⁴⁷

The Supreme Court in *Islamic Academy of Education Case*⁶⁴⁸ further organized the merit based admission procedure of the students in minority and non-minority unaided professional colleges by empowering the permanent committee⁶⁴⁹ to be constituted by each of the State governments as directed by the court, and the said committee was to remain in force till appropriate laws were enacted by legislature.⁶⁵⁰ Selection of the students on merit through the common entrance test conducted by the State for admission in private unaided professional educational institutions does not violate citizens right under Article 19(1)(g) of the Indian Constitution was held in *Modern*

⁶⁴³ *Supra* note 624.

⁶⁴⁴ 2002 8(S.C.C.) 481 (India).

⁶⁴⁵ See *State of Madras v. Srimathi Champakam Dorairajan* (1951) S.C.R. 525 (India); *D.A.V. College Case* 1971 (Supp.) S.C.R. 688 (India).

⁶⁴⁶ *St. Stephen's College v. The University of Delhi* A.I.R. 1992 S.C. 1630 (India).

⁶⁴⁷ Supreme Court in *T.M.A. Pai case* said that at the school level it may be possible to admit students of minority group but at the higher level especially when the educational institution is aided, the constitutional rights under Articles 29(2) and 30 have to be adhered.

⁶⁴⁸ *Islamic Academy of Education v. State Of Karnataka and Ors.* (2003) 6 S.C.C. 697 (India).

⁶⁴⁹ The committee was to ensure holding of the common entrance tests in fair and transparent manner by the association of colleges which were of particular type in the State. There was also another option where test was to be conducted at the State level by the State itself. The committee checked the admission procedure and if required was to increase the community quota allotted by the State government to the unaided professional educational institutions. Based on merit, the management of the institution was also given discretion by having their quota for admitting the students in such institutions. Without due interference of the State with the institutional autonomy, merit based admission was to be considered as a condition for grant of recognition of such educational institutions.

⁶⁵⁰ The centralized entrance test decision expressed in *Islamic Academy case* overruled holding of admission tests at the institutional level by the minority unaided professional educational institutions. Also affirmed in *P.A. Inamdar & Ors. v. State Of Maharashtra & Ors.* 2005 S.C. 614 (India).

Dental College Case.⁶⁵¹ It can be noted that, the Apex Court left the decision to the state to support the cause of education of financially or socially backward sections of the society through the system of reservations.⁶⁵²

The court in *Islamic Academy case*⁶⁵³ empowered the state government to decide the seat quota inclusive of management quota for the admission of the students taking into consideration the needs of the locals and also minority community, but a holding that the reservation policy cannot be enforced by the state nor there could be appropriation of seat quota by the state as this would contradict *T.M.A. Pai Case*⁶⁵⁴ was categorically expressed by the Apex Court in *P.A. Inamdar* decision.⁶⁵⁵ However, Ninety-third Amendment Act to the extent where Article 15 of the Indian Constitution provided for reservation in colleges overruled the *P.A. Inamdar*⁶⁵⁶ decision. Appropriation of seats was held to be not a regulatory measure being violative of Article 30(1) as it encroached the right and autonomy of the unaided professional educational institutions and neither could it be coined as a reasonable restriction within Article 19(6) of the Indian Constitution the court added.⁶⁵⁷ But Minority educational institutions were granted freedom to admit students of their choice upholding the minority educational institution status and the admission procedure would be purely transparent and merit based.⁶⁵⁸

It was in *T.M.A. Pai case*⁶⁵⁹ the Apex Court harmoniously constructed Articles 29(2) and 30(1) of the Indian Constitution and added that intake of students belonging to linguistic minority of a unit which is a State, to a reasonable extent has to be ensured by the aided linguistic minority educational institution established in the state. Article 30(2) is clear to the fact that conditions for the grant or non-grant of the aid have to be uniformly applied to all educational institutions whether run by majority or minority,

⁶⁵¹Modern Dental College & Research Centre & Ors. v. State Of Madhya Pradesh & Ors. 2016 4 (M.L.J.) 62 (India).

⁶⁵² *Supra* note 648.

⁶⁵³ *Ibid.*

⁶⁵⁴ *Supra* note 640.

⁶⁵⁵ *P.A. Inamdar & Ors. v. State Of Maharashtra & Ors.* 2005 S.C. 614 (India).

⁶⁵⁶ *Ibid.*

⁶⁵⁷ *Ibid.*

⁶⁵⁸ This would include students from non-minority community and minority community students from other states. *Ibid.*

⁶⁵⁹ *Supra* note 640.

therefore State cannot deny aid to minority institution on the ground that management of that institution is with the minority.⁶⁶⁰

The Apex Court in *T.M.A. Pai case*⁶⁶¹ has gone to the extent to hold that all citizens which includes the majority as well as minority community have a right to establish, maintain and administer educational institutions under Articles 19(1)(g) and religious denominations too of both communities have this right under Article 26, but this right is subject to the provisions of Articles 19(6) and 26(a) respectively, and minorities under Article 30 have this right specifically.

4.2 Apex Court Directive towards education as a right

No doubt the public at large dreamt to have literate India by 1960 but the dream never turned into reality until the Apex Court in *Miss Mohini Jain v. State of Karnataka and Ors*⁶⁶² stated that, Articles 41 and 45 under Chapter IV of the Indian Constitution even though are non-justifiable rights, they are not mere pious declarations and were therefore to be brought in action for the governance of the country.⁶⁶³

4.2.1 Judgments pronounced by Supreme Court

Every citizen's right to education has been affirmed by the Supreme court under the Constitution of India.⁶⁶⁴ *Mohini Jain Case*⁶⁶⁵ emphasized on individuals dignity which is absolute, and the Apex court held that, the said dignity has to be respected and protected for which the duty is cast on the State, and that, education is the only means to develop personality which assures dignity. It was held through this decision that, the right to education flows directly from right to life under Article 21 of the Indian Constitution and only education can promise dignified enjoyment of life.⁶⁶⁶

⁶⁶⁰ *Supra* note 640 and 646.

⁶⁶¹ *Supra* note 644.

⁶⁶² *Supra* note 572.

⁶⁶³ For details See, sub-chapter 3.6.

⁶⁶⁴ *Miss Mohini Jain v. State of Karnataka and Ors.* AIR 1992 S.C. 1858 : 1992 S.C.R. (3) 658 (India).

⁶⁶⁵ *Ibid.*

⁶⁶⁶ *Ibid.*

Further, State government is obliged to provide educational facilities at all stages to the citizens.⁶⁶⁷ It was through this judgment that the bench went a step ahead and emphatically pointed out that the right to education lying as a non-enforceable right must be laid under Chapter III as a fundamental right so that the right in reality can be recognized and availed by the masses.⁶⁶⁸

However, The Apex Court in *Unni Krishnan, J.P. and Ors. v. State of Andhra Pradesh and Ors.*⁶⁶⁹ proceeded to resolve the issue pertaining to citizens right to free education as a fundamental right. The court went on to say that, even though the right is not expressly stated in Chapter III of the Constitution but is implicit therein and flows from right to life guaranteed by Article 21 of the Constitution and is subject to certain restrictions.⁶⁷⁰

Therefore a citizen cannot be deprived of right to education by the State except in accordance with procedure established by law.⁶⁷¹ However, the Supreme Court in the said case expressed that, there is no fundamental right to education for professional degree that flows from Article 21 of the Constitution.⁶⁷²

Further, it was also held that resort to Articles 41, 45 and 46 would aid in constructing Article 21 of the Constitution of India and that, the State is obliged to follow the directives under Articles 41 and 45, for this right is available up to fourteen years of age and thereafter pursuing education is subject to limits of economic capacity and development of the State.⁶⁷³

4.3 Placement of Education in Constitution in 2002

Unfortunately the decision pronounced in *Mohini Jain Case*⁶⁷⁴ and *Unni Krishnan case*⁶⁷⁵ watered down in the Eighty-sixth Amendment Act 2002 of the Indian

⁶⁶⁷ *Ibid.*

⁶⁶⁸ *Ibid.*

⁶⁶⁹ *Supra* note 574.

⁶⁷⁰ *Ibid.*

⁶⁷¹ *Ibid.*

⁶⁷² *Ibid.*

⁶⁷³ *Ibid.*; See also *T.M.A.Pai Foundation & Ors. v. State Of Karnataka & Ors.* 2002 8(S.C.C.) 481 (India).
For more details on Articles under Indian Constitution See, sub-chapter 4.1.1 and 4.1.2.

⁶⁷⁴ *Supra* note 664.

⁶⁷⁵ *Unni Krishnan, J.P. and Ors. v. State of Andhra Pradesh and Ors* AIR 1993 2178:1993 S.C.R. (1) 594 (India).

Constitution where Article 21A evidenced the right of education that would be free and compulsory limiting it to age group of six to fourteen years instead of zero to fourteen years. Even the employment of children in circuses were to be prohibited being violative of the fundamental right guaranteed under Article 21A, for which the Supreme Court directed the Central Government to take steps in that direction by issuing a relevant notification.⁶⁷⁶

Article 45 in Chapter IV of the Constitution was also amended under the Eighty-sixth Amendment Act of 2002 to provide early childhood care and education to children below six years of age. Further the said Amendment sought to add an additional clause to Fundamental Duties where, the parent or guardian are obliged to provide opportunities for education to his child or ward between the age of six and fourteen years.⁶⁷⁷

However, the phraseology of Article 21-A added a qualification that the fundamental right expressed therein would be determined by a follow up consequential legislation which compelled the legislature to enact a central law in August 2009, that was brought into force on 1st April 2010 referred to as RTE Act.

4.4 Legislation on Education in State of Goa

For better organization and development of school education, the year of 1984 witnessed the passing of The Goa, Daman and Diu School Education Act and, the legislation was assented by the President of India on 1st June 1985.

The State of Goa had also enacted, The Goa Compulsory Elementary Education Act, 1995 which has been brought into force from 5th September 1996 with an objective of implementing the provisions of compulsory elementary education in the State.⁶⁷⁸

Further, in accordance with the central law i.e. RTE Act in force, the State of Goa also framed the Goa Right of Children to Free and Compulsory Education Rules, 2012 that was brought into force in the same year.

⁶⁷⁶ Bachpan Bachao Andolan v. Union of India and Ors. 2011 S.C. 431 (India).

⁶⁷⁷ INDIA CONST. art. 51A, cl. (k).

⁶⁷⁸ Government of Goa, Directorate of Education, <http://education.goa.gov.in/> (last visited June. 14, 2019).

The organization, development and regulation of school education is dealt at the Directorate of Education headed by the Director⁶⁷⁹ in State of Goa.⁶⁸⁰ The State is further divided into three educational zones⁶⁸¹ for educational purposes namely Central, Northern and Southern Zone⁶⁸² and the Deputy⁶⁸³ Director of Education heads each one of them.⁶⁸⁴

4.5 Central law on Right to Education

The RTE Act 2009 comprehensively reflects the motto of holistic development of a child by laying the edifice of a child centric school free of fear, trauma and anxiety that would provide quality based education. This education would be freely available without any discrimination and distinction as to caste, creed, gender or disability and can be pursued by children of the age group of six to fourteen years. In addition to this the education would also be compulsory.

The duty to implement this Act effectively is the dual responsibility of Central as well as the State Government and the monitoring agencies thereunder. In *M/s. Dabhol Educational Society Case*⁶⁸⁵ the Bombay High Court has observed that there has to be compliance of RTE Act and the State rules for opening of schools and that the State or competent authority shall give due regard to the statutory provisions.

⁶⁷⁹ The Goa, Daman and Diu School Education Act, 1984, No. 15, 1985, sec. 2, cl. (f). “Director” means the Director of Education, Government of Goa, Daman and Diu, and includes any other officer authorised by him to perform all or any of the functions of the Director under this Act.

The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 2, cl. (g). “Director” means the Director of Education of the Directorate of Education of the Government of Goa.

⁶⁸⁰ *Supra* note 13. For details See, sub-chapter 1.4.

⁶⁸¹ The Goa, Daman and Diu School Education Rules, 1986, rule 2, cl. (m). “Zone” means the Educational region or an Educational District comprising the areas in Goa, Daman and Diu, specified by the Director of Education in this behalf, for the purposes of organisation, supervision, inspection and control of schools located therein.

The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 2, cl. (p).

⁶⁸² *Ibid.*

⁶⁸³ The Goa, Daman and Diu School Education Rules, 1986, rule 2, cl. (l). “Zonal Education Officer” means Dy. Education Officer or any other education officer, in charge of a Zone or a District.

The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 2, cl. (f). “Deputy Director” means the Deputy Director of Education or any other officer with whatever designation, in charge of a Zone.

⁶⁸⁴ *Supra* note 13.

⁶⁸⁵ *M/s. Dabhol Educational Society and Ors. v. The State of Maharashtra and Ors.* 2016 BOM 664 (India).

The Supreme Court in *Society for Unaided Private schools of Rajasthan v. Union of India*⁶⁸⁶ and subsequently in *Pramati Educational & Cultural Trust and Ors. v. Union of India & Ors.*⁶⁸⁷ declared the RTE Act as constitutionally valid but restricted the applicability of the statute in certain cases which has been discussed further in the Chapter. In *Pramati Educational & Cultural Trust and Ors v. Union of India & Ors*⁶⁸⁸, the court justified saying that RTE legislation was enacted in consequence of the independent power conferred by virtue of Article 21 A of the Constitution on the State.

The Chapter herein below discusses the key provisions of the Act and the Central and the State Rules made thereunder.

4.5.1 Provisions relating to Child and Parent/Guardian

A male or female of the age of six to fourteen years is a child.⁶⁸⁹ A child belonging to the SC, ST, socially and educationally backward class would fall within the ambit of child belonging to disadvantaged group.⁶⁹⁰ The RTE Act was amended to include a child with disability⁶⁹¹ within the meaning of child belonging to disadvantaged group.⁶⁹² However, the definition is not exhaustive as the appropriate government⁶⁹³ is

⁶⁸⁶ 2012 S.C. 236 (India).

⁶⁸⁷ 2014 S.C. 166 (India).

⁶⁸⁸ *Ibid.*

⁶⁸⁹ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 2, cl. (c).

⁶⁹⁰ *Id.*, sec. 2, cl. (d).

⁶⁹¹ The Right of Children to Free and Compulsory Education (Amendment) Act, 2012, No. 30, 2012, sec. 2, cl. (ee). "child with disability" includes, -

(A) a child with disability as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;

(B) a child, being a person with disability as defined in clause (j) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;

(C) a child with severe disability as defined 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.

Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 is repealed by 'Rights of Persons with Disabilities Act 2016', which was notified on 28th December 2016 and was brought into force on 19th April 2017.

The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, No. 44, 1999, sec. 2, cl. (j). "Persons" with disability" means a person suffering from any of the conditions relating to autism, cerebral palsy, mental retardation or a combination of any two or more of such conditions and includes a person suffering from severe multiple disability;

The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999, No. 44, 1999, sec. 2, cl. (o) "Severe disability" means disability with eighty percent or more of one or more of multiple disabilities.

⁶⁹² *Supra* note 690.

⁶⁹³ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 2, cl. (a). "appropriate Government" means -

empowered to declare by notification any other group within the meaning of child belonging to disadvantaged group, provided they are having disadvantage owing to social, cultural, economic, geographical, linguistic, gender or such other factor.⁶⁹⁴ In exercise of this power, the Government of Goa has declared differently abled child as child belonging to disadvantaged group.⁶⁹⁵

The Apex Court in *Naz Foundation (India) Trust Case*⁶⁹⁶ directed the State Governments and Union Territories to include the children living with or affected by HIV to be notified under disadvantaged group of the RTE law. The Government of Goa in compliance with the Supreme Court Order issued a notification accordingly.⁶⁹⁷ The definition also includes a child belonging to the weaker section provided the annual income of the parent or guardian of the child is lower than one lakh.⁶⁹⁸

The parent of a child as per the statute is natural or step or adoptive father or mother of the child.⁶⁹⁹ A person having the care and custody of the child is the child's guardian.⁷⁰⁰ The definition also includes natural guardian or guardian appointed or declared by a court or a statute.⁷⁰¹

4.5.2 Provisions relating to Elementary Education

Education from Class first to Class eighth is referred to as elementary education.⁷⁰² This stage is divided into primary and upper primary level which comprises class first to

-
- (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 –
 - (iii) (A) a State, the State Government;
 - (B) a Union territory having legislature, the Government of that Union territory.

⁶⁹⁴ *Supra* note 690.

⁶⁹⁵ Notification DE/RTE/EWS/2013/PART-I, SERIES I No. 24, Official Gazette-Govt. of Goa, 11th September, 2014. (Aug., 11, 2019, 7.46 PM), https://www.education.gov.in/sites/upload_files/mhrd/files/upload_document/Goa_DDWS.pdf.

⁶⁹⁶ *Naz Foundation (India) Trust v. Union of India & Ors.* LNINDORD 2017 S.C. 8430 (India).

⁶⁹⁷ Notification DE/PLG/RTE/2009/Amendment-Rule/2017-18/1356, SERIES I No. 25, Official Gazette-Govt. of Goa, 21st September, 2017.

⁶⁹⁸ Notification DE/RTE/EWS/2013/PART-I, SERIES I No. 24, Official Gazette-Govt. of Goa, 11th September, 2014. (Aug., 11, 2019, 7.46 PM), <https://www.education.goa.gov.in/sites/default/files/1-Inclusion-of-HIV-affected-children-RTE-Act-2009.pdf>.

The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 2, cl. (e).

⁶⁹⁹ *Id.*, sec. 2, cl. (k).

⁷⁰⁰ *Id.*, sec. 2, cl. (g).

⁷⁰¹ *Ibid.*

⁷⁰² The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 2, cl. (f).

fourth and class fifth to eighth respectively.⁷⁰³ It is the duty of the appropriate government⁷⁰⁴ to provide education at the elementary level to every child that would be free and compulsory.⁷⁰⁵ The provision shall apply to those schools that are under the control of appropriate government⁷⁰⁶ or local authority^{707, 708}.

The appropriate government⁷⁰⁹ is also duty bound to ensure that the child belonging to weaker section and disadvantaged group are not prevented from pursuing and completing study at the elementary stage;⁷¹⁰ provide school infrastructure;⁷¹¹ ensure quality elementary study that confirms the norms and standards specified in the schedule of the central law.⁷¹² Compulsory education would mean free elementary education; ensuring and monitoring children's admission, attendance and completion of the elementary study.⁷¹³

4.5.3 Provisions relating to Schools

Prima facie it is pertinent to discuss the definition of School⁷¹⁴ under the Act which speaks of any school that is recognized and imparts elementary level of education. The definition further reflects the following classification:

(i) A school under the control of the appropriate Government⁷¹⁵ or local authority⁷¹⁶;

⁷⁰³ The Goa Right of Children to Free and Compulsory Education Rules, 2012, sec. 2, cl. (l) and sec. 2, cl. (o).

⁷⁰⁴ *Supra* note 693.

⁷⁰⁵ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 8, cl. (a).

⁷⁰⁶ *Supra* note 693.

⁷⁰⁷ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 2, cl. (h). "local authority" means a Municipal Corporation or Municipal Council or Zila Parishad or Nagar Panchayat or Panchayat, by whatever name called, and includes such other authority or body having administrative control over the school or empowered by or under any law for the time being in force to function as a local authority in any city, town or village.

⁷⁰⁸ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 8, cl. (a). The appropriate Government shall – provide free and compulsory elementary education to every child: Provided that where a child is admitted by his parents or guardian, as the case may be, in a school other than a school established, owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government or a local authority, such child or his or her parents or guardian, as the case may be, shall not be entitled to make a claim for reimbursement of expenditure incurred on elementary education of the child in such other school.

⁷⁰⁹ *Supra* note 693.

⁷¹⁰ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 8, cl. (c).

⁷¹¹ *Id.*, sec. 8, cl. (d).

⁷¹² *Id.*, sec. 8, cl. (g).

⁷¹³ *Id.*, sec. 8, cl. (a) Explanation and sec. 8, cl. (f).

⁷¹⁴ *Id.*, sec. 2, cl. (n).

⁷¹⁵ *Supra* note 693.

⁷¹⁶ *Supra* note 707.

- (ii) An aided⁷¹⁷ school;
- (iii) A specified category⁷¹⁸ school; and
- (iv) An unaided⁷¹⁹ school.

Post decision of the Supreme Court in *Society for Unaided Private schools of Rajasthan v. Union of India*⁷²⁰, the RTE Act was amended thereby limiting the applicability of the Act subjecting it to Articles 29 and 30 under Chapter IV of the Indian Constitution.⁷²¹ This means that RTE provisions so far as do not transgress the rights conferred on minorities to the extent of establishment and administration shall apply to minority educational institutions. Also, Madrasas, Vedic Pathshalas and educational institutions imparting religious instructions are exempted from the purview of the Act.⁷²²

It was through the aforementioned judgment⁷²³ the Apex Court excluded unaided minority schools from the ambit of the Act. The court held that the obligation on unaided non-minority schools to admit 25% children in Class I, is a reasonable restriction on the non-minority's right to establish and administer an unaided educational institution under Article 19(6) of the Indian Constitution.⁷²⁴ It was further added that section 12(1)(c)⁷²⁵ of the RTE law does not violate Article 14 of the Indian Constitution.⁷²⁶ However, the RTE Act and in specific, sections 12(1)(c)⁷²⁷ and section 18(3) violates the right conferred on minorities under Article 30(1) when it comes to

⁷¹⁷ The expenses of such school is met by aid or grants given by the Government.

⁷¹⁸ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 2, cl. (p). "specified category", in relation to a school, means a school known as Kendriya Vidyalaya, Navodaya Vidyalay, Sainik School or any other school having a distinct character which may be specified, by notification, by the appropriate Government.

Schools established, managed and administered by the Central Tibetan Schools Administration, Government of India have also been categorized as specified category schools. MHRD, Department of School Education and Literacy, Notification, (Apr., 29, 2019, 8.26 PM), https://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/17.pdf.

⁷¹⁹ No aid or grants is received by such schools from the Government.

⁷²⁰ *Supra* note 686.

⁷²¹ The Right of Children to Free and Compulsory Education (Amendment) Act, 2012, No. 30, 2012, sec. 1, sub-sec. (4).

⁷²² *Id.*, sec. 1, sub-sec. (5).

⁷²³ *Society for Unaided Private Schools of Rajasthan v. Union of India*, 2012 S.C. 236 (India).

⁷²⁴ *Ibid.*

⁷²⁵ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 12, sub-sec. (1). For the purposes of this Act, a school, - (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 25% 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.

⁷²⁶ *Supra* note 723.

⁷²⁷ *Supra* note 725.

unaided minority schools.⁷²⁸ On the other hand the Act would apply to aided minority schools.⁷²⁹

Through *Pramati*⁷³⁰ Judgment the Court further narrowed the scope of the RTE legislation by excluding from its purview aided minority schools. The verdict of the court was clear to the fact that the Act so far as it applies to all minority schools violates Article 30(1) of the Constitution.⁷³¹ Sections 12(1)(b)⁷³² read with section 2(n)(ii) and section 12(1)(c)⁷³³ read with section 2(n)(iv) of the Act imposed a legal obligation on aided and unaided educational institutions to admit children belonging to weaker sections and disadvantaged groups in such schools who need not be children of the members of the minority community which has established the school.⁷³⁴ Considering that religious and linguistic minorities have a constitutional right expressed under Article 30(1), the Court specified that the State is not empowered to interfere with the administration of the minority institutions.⁷³⁵ Except regulatory measures imposed by the State, such educational institutions cannot be forced to admit students from amongst non-minority communities as this would affect the minority character of the institutions.⁷³⁶

⁷²⁸ *Supra* note 723.

The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 18, sub-sec. (3). On the contravention of the conditions of recognition, the prescribed authority shall, by an order in writing, withdraw recognition.

⁷²⁹ *Supra* note 723.

⁷³⁰ *Pramati Educational & Cultural Trust & Ors. v. Union of India & Ors.* 2014 S.C. 166 (India).

⁷³¹ *Ibid.*

⁷³² The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 12, sub-sec. (1). For the purposes of this Act, a school, - (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.

⁷³³ *Supra* note 725.

⁷³⁴ *Supra* note 730.

The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 2, cl. (n). “school” means any recognized school imparting elementary education and includes –
(ii) An aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or local authority.

The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 2, cl. (n). “school” means any recognized school imparting elementary education and includes –
(iv) an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority.

⁷³⁵ *Supra* note 730.

⁷³⁶ *Ibid.*

In *Pramatis case*⁷³⁷ the court ruled that the statute does not transgress Article 19(1)(g) of the Constitution. Further, private non-minority schools right under Article 19(1)(g) of the Constitution is neither violated by Article 21A nor by the RTE Act.⁷³⁸ The court in this connection said that section 12(1)(c)⁷³⁹ read with section 2(n)(iv) obliges the unaided schools to follow the reservation policy.⁷⁴⁰

Section 12(2) of the RTE Act directs the State to fund the expenses incurred by unaided schools in providing free and compulsory education for children belonging to weaker section and disadvantaged group.⁷⁴¹ Such admissions reflect only a small percentage of seats to achieve the constitutional goals expressed in the Preamble of the Indian Constitution concerning equality, opportunity and social justice and hence does not violate Article 19(1)(g).⁷⁴²

4.5.4 Provisions relating to School Recognition

The RTE statute does not specifically define the term recognition. However, it is mandatory for the schools established or functioning from 1st April 2010, except Government schools to obtain a certificate of recognition.⁷⁴³ The certificate is granted by the District Education Officer under the Central Rules or by the Deputy⁷⁴⁴ Director under Goa RTE Rules, subject to the applicant school fulfilling the norms and standards

⁷³⁷ *Ibid.*

⁷³⁸ *Ibid.*

⁷³⁹ *Supra* note 725.

⁷⁴⁰ *Supra* note 730.

The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 2, cl. (n). “school” means any recognized school imparting elementary education and includes –
(iv) an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority.

⁷⁴¹ *Supra* note 730.

The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 12, sub-sec. (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.

⁷⁴² *Supra* note 730.

⁷⁴³ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 18, sub-sec. (1).

⁷⁴⁴ The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 2, cl. (f). “Deputy Director” means the Deputy Director of Education or any other officer with whatever designation, in charge of a Zone.

specified under the schedule.⁷⁴⁵ This provision is also applicable to schools established prior to 1st April 2010, where the RTE Act 2009 gave a deadline to such schools and

⁷⁴⁵ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 18, sub-sec. (2).

The Right of Children to Free and Compulsory Education Rules, 2010, rule 15. Recognition to school.

(1) Every school, other than a school established, owned or controlled by the Central Government, appropriate Government or the local authority established before the commencement of this Act shall make a self declaration within a period of three months of the commencement of the Act, in Form No. 1 to the concerned District Education Officer regarding its compliance or otherwise with the norms and standards specified in the schedule and fulfillment of the following conditions, namely:-

a) The school is run by society registered under the Societies Registration Act, 1860, or a public trust constituted under any law for the time being in force;

b) The school is not run for profit to any individual, group or association of individuals or any other person;

c) The school conforms to the values enshrined in the Constitution;

d) The school buildings or other structures or the grounds used only for the purposes of education and skill development;

e) The school is open to inspection by any officer authorized by the appropriate Government or the local authority;

f) The school furnishes such reports and such information as may be required from time to time and complies with such instructions of the appropriate Government or the local authority as may be issued to secure the continued fulfillment of the condition of recognition or the removal of deficiencies in working of the school.

(2) Every self-declaration received in Form I shall be placed by the District Education Officer in public domain within fifteen days of its receipt.

(3) The District Education Officer shall, within three months of the receipt of the self-declaration, cause on-site inspection of such schools which claim in Form No. 1 to fulfill the norms and standards and the conditions mentioned in sub-rule (1).

(4) After the inspection referred to in sub-rule (3) is carried out, the inspection report shall be placed by the District Education Officer in public domain and schools found to be conforming to the norms, standards and the conditions shall be granted recognition by the District Education Officer in Form No. 2 within a period of fifteen days from the date of the inspection.

(7) Every school, other than a school established, owned or controlled by the Central Government, appropriate Government or local authority, established after the commencement of this Act shall conform to the norms and standards and conditions mentioned in sub- rule (1) in order to qualify for recognition under this rule.

The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 10. Recognition to school.

(1) Every school, other than a school established, owned or controlled by the Government or local authority, established before the commencement of this Act shall make a self-declaration within a period of 6 months from the date of commencement of these Rules, in Form I hereto to the Deputy Director of the concerned Zone giving details regarding its compliance with the norms and standards specified in the Schedule to the Act and fulfilment of the following conditions, namely: —

(a) whether the school is run by a society registered under the Societies Registration Act, 1860 (Central Act 21 of 1860), or a public trust constituted under any law for the time being in force;

(b) the school is not run for profit to any individual, group or association of individuals or any other persons;

(c) the school conforms to the values enshrined in the Constitution;

(d) the school buildings or other structures or the grounds are used only for the purposes of education and skill development;

(e) the school is open to inspection by any officer authorized by the Government or the local authority;

(f) the school furnishes such reports and such information as may be required by the Director of Education or Deputy Director of Education from time to time and complies with such instructions of the Government or the local authority as may be issued to secure the continued fulfillment of the condition of recognition or the removal of deficiencies in working of the school.

(2) The Deputy Director or any other officer authorized by him in this behalf shall, within three months of the receipt of the self-declaration, conduct on-site inspection of such schools which claim

that they were to meet the requirements under the norms and standards by the year 2013 at their own expense.⁷⁴⁶

The norms and standards specified herein above constitute the following,- number of teachers from class first to fifth;⁷⁴⁷ and class sixth to eighth;⁷⁴⁸ school building that can

to fulfill the norms and standards specified in the Schedule to the Act and the conditions mentioned in sub-rule (1).

(3) After the inspection referred to in sub-rule (2) is carried out, the inspection report shall be placed by the Deputy Director in public domain and only the reports of schools which found to be conforming to the norms and standards specified in Schedule to the Act shall be granted Certificate of Recognition in Form III hereto within a period of thirty days from the date of such inspection.

The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 11. Certificate of Recognition. — (1) After the commencement of the Act, every school other than a school to be established, owned or controlled by the Government or the local authority, shall be established only after obtaining a Certificate of Recognition from the Deputy Director, by making an application in Form II hereto to the Deputy Director, along with declaration in Form I hereto.

(2) A Certificate of Recognition in Form III hereto shall be issued by the Deputy Director within a period of thirty days from the date of receipt of application referred to in sub-rule (1) above, after satisfying himself that such school fulfils the norms and standards specified in the Schedule to the Act and a declaration as stated in rule 10 has been obtained from such school.

⁷⁴⁶ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 19, sub-sec. (2).

The Right of Children to Free and Compulsory Education Rules, 2010, rule 15. Recognition to school.

(5) Schools that do not conform to the norms, standards and conditions mentioned in sub-rule (1) shall be listed by the District Education Officer through a public order to this effect; such schools may request the District Education Officer for an on-site inspection for grant of recognition at any time within the next two and a half years, so that period does not exceed three years from the commencement of the Act.

The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 10. Recognition to school. (4) Schools which do not conform to the norms and standards specified in the Schedule to the Act within three years from the appointed date shall cease to function and recognition, if any, granted shall be withdrawn as per the provisions of sub-section (3) of section 19 of the Act.

⁷⁴⁷ The schedule appended to The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009. Norms and Standards for a School

Admitted Children	Number of teachers
Up to sixty	Two
Between sixty-one to ninety	Three
Between ninety-one to one hundred and twenty	Four
Between one hundred and twenty-one to two hundred	Five
Above one hundred and fifty children	Five plus one head teacher
Above two hundred children	Pupil teacher ratio (excluding head teacher) shall not exceed forty.

⁷⁴⁸ The schedule appended to the Right of Children to free and compulsory Education Act, 2009, No. 35, 2009. Norms and Standards for a School

(1) At least one teacher per class so that there shall be at least one teacher each for –

- i) Science and mathematics;
- ii) Social studies;
- iii) Languages.

(2) At least one teacher for every thirty-five children.

(3) Where admission of children is above one hundred –

- i) A full time head-teacher;
- ii) Part time instructors for –

- A) Art education;
- B) Health and physical education;

withstand all weather with a boundary wall or fencing;⁷⁴⁹ minimum one class room for every teacher; office cum store cum head teacher's room; barrier free access; separate toilets for boys and girls;⁷⁵⁰ safe and adequate drinking water facility;⁷⁵¹ kitchen for cooking mid-day meal;⁷⁵² playground;⁷⁵³ ensuring security of the school building by boundary wall or fencing; minimum number of working days/instructional hours in an academic year;⁷⁵⁴ minimum number of working hours per week for the teacher;⁷⁵⁵

C) Work education.

⁷⁴⁹ Government of Goa, Directorate of Education, *Security Measures in School Premises*, Circular No. Acad/Misc/2011/2013-14/255 dated Jan, 1, 2013 at point No. 7 (May, 17, 2019, 5.45PM), http://education.goa.gov.in/sites/default/files/Cir_SecurityMeasures.pdf.

⁷⁵⁰ Government of India, MHRD, Department of School Education and Literacy, *Water, Sanitation and Hygiene under Swachh Vidyalaya Campaign in Schools – reg.*, No. F.27-41/2016-EE.16 dated Oct., 24, 2016, (May, 20, 2019, 11.37 PM), https://mhrd.gov.in/sites/upload_files/mhrd/files/school-sanitation.pdf.

⁷⁵¹ Government of India, MHRD, Department of School Education and Literacy, *Swachh Vidyalaya Campaign – Provision for drinking water facility in government schools in the country – compliance of RTE Act, 2009 provisions*, dated Oct., 6, 2016, (May, 20, 2019, 11.37 PM), https://mhrd.gov.in/sites/upload_files/mhrd/files/school-sanitation.pdf.

⁷⁵² Work of Cooking is allotted by the Government of Goa to Self Help Groups or Mahila Mandals in case of Government and Government aided schools. For more details See, Government of Goa, Directorate of Education, Mid Day Meal Scheme, <http://education.goa.gov.in/mdms> (last visited May, 20, 2019).

See, National Programme of Nutritional Support to Primary Education, 2006 (Mid-Day Meal Scheme)

Guidelines,http://mdm.nic.in/mdm_website/Files/Guidelines/10.FINAL_Guidelines_MDM_19_sept.pdf (last visited May, 20, 2019).

For more details See, Government of India, MHRD, Department of School Education and Literacy, *Guidelines for engagement of Voluntary Organisation/Non-Government Organisations (NGOs) under Mid Day Meal Scheme*, No. F.1-7/2010-Desk (MDM), dated Sep., 8, 2010, (May, 20, 2019, 12:36 PM) http://mdm.nic.in/mdm_website/Files/Guidelines/3.MDM1%2021.09.2010.pdf.

⁷⁵³ The Government of India has not made it mandatory for the school management to provide playground facility within school premises. If adequate arrangements are made in an adjoining playground/municipal park, etc. for sports and other physical activities of school children then it would be considered as sufficient compliance. Government of India, MHRD, Department of School Education and Literacy, *Requirement of playgrounds specified under Schedule to the Right of Children to Free and Compulsory Education (RTE) Act, 2009-reg.*, F.No. 1-15/2010-EE 4 (Pt.), dated Oct., 26, 2012, (Ap., 29, 2019, 11:37 AM), https://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/41_0.pdf.

⁷⁵⁴ The schedule appended to the Right of Children to free and compulsory Education Act, 2009, No. 35, 2009. Norms and Standards for a School

i) Two hundred working days for first class to fifth class;

ii) Two hundred and twenty working days for sixth class to eighth class;

iii) Eight hundred instructional hours per academic year for first class to fifth class;

iv) One thousand instructional hours per academic year for sixth class to eighth class.

⁷⁵⁵ The schedule appended to the Right of Children to free and compulsory Education Act, 2009, No. 35, 2009. Norms and Standards for a School

Forty-five teaching including preparation hours.

teaching learning equipment to each class as required; library;⁷⁵⁶ play material, games and sports equipment to each class as required.⁷⁵⁷

As far as Mid-Day meals are concerned, Central kitchens are established in rural or urban areas of the state where food is cooked and served to schools students.⁷⁵⁸ Upholding the State government resolutions issued for making specific improvements in the Mid-Day Meal Scheme of Government of India, the Bombay High Court in *Raje Shivsai Mahila Bachat Gat case*⁷⁵⁹ directed the State to constitute an independent machinery of experts or expert agencies for the periodical supervision of the central kitchens in urban areas to ensure clean and hygienic quality food.⁷⁶⁰ Thus the State Government was directed that neither the teacher nor the headmaster in the schools shall be deployed for any work relating to implementation of the scheme as such deployment⁷⁶¹ is prohibited under the RTE Act.⁷⁶²

The Apex Court in *Avinash Mehrotra's Case*⁷⁶³ directed the time bound mandatory implementation of the National Disaster Management Guidelines on School Safety Policy, 2016, framed by the National Disaster Management Authority (NDMA). The guidelines are statutory in nature which ensures safety of children in schools was stated by the Supreme Court.⁷⁶⁴ In *Environment and Consumer Protection Foundation v.*

⁷⁵⁶ The schedule appended to the Right of Children to free and compulsory Education Act, 2009, No. 35, 2009. Norms and Standards for a School

There shall be a library in each school providing newspapers, magazines and books on all subjects, including story books.

⁷⁵⁷ Government of India, MHRD, Department of School Education and Literacy, *Guidelines on safety and security of children*, D.O.No.10-11/2014-EE.4, dated Oct., 9, 2014, (Apr., 29, 2019, 12:05 AM) https://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/20141014_131513.pdf.

See also, Government of India, MHRD, Department of School Education and Literacy, *Quality and Safety Aspects*, D.O.No.32-5/2014-RMSA-I, dated July, 28, 2014, (Apr., 29, 2019, 12:05 AM) https://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/20141014_131513.pdf.

⁷⁵⁸ *Raje Shivsai Mahila Bachat Gat and Ors. v. State of Maharashtra and Ors.* 2014 BOM 443 (India).

⁷⁵⁹ *Ibid.*

⁷⁶⁰ Other duties that were assigned to the independent machinery included: testing the food quality at frequent intervals through selected laboratories; surprise checks; tasting food every day before serving the students etc.

⁷⁶¹ This would include visits to central kitchens; tasting the food and maintaining the registers.

⁷⁶² *Supra* note 758.

⁷⁶³ *Avinash Mehrotra vs Union Of India*, LNINDORD 2017 SC 13043 (India).

⁷⁶⁴ *Ibid.* For more details See, NATIONAL DISASTER MANGAMENT AUTHORITY, GOVERNMENT OF INDIA, NATIONAL DISASTER MANAGEMENT GUIDELINES – SCHOOL SAFETY POLICY (Feb., 2016) , https://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/Guidelines_feb.pdf. See also, Government of India, MHRD, Department of School Education and Literacy, D.O.No. 15-17/2017-Sch.4 dated Sep., 1, 2017, (Apr., 30, 2019, 8:17 AM), https://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/Letter_rte.pdf. See also, National

*Delhi Administration and Ors.*⁷⁶⁵ the Apex Court directed the states to provide the school infrastructural facilities⁷⁶⁶ for complete implementation of RTE Act within stipulated period from the date of the judgment and these directions were made applicable to all schools whether state owned, private, aided or unaided, minority or non-minority. The Bombay High Court in *Sindhudurg Zilla Shikshan Sanstha Chalak Mandal and Ors. Case*⁷⁶⁷ stated that it is a settled principle that minority educational institutions are not only governed and controlled by the State but their establishment and permission to function falls within the framework of the statute and the State circulars/Government resolutions issued from time to time. It was held that the staffing pattern of such aided institutions reflecting under the schedule of the RTE Act does not affect the rights of the minority institutions.⁷⁶⁸ It was observed by the Court that uniformity demands maintaining educational standards and staffing pattern adopted by the State would be equally applicable to regulate minority institutions as per the law.⁷⁶⁹

Any school recognized can also be derecognized by an order in writing by the District Education Officer under the Central Rules or by the Deputy⁷⁷⁰ Director under Goa RTE Rules, with the prior approval of the appropriate Government⁷⁷¹, provided the recognition conditions are violated by the school authorities.⁷⁷² In such a case school

Disaster Management Authority, *National Disaster Management Guidelines on School Safety Policy*, (May, 23, 2019, 7:12 PM), <http://www.education.goa.gov.in/sites/default/files/NDMA.pdf>.

See, Government of Goa, Directorate of Education, Circular, *Regarding National Disaster Management Guidelines Safety Policy*, No. Acad/Misc/Pt.fileIII/2014-15/2401, dated Oct., 30, 2017, (May, 23, 2019, 7:08 PM), <http://www.education.goa.gov.in/sites/default/files/National-Disaster-Management-Guidelines-Safety-Policy.pdf>.

⁷⁶⁵ 2012 SC 1067 (India).

⁷⁶⁶ The facilities included toilet for boys and girls, drinking water provision, sufficient class rooms, teaching and non-teaching staff etc. to be provided within six months from 3rd October 2012.

⁷⁶⁷ *Sindhudurg Zilla Shikshan Sanstha Chalak Mandal and Ors. v. The Union of India and Ors.* 2015 BOM 853 (India).

⁷⁶⁸ *Ibid.*

⁷⁶⁹ *Ibid.*

⁷⁷⁰ *Supra* note 744.

⁷⁷¹ *Supra* note 693.

⁷⁷² The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 18, sub-sec. (3) and sec. 19, sub-sec. (3).

The Right of Children to Free and Compulsory Education Rules, 2010, rule 16. Withdrawal of recognition to school.

(1) Where the District Education Officer on his own motion, or on any representative received from any person, has reason to believe, to be recorded in writing, that a school recognized under rule 15, has violated one or more of the conditions for grant of recognition or has failed to fulfill the norms and standards specified in the Schedule, the District Education Officer shall act in the following manner,-

a) Issue a notice to the school specifying the condition of grant of recognition and seek its explanation within one month.

becomes defunct.⁷⁷³ Procedure prescribed under the RTE law and the state rules made thereunder has to be followed for withdrawal of recognition of private schools, was held by the Bombay High Court in *Parwatidevi Apang Shikshan Case*.⁷⁷⁴ Before derecognizing any school fair hearing principles have to be adhered and the order of derecognition must contain a direction as to which of the neighbourhood school, children studying in derecognized school can be admitted.⁷⁷⁵ This protects the right to education of children, despite shunting of the school when derecognized.

b) In case the explanation is not found to be satisfactory or no explanation is received within the stipulated time period, the said Officer may cause an inspection of the school, to be conducted by a Committee of three to five members comprising of educationists, civil society representatives, media, and government representatives, which shall make due inquiry and submit its report, along with its recommendations for continuation of recognition or its withdrawal, to the said Officer.

c) On receipt of the report and recommendations of the Committee, the said Officer may pass order for withdrawal of recognition.

Provided further that no such order shall be passed by the said Officer without prior approval of the appropriate Government.

The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 12. Withdrawal of recognition to schools.—

(1) Where the Deputy Director on his own motion, or on any representation received from any person, has reason to believe that a school recognized under rules 10 or 11 has contravened the conditions of recognition, he shall issue a notice to such school specifying the contravention of the conditions of recognition and seek its explanation within thirty days from the date of receipt of such notice.

(2) In case the explanation is not found to be satisfactory or no explanation is received within the said period, the Deputy Director may cause an inspection of such school through a committee of three members comprising of an educationist, a civil society representative and a Government representative, which shall make an inquiry and submit its report, along with its recommendations for continuation of recognition or its withdrawal, to the Deputy Director.

(3) On the contravention of the conditions of recognition, the Deputy Director shall, be an order in writing, withdraw recognition:

Provided that no order for withdrawal of recognition shall be passed by the Deputy Director without giving the school adequate opportunity of being heard:

Provided further that no such order shall be passed by the Deputy Director without prior approval of the Government.

⁷⁷³ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 18, sub-sec. (4) and sec. 19, sub-sec. (4).

The Right of Children to Free and Compulsory Education Rules, 2010, rule 15. Recognition to school. (6) Schools which do not conform to the norms, standards and conditions mentioned in sub-rule (1) within three years from the commencement of the Act, shall cease to function.

The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 10. Recognition to school.

(4) Schools which do not conform to the norms and standards specified in the Schedule to the Act within three years from the appointed date shall cease to function and recognition, if any, granted shall be withdrawn as per the provisions of sub-section (3) of section 19 of the Act.

See, Directorate of Education, Government of Goa, *Inventory of closed Government Primary/Secondary/Higher Secondary Schools*, dated July 2013, (May, 20, 2019, 8:13 PM), http://education.goa.gov.in/sites/default/files/Inventory_Closed_GovtSchools_0.pdf.

⁷⁷⁴ *Parwatidevi Apang Shikshan Va Prashikshan Prasarak Mandal & Ors. v. The State of Maharashtra & Ors.* 2014 AUG 93 (India).

⁷⁷⁵ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 18, sub-sec. (3).

The Right of Children to Free and Compulsory Education Rules, 2010, rule 16. Withdrawal of recognition to school.

Certificate of recognition is indispensable for schools to function and those schools that are established or run without certificate or after withdrawal of certificate are subjected to pecuniary penalty.⁷⁷⁶ However for prosecuting the concerned school, prior sanction of the authorized officer appointed by the appropriate Government⁷⁷⁷ is mandatory.⁷⁷⁸

In *Sau Laxmibai Shantaram Doke Samajvikas Prathisthan Case*⁷⁷⁹ it was held by the Bombay High Court that part of sections 18(1), 18(5), 19(1) and 19(5) of the Act to the extent that schools without certificate of recognition are disallowed from being established or functioned, are not ultra-vires Article 19(1)(g) of the Indian Constitution and section 19(2) of the RTE Act.⁷⁸⁰

(1) (c) On receipt of the report and recommendations of the Committee, the said Officer may pass order for withdrawal of recognition.

Provided that no order for withdrawal of recognition shall be passed by the said Officer without giving the school adequate opportunity of being heard.

(2) The order of withdrawal of recognition passed by the said Officer shall be operative from the immediately succeeding academic year and shall specify the neighbourhood schools to which the children of that school shall be admitted.

The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 12. Withdrawal of recognition to schools.—

(3) On the contravention of the conditions of recognition, the Deputy Director shall, by an order in writing, withdraw recognition:

Provided that no order for withdrawal of recognition shall be passed by the Deputy Director without giving the school adequate opportunity of being heard:

Provided further that no such order shall be passed by the Deputy Director without prior approval of the Government.

(4) The order of withdrawal of recognition shall be operative from succeeding academic year. The order shall specify the neighbourhood schools to which the children studying in such de-recognised school shall be admitted.

⁷⁷⁶ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 18, sub-sec.

(5). Any person who establishes or runs a school without obtaining certificate of recognition, or continues to run a school after withdrawal of recognition, shall be liable to fine which may extend to 1 lakh rupees and in case of continuing contraventions, to a fine of 10,000 rupees for each day during which such contravention continues.

The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 19, sub-sec.

(5). Any person who continues to run a school after the recognition is withdrawn, shall be liable to fine which may extend to 1 lakh rupees and in case of continuing contraventions, to a fine of 10,000 rupees for each day during which such contravention continues.

⁷⁷⁷ Supra note 693.

⁷⁷⁸ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 36. No prosecution for offences punishable under sub-section (5) of section 18 and sub-section (5) of section 19 shall be instituted except with the previous sanction of an officer authorized in this behalf, by the appropriate Government, by notification.

⁷⁷⁹ *Sau Laxmibai Shantaram Doke Samajvikas Prathisthan v. The State of Maharashtra*, 2012 AUG 550 (India).

⁷⁸⁰ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 19, sub-sec.

(2). Where a school established before the commencement of this Act does not fulfill the norms and standards specified in the Schedule, it shall take steps to fulfill such norms and standards at its own expenses, within a period of three years from the date of such commencement.

4.5.5 Provisions relating to Capitation Fee

Any amount collected besides the school notified fee would fall within the purview of capitation fee as per the RTE Act.⁷⁸¹ The Supreme Court has coined capitation fee as price for selling education.⁷⁸² Class bias is emphatically projected when capitation fee is levied, and education goes beyond the reach of the poor, was stated by the Apex Court in *Mohini Jain Case*.⁷⁸³ Capitation fee cannot be collected by school or person, while admitting a child.⁷⁸⁴ Such statutory violation attracts penalty.⁷⁸⁵ However for prosecuting the school or the concerned person, prior sanction of the authorized officer appointed by the appropriate Government⁷⁸⁶ is mandatory.⁷⁸⁷

The Goa School Education Act, 1984 makes it mandatory for the Manager⁷⁸⁸ of every unaided recognized school to file before the Director⁷⁸⁹ for approval, a full statement of the fees along with the charges levied.⁷⁹⁰ This statement has to be filed before the beginning of the academic session and no school shall charge any excess fee than that specified.⁷⁹¹

⁷⁸¹ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 2, cl. (b). “capitation fee” means any kind of donation or contribution or payment other than the fee notified by the school.

⁷⁸² *Supra* note 664.

⁷⁸³ *Ibid.*

⁷⁸⁴ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 13, sub-sec. (1).

⁷⁸⁵ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 13, sub-sec. (2). Any school or person, if in contravention of the provisions of sub-section (1),-

(a) Receives capitation fee, shall be punishable with fine which may extend to ten times the capitation fee charged.

See, Government of India, MHRD, Department of Higher Education, Guidelines for curbing malpractices in schools as per provisions of the RTE Act, 2009, (Apr., 29, 2021, 12.22 AM), https://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/Guidelines%20RTE.pdf.

⁷⁸⁶ *Supra* note 693.

⁷⁸⁷ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 36.

⁷⁸⁸ The Goa, Daman and Diu School Education Act, 1984, No. 15, 1985, sec 2, cl. (m). “manager” in relation to a school, means the person by whatever name called, who is entrusted, either on the date on which this Act comes into force or, as the case may be, under a scheme of management made under section 6 with the management of the affairs of that school.

⁷⁸⁹ *Supra* note 679.

⁷⁹⁰ The Goa, Daman and Diu School Education Act, 1984, No. 15, 1985, sec 19, sub sec. (3).

⁷⁹¹ *Ibid.*

The Goa, Daman and Diu School Education Rules, 1986, rule 132. Trust or society not to collect fees, etc., schools to grant receipts for fees, etc., collected by it.—

(1) No fee, contribution or other charge shall be collected from any student by the trust or society running any recognised school; whether aided or not.

(2) Every authorised fee, contribution or other charge collected from any student by a recognised school, whether aided or not, shall be collected in its own name and a proper receipt shall be granted by the school for every collection made by it.

The said provision with regard to fee is also applicable to aided schools.⁷⁹²

The Apex Court in *Mohini Jain Case*⁷⁹³ held that, The Indian Constitution guarantees right to education to every citizen which in turn obliges the State to establish educational institutions. Even the private educational institutions which are granted recognition by the State Government have to fulfill the constitutional obligations.⁷⁹⁴ Admission of students in educational institutions whether state owned or state recognized relates to right to education, and there would be clear transgression of Article 14 of the Constitution if capitation fee is charged in lieu of the admission in such educational institutions.⁷⁹⁵

Disallowing commercialization of education the Supreme Court in *Unni Krishnan case*⁷⁹⁶ ruled that private unaided recognized affiliated educational institutions running professional courses were entitled to charge higher permitted fee but the said fee should be below the ceiling fixed and such a fee cannot be addressed as capitation fee.⁷⁹⁷ Admitting merit based admissions, the court also stated that the fee charged and the ceiling fixed would be as per the scheme guidelines implemented by the appropriate government and the recognising and affiliating authorities.⁷⁹⁸ Further, aided institutions

The Goa, Daman and Diu School Education Rules, 1986, rule 139. Unaided recognised schools to submit returns.—

(1) Every unaided recognised private school shall submit returns and documents in accordance with the instruction issued by the Director of Education from time to time.

(2) Every return or documents referred to in sub-rule (1) shall be submitted to the Director by the 31st day of July of each year.

(3) The accounts and other records maintained by an unaided private school shall be subject to examination by the auditors and inspecting officers authorised by the Director in this behalf and also by any officer authorised by the Comptroller and Auditor General of India.

See, Government of Goa, Directorate of Education, *Circular*, No: DE/Acad/Misc/GSER/2016/1267, Dated June, 3, 2016, (May, 24, 2019, 12:53 AM), <http://education.goa.gov.in/sites/default/files/No-Exceeds-Fees-to-be-charged.pdf>.

⁷⁹² The Goa, Daman and Diu School Education Act, 1984, No. 15, 1985, sec 19. Fees and other charges.-

(1) No aided school shall levy any fee or collect any other charge or receive any other payment except those specified by the Director.

(2) Every aided school having different rates of fees or other charges or different funds shall obtain prior approval of the prescribed authority before levying such fees or collecting such charges or creating such funds.

⁷⁹³ *Supra* note 664.

⁷⁹⁴ *Ibid.*

⁷⁹⁵ *Ibid.*

⁷⁹⁶ *Supra* note 675.

⁷⁹⁷ See also, *T.M.A.Pai Foundation & Ors vs State Of Karnataka & Ors* 2002 8(S.C.C.) 481 (India).

⁷⁹⁸ The scheme was made applicable from the academic year 1993-94 to professional colleges in *Unni Krishnan, J.P. and Ors. v. State of Andhra Pradesh and Ors* AIR 1993 2178:1993 S.C.R. (1) 594 (India).

during admission of the students have to levy same fee as charged in government institutions for similar courses considering the principles enshrined in Articles 14 and 15 of the Indian Constitution.⁷⁹⁹ The court differentiating between the two categories of educational institutions stated that unaided institutions have to utilize their resources for meeting the cost of imparting education and one of the sources for this is through fees besides donations or charities.⁸⁰⁰

However, the court overruled *Unni Krishnan's decision*⁸⁰¹ as to the scheme framed for charging of the fee structured for private unaided recognized affiliated educational institutions in *T.M.Pai Case*⁸⁰² and further held that the government was empowered to regulate the issue of fees through its rules with regard to private recognized or affiliated educational institutions.⁸⁰³ Thus the interference of statutory authorities making the terms of the scheme with regard to fee structure a qualification for grant of affiliation or recognition for the private unaided educational institutions was held to be not falling with the meaning of reasonable restriction in terms of Article 19(6) of the Indian Constitution.⁸⁰⁴

Emphasizing education as charitable in nature the court in *T.M.A Pai Case*⁸⁰⁵ prohibited charging of capitation fee and profiteering by the private unaided non-minority recognized or affiliated educational institutions.⁸⁰⁶ Preserving the institutional autonomy with the least governmental interference it was stated by the Court that the funds generated by charging the fee must be utilized for the growth of education, educational institution and for the facilities to be provided for the student's benefit and thus it was held that the fee charged for running professional courses must be left to these educational institutions.⁸⁰⁷ Even with regard to the unaided non-minority

⁷⁹⁹ *Supra* note 675.

⁸⁰⁰ *Ibid.*

⁸⁰¹ *Ibid.*

⁸⁰² *T.M.A.Pai Foundation & Ors vs State Of Karnataka & Ors* 2002 8(S.C.C.) 481 (India).

⁸⁰³ *Ibid.*

⁸⁰⁴ *Ibid.*

⁸⁰⁵ *Ibid.*

⁸⁰⁶ See also, *Islamic Academy of Education v. State Of Karnataka and Ors.* (2003) 6 S.C.C. 697 (India); *Father Thomas Shingare and Ors. v. State of Maharashtra and Ors.* A.I.R. 2002 S.C. 463 (India); *Modern School v. Union of India* A.I.R. 2004 S.C. 2236 (India); *P.A. Inamdar & Ors. v. State Of Maharashtra & Ors.* 2005 S.C. 614 (India); *Modern Dental College & Research Centre v. State of M.P.* (2009) 7 S.C.C. 751 (India).

⁸⁰⁷ *Supra* note 640.

recognized or affiliated private schools the Supreme Court left the fees to be charged to the discretion of the school management.⁸⁰⁸ The funds generated through fees must then be utilized in raising the standards and for excellence of school education was observed by the Court.⁸⁰⁹

In order to give effect to the *T.M.A.Pai* judgment⁸¹⁰ the Apex Court in *Islamic Academy of Education case*⁸¹¹ casted a duty on the State Government to constitute a Committee that would scrutinize, justify and then approve the proposed fee structure of educational institutions.⁸¹² Further this fee structure would be binding for three years and after completion of this period the institution could apply for revision of the fees.⁸¹³ Also, the government through regulations was directed to keep checks and balances and institutions involved in profiteering or charging capitation fee were to be penalized even to the extent of losing their affiliation or recognition.⁸¹⁴

State control through regulatory measures on unaided private medical colleges on the issue of fee fixation to prohibit levying of capitation fee was also approved by Supreme Court in *Modern Dental College case*.⁸¹⁵ It was clearly held by Apex Court that fee charged under any other head for instance donations would fall within the ambit of capitation fee.⁸¹⁶ Also, the funds or the surplus generated through fees was to be used for the growth of the institution and not for personal gain nor for any business or enterprise or any other purpose.⁸¹⁷

In *Saraswati Shikshan Sanstha and Others*⁸¹⁸ Division Bench of the Bombay High Court in the interest of advancing the educational activity of grant-in-aid educational institutions gave its decision balancing the RTE law on one hand and facilitating

⁸⁰⁸ *Ibid.*

⁸⁰⁹ *Ibid.*

⁸¹⁰ *Ibid.*

⁸¹¹ *Supra* note 648.

⁸¹² Such regulation of the fee structure of unaided professional educational institutions and minorities unaided professional educational institutions was held to be not violative of Article 19(1)(g) and Article 19(1)(g) read with Article 30(1) of the Indian Constitution respectively. *Ibid.*

⁸¹³ *Supra* note 648.

⁸¹⁴ *Ibid.*

⁸¹⁵ *Supra* note 651.

⁸¹⁶ *Supra* note 648.

⁸¹⁷ *Ibid.*

⁸¹⁸ *Saraswati Shikshan Sanstha and Ors. v. State of Maharashtra and Ors.* 2018 NGP 449 (India).

education otherwise. The grant-in-aid educational institutions had challenged the discontinuation of payment of non-salary grants by the State Government and had prayed for arrears from 2004-2005 onwards.⁸¹⁹ School management was prohibited by the government from charging tuition fees from the students to make up for the non-salary grants on account of educational institutions being grant-in-aid.⁸²⁰ Court observed that RTE law obligates the schools to educate the students admitted without charging them and the State Government has duty to effectively implement it.⁸²¹ However, Bombay High court held that educational institutions cannot be restricted from charging proportional expenditure from the students for not reimbursing the non-salary grants fully to such schools.⁸²² However, the government was given a deadline to take final call and in the alternative to audit the expenditure for non-salary grants of the educational institutions so that the benefit provided by RTE act is not watered down.⁸²³

4.5.6 Provisions relating to Reservation for children pursuing Elementary Schooling

As per the RTE law, twenty-five percent of the strength of the class I is reserved for the children from weaker section and disadvantaged group.⁸²⁴ There is no financial barrier on these children to pursue elementary study if they avail of reservation in specified category schools and unaided schools.⁸²⁵ In order to lower the monetary burden of the unaided schools, the appropriate Government⁸²⁶ shall reimburse the expenditure incurred by such schools to the extent of per child expenditure incurred by the State, or the actual amount charged from the child whichever is less, but such reimbursement shall not be more than the per child expenditure incurred by the government schools.⁸²⁷

⁸¹⁹ *Ibid.*

⁸²⁰ *Ibid.*

⁸²¹ *Ibid.*

⁸²² *Ibid.*

⁸²³ *Ibid.*

⁸²⁴ *Supra* note 725. For more details See, sub-chapter 4.5.1.

⁸²⁵ *Supra* note 718 and *Supra* note 725.

⁸²⁶ *Supra* note 693.

⁸²⁷ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 12, sub-sec. (2).

The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 7. Reimbursement of per child expenditure by the Government for the purposes of sub-section (1) of section 12 of the Act. —

But, if the unaided school has received land, building, equipment or any other facility either free of cost or at a concessional rate for the purpose of providing free education to this reserved category, then the school shall not be entitled to claim the refund.⁸²⁸ When it comes to residential private unaided school having class higher than Class I, the requirement of admitting twenty five percent children from the disadvantaged groups and weaker sections in their schools as per the RTE law would not be applicable.⁸²⁹

In *Naresh Gangaran Gosavi and others*⁸³⁰ the Bombay High Court observed that the benefit of RTE Act and Maharashtra Rules framed by the State Government under the Act would apply to children belonging to disadvantaged group as one class and children belonging to weaker section as another class. However there may be overlapping in

(1) The total annual recurring expenditure incurred by the Government, whether from its own funds, or funds provided by the Central Government or by any other authority, on elementary education, in respect of all schools established, owned or controlled by it or by the local authority, divided by the total number of children enrolled in all such schools, shall be the per child expenditure incurred by the Government.

(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) of section 12 shall be reimbursed expenditure incurred by it to the extent of per child expenditure stated in sub-rule (1) or the actual amount charged from the child, whichever is less, in the following manner.

(3) For claiming reimbursement of the expenditure incurred by a school, an application in Form V hereto shall be made to the Director. A Committee consisting of Secretary (Finance), Secretary (Education), Director (Education), Director (SCERT) and State Project Director (RTE-SSA) shall assess the reimbursement claims and make its recommendations.

(4) The Committee shall meet at such time and place as it thinks fit, but a period of six months shall not intervene between two meetings.

(5) The State Project Director (RTE-SSA), Goa, on the basis of the decision of the Committee, shall communicate to the Deputy Director for the reimbursement of the expenditure made by such schools.

(7) The reimbursement shall be made directly in the separate bank account maintained by the school, in two installments, during the academic year. First installment of 50% shall be reimbursed in the month of September and balance 50% shall be reimbursed in the month of January.

(8) The school referred to in sub-rule (1) shall, in the month of July, submit a list of children belonging to weaker section and disadvantaged group admitted in school and their claim for reimbursement of expenditure, in Form V hereto, to the Deputy Director. The Deputy Director shall verify or cause to be verified the enrolment of such children before making the reimbursement of the first installment. Reimbursement of final installment shall be done only after verification of the enrolment of children and attendance of every child to a minimum of 80% every month.

(9) Every school referred to in sub-clause (iv) of clause (n) of section 2 shall maintain a separate bank account in respect of the amount received by it as reimbursement under sub-section (2) of section 12 of the Act.

⁸²⁸ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 12, sub-sec. (2).

⁸²⁹ GOVERNMENT OF INDIA, MHRD, DEPARTMENT OF SCHOOL EDUCATION AND LITERACY, *Guidelines under section 35(1) of the RTE Act, 2009 regarding free and compulsory education in a neighbourhood school*, F.No. 1-15/2010-EE-4, dated July, 25, 2011, (June, 13, 2019, 12:32 AM), https://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/24.pdf.

⁸³⁰ *Naresh Gangaram Gosavi & Ors. v. Chembur English School & Ors.* 2013 BOM 239 (India).

certain cases.⁸³¹ Relying on the Apex Court judgment in *Unaided Private Schools of Rajasthan*⁸³² and the RTE (Amendment) 2012 Act⁸³³, Bombay High Court added that the minority unaided schools are excluded from the purview of RTE law but such schools have the leverage to claim reimbursement if they are ready to admit or otherwise have admitted children belonging to disadvantaged group and/or weaker section as per the central law and the state rules made thereunder.⁸³⁴

The provision of the RTE legislation with respect to the admission of minimum twenty five percent children belonging to disadvantaged group or weaker section in Class I or pre-school at the entry level is ultra vires Article 30(1) of the Indian Constitution so far as aided or unaided minority schools are concerned was held by the Bombay High Court in *Canossa Convent School Society Case*.⁸³⁵ The court based its judgment on the larger bench decision of the Supreme Court in *Pramatis Case*⁸³⁶.

4.5.7 Duties of School Management Committee and Local Authority

Constitution of Committee at the school is imperative under the RTE law and the Goa School Education Act. The composition of the Committee is unique as it constitutes members from varied sectors. Its functioning is equally important as this aids in implementing the respective legislations. The schools also need to be administered and supervised and the central legislation speak of the local authority in this context. The details of the Committee and the Authority is given herein below in the Chapter.

4.5.7.1 School Management Committee

As per the RTE law, School Management Committee is a committee constituted in all schools except an unaided school.⁸³⁷ However, all unaided recognized schools in the State of Goa are directed to constitute the School Management Committee and get it

⁸³¹ *Ibid.*

⁸³² *Supra* note 723.

⁸³³ The Right of Children to Free and Compulsory Education (Amendment) Act, 2012, No. 30, 2012. The Act came into force on 1st August 2012. MHRD, Department of School Education and Literacy, *Notification*, dated July 25, 2012, (Apr. 29, 2019, 12:00 PM) https://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/file2_0.pdf.

⁸³⁴ *Supra* note 830.

⁸³⁵ *Canossa Convent School Society & Ors. v. The State of Maharashtra & Ors.* 2014 AUG 936 (India).

⁸³⁶ *Supra* note 730.

⁸³⁷ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 21, sub-sec. (1).

approved by the Director⁸³⁸ as per their Scheme of Management⁸³⁹ in accordance with the Goa School Education Rules.⁸⁴⁰

⁸³⁸ *Supra* note 679.

⁸³⁹ The Goa, Daman and Diu School Education Act, 1984, No. 15, 1985, sec 6. Scheme of Management.— Notwithstanding anything contained in any other law for the time being in force or in any instrument having effect by virtue of any such law, the managing committee of every recognized school shall make, in accordance with the rules made under this Act a scheme of management for such school: Provided that in the case of a recognised school which does not receive any aid, the scheme of management shall apply with such variations and modifications as may be prescribed.

⁸⁴⁰ Government of Goa, Directorate of Education, *Circular*, No: DE/Acad/ Misc/GSER/2016/1267, dated June, 3, 2016 (May, 24, 2019, 12:53 AM) <http://education.goa.gov.in/sites/default/files/No-Exceeds-Fees-to-be-charged.pdf>.

The Goa, Daman and Diu School Education Rules, 1986, rule 46. Scheme of Management of recognised schools.— (1) The scheme of management in relation to a recognised school shall provide that:

- (a) ...; and the Managing Committee of a recognised unaided school shall consist of not more than 15 members;
- (b) Subject to the total number of members specified in clause (a) every Managing Committee shall include the following, namely:—
 - (i) The head of the school;
 - (ii) One parent, who is a member of the Parent Teachers' Association of the school, constituted in accordance with such instructions as may be issued by the Director of Education, and is elected by that Association;
 - (iii) One teacher of that school to be elected by the teachers of that school from amongst themselves;
 - (iv) One person (a woman if possible), who is, or has been a teacher of any other school or of any college to be nominated by the society by which the school is run;
 - (v) One member to be nominated by the Director of Education who shall be an Educationist or an Officer of the Directorate of Education not below the rank of the A.D.E.I. 35[“in Schools other than minority Schools”];
 - (vi) The remaining members to be nominated or elected, as the case may be, in accordance with the rules and regulations of the society, by which the school is run.
- (2) The scheme of management shall also provide for the following, namely: —
 - (a) the term of office of the members of the managing committee and the manner of its reconstitution or filling of any vacancy occurring therein;
 - (b) the manner of elections to the managing committee;
 - (c) that for the purpose of elections to the managing committee, the head of the school shall be the returning officer and shall conduct and be in-charge of the elections;
 - (d) that any change in the composition of the managing committee of the members referred to in sub-clause (ii) and (iii) of clause (b) of sub-rule (1) shall be communicated to the Director within 7 days from the date when such change takes place;
 - (e) the duties, powers and responsibilities of the managing committee, which shall include the control over appointment, disciplinary action, and control on staff, and shall also provide that no financial irregularities is committed or any irregular procedure is followed;
 - (g) that the managing committee shall ensure that the school gets furniture, science equipments, library books and other teaching aids, and requisite sports materials;
 - (h) the duties, powers and responsibilities of the head of the school, which shall provide that he shall:—
 - (i) function as the head of office of the school under his charge and carry out all administrative duties required of a head of office as assigned to him by the Managing Committee;
 - (iii) be responsible for the proper maintenance of accounts of the school, subject to such authorisation by the Managing Committee, and maintain school records, service books of teaching and non teaching staff and such other registers, returns and statistics as may be specified by the Director from time to time;
 - (iv) handle official correspondence relating to the school excepting the establishment matters and financial matters and furnish, within the specified dates, the returns and informations required by the Director; and in case of correspondence relating to establishment and financial matters, he shall cause to furnish the information by the Management. All representations of the staff including the heads of schools shall be routed through the Management.

The School Management Committee constituted in minority and government aided schools can perform only advisory functions.⁸⁴¹

The Committee has to be constituted within six months from the date of notification of the Central rules or the State rules and reconstituted after every two years.⁸⁴²

(vi) cause to purchase stores and other materials required for the school in accordance with the rules governing such purchases and enter all such stores in the stock register and shall scrutinise the bills and cause to make payments;

(vii) ensure that the tuition fees, where levied, are realised and appropriately accounted for and duly appropriated for the purpose for which they were levied;

(viii) conduct physical verification of school property and stocks at least once a year and ensure the maintenance of stock registers neatly and accurately;

(ix) be responsible for proper utilisation of the Pupils' Fund;

(x) make satisfactory arrangements for the supply of good drinking water and provide other facilities for the pupils and ensure that the school building, its fixtures and furniture, office equipment lavatories, play grounds, school garden and other properties are properly and carefully maintained;

(xxii) cause to develop and organise the library resources and reading facilities in the school and ensure that the pupils and teachers have access to and use of books and journals of established value and usefulness;

3. If the Officers of the Department had occasion to observe, dereliction of duties with reference to the above listed responsibilities or frequent absences of the Head Master from the school during school hours the Management is obliged to take suitable action against such a Head Master on receipt of such a report from the Officer.

4. (j) no employee of an aided school (other than head of school) shall be appointed as the Manager, the head of school may be appointed as the manager of the school; whether aided or unaided;

(1) bills (including bills relating to the salaries and allowances of the teachers and non-teaching staff) shall be jointly signed by the manager and the head of the school; but where the head of the school is also the manager, such bills shall be signed jointly by the head of the school and another member of the managing committee specially authorised by that committee in this behalf;

(m) that the administration and academic work of the school shall be attended to by the head, of the school, and, except where the head of school is the manager, the manager shall not interfere with the day-to-day administration and academic work of the school;

(q) the managing committee shall be subject to the control and supervision of the trust or society by which such school is run;

(3) The managing committee of an existing school shall make the draft of scheme of management after the commencement of these rules and shall within 90 days from such commencement submit such draft to the Director of Education for its approval:

Provided that the Director of Education after giving to the managing committee a reasonable opportunity of being heard, make such alteration or modifications in the draft scheme of management as the circumstances of the case may require.

(4) The managing committee of an existing school shall bring, within ninety days from the date of approval of the scheme of management by the Director of Education, the composition thereof in conformity with the scheme of management as approved by the Director of Education.

⁸⁴¹ The Right of Children to Free and Compulsory Education (Amendment) Act, 2012, No. 30, 2012, sec. 21.

⁸⁴² The Right of Children to Free and Compulsory Education Rules, 2010, rule 3, cl. (1).

The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 14. Composition and functions of the School Management Committee. — (1) A School Management Committee shall be constituted in every school other than an unaided school, within six months of the notification of these rules. The minimum number of members shall be twelve and the committee shall be reconstituted every two years, at least 2 months before the expiry of the term of the existing committee.

Its members comprise the local authority⁸⁴³ elected representatives, parents or guardian whose children have enrolled in respective schools, and teachers.⁸⁴⁴ Parents or guardian of children falling under twenty five percent reservation are also part of the Committee.⁸⁴⁵ Further fifty percent of the Committee members shall be women.⁸⁴⁶

The RTE statute casts duties on the Committee to the extent of monitoring the school working,⁸⁴⁷ preparing and recommending the School Development Plan⁸⁴⁸ based on which, grants are given by the government or the local authority⁸⁴⁹ and the Plan has to be endorsed by the Committee heads and submitted to the local authority⁸⁵⁰ before the

⁸⁴³ *Supra* note 707.

⁸⁴⁴ *Supra* note 837.

The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 14. Composition and functions of the School Management Committee. — (2) Seventy-five percent of the strength of the School Management Committee shall be from amongst parents or guardians of children.

(3) The remaining twenty-five percent of the strength of the School Management Committee shall be from amongst the following persons:

(a) one-third members from amongst the elected members of the local authority, to be decided by the local authority;

(b) one-third members from amongst teachers from the school, to be decided by the teachers of the school;

(c) remaining one-third from amongst local educationists/children in the school, to be decided by the parents in the Committee.

(4) To manage its affairs, the School Management Committee shall elect a Chairperson and Vice-Chairperson from among the parent members. The head teacher of the school or where the school does not have a head teacher, the senior most teacher of the school shall be the ex officio Member-Convener of the School Management Committee.

(5) The School Management Committee shall meet at least once a month and the minutes and decisions of the meetings shall be properly recorded and made available to the public.

⁸⁴⁵ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 21.

Provided further that proportionate representation shall be given to the parents or guardians of children belonging to disadvantaged group and weaker section.

⁸⁴⁶ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 21, sub-sec. (1).

⁸⁴⁷ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 21, sub-sec. (2), cl. (a).

⁸⁴⁸ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 21, sub-sec. (2), cl. (b).

⁸⁴⁹ *Supra* note 707.

⁸⁵⁰ *Ibid.*

respective financial year ends.⁸⁵¹ However, this Plan is not prepared by the School Management Committee of minority schools and government aided schools.⁸⁵²

The other duties of the Committee includes, monitoring the consumption of the grants received by the school;⁸⁵³ to communicate to the neighbouring population of the school the rights of the child and the duties of the Government, local authority⁸⁵⁴, school, parent and guardian as enshrined by the RTE Act;⁸⁵⁵ to ensure that the School committee itself convenes monthly meeting and records its minutes and decisions;⁸⁵⁶ observe that the norms and standards are maintained by the school;⁸⁵⁷ bring to the notice of the local authority⁸⁵⁸ and, Managing Committee⁸⁵⁹ provided the school is government aided, any violation of the rights of the child;⁸⁶⁰ to ensure that the decisions

⁸⁵¹ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 22.

The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 16. Preparation of School Development Plan for the purpose of section 22 of the Act.— (1) The School Management Committee shall prepare a School Development Plan at least three months before the end of the financial year in which it is first constituted under the Act.

(2) The School Development Plan shall be a three year plan comprising three annual sub-plans.

(3) The School Development Plan shall contain the following details—

(a) estimates of class-wise enrolment for each year;

(c) physical requirement of additional infrastructure and equipments over the three year period, calculated with reference to the norms and standards specified in the Schedule to the Act.

(d) additional financial requirement over the three year period, year-wise, in respect of (c) above, including additional requirement for providing special training facility specified in section 4, entitlements of children such as free text books and uniforms, and any other additional financial requirement for fulfilling the responsibilities of the school under the Act.

(4) The School Development Plan should be signed by the Chairperson/Vice-Chairperson and Convener of the School Management Committee and countersigned by the authorised signatory of the Managing Committee in case of Government aided schools. It shall be submitted to the Director before the end of the financial year in which it is to be prepared.

⁸⁵² The Right of Children to Free and Compulsory Education (Amendment) Act, 2012, No. 30, 2012, sec. 22.

⁸⁵³ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 21, sub-sec. (2), cl. (c).

⁸⁵⁴ *Supra* note 707.

⁸⁵⁵ The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 15, sub rule (1), cl. (a).

⁸⁵⁶ The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 14, sub rule (5).

⁸⁵⁷ *Id.* at cl. (e).

⁸⁵⁸ *Supra* note 707. The grievance redressal mechanism is Assistant District Education Inspector and the Dy. Director of Education. Notification DE/PLG/RTE 2009/RULES/2010-11/PART FILE/2240, SERIES I No. 6, Official Gazette-Govt. of Goa, 7th May, 2015.

⁸⁵⁹ The Goa, Daman and Diu School Education Act, 1984, No. 15, 1985, sec 6, cl. (n) managing committee means the body of individuals which is entrusted with the management of any recognised private school.

⁸⁶⁰ The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 15, sub rule (1), cl. (f).

The Goa, Daman and Diu School Education Rules, 1986, rule 46. Scheme of Management of recognised schools.— (2) The scheme of management shall also provide for the following, namely:

of the school committee meetings are made available to the public, that would make the process transparent;⁸⁶¹ with respect to children with disability to monitor their identification, enrollment and facilities provided to them to pursue and complete their elementary study;⁸⁶² monitor mid-day meal implementation in school;⁸⁶³ prepare an annual account of school expenditure and in case of government aided schools submit the same to Managing Committee⁸⁶⁴ of the respective school.⁸⁶⁵ For performing the functions under the RTE legislation, any sum received from the Government by the School Committee has to be credited in an independent account and audited annually and further it has to be endorsed by the Committee head and should be made available to the Director⁸⁶⁶ within a month of their preparation.⁸⁶⁷

The statute confers immunity on the Committee, whereupon no legal action shall lie against it with respect to the acts done in good faith under RTE law.⁸⁶⁸

(e) the duties, powers and responsibilities of the managing committee, which shall include the control over appointment, disciplinary action, and control on staff, and shall also provide that no financial irregularities is committed or any irregular procedure is followed.

⁸⁶¹ *Supra* note 856.

⁸⁶² *Id.* at cl. (h).

⁸⁶³ *Id.* at cl. (i).

⁸⁶⁴ *Supra* note 859.

⁸⁶⁵ *Id.* at cl. (j).

The Goa, Daman and Diu School Education Act, 1984, No. 15, 1985, sec 10. School Fund and School Staff Account fund.- (1) In every aided school, there shall be two Funds to be called, respectively, the "School Fund" and the "School Staff Account Fund".

(2) The School Fund and all other funds, including the Pupils' Fund, established with the approval of the Administrator, shall be accounted for and operated in accordance with the rules made under this Act.

The Goa, Daman and Diu School Education Rules, 1986, rule 46. Scheme of Management of recognised schools.— (2) The scheme of management shall also provide for the following, namely:

—
(e) the duties, powers and responsibilities of the managing committee, which shall include the control over appointment, disciplinary action, and control on staff, and shall also provide that no financial irregularities is committed or any irregular procedure is followed.

⁸⁶⁶ *Supra* note 679.

⁸⁶⁷ The Right of Children to Free and Compulsory Education Rules, 2012, rule 15. Functions of the School Management Committee.- (2) Any money received by the School Management Committee from the Government or from the Managing Committee in case of Government aided schools for the discharge of its functions under this Act, shall be kept in a separate account, to be made available for audit every year.

(3) The accounts referred to in clause (j) to sub-rule (1) and sub-rule (2) shall be signed by the Chairperson/Vice-Chairperson and Convener of the School Management Committee and countersigned by the authorised signatory of the Managing Committee in case of Government aided schools. They shall be made available to the Director within one month of their preparation.

⁸⁶⁸ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 37.

4.5.7.2 Local Authority⁸⁶⁹

The RTE legislation casts certain duties on Local Authority⁸⁷⁰ which relates to providing free and compulsory education at the elementary stage to every child who has enrolled in school established or controlled by the said authority.⁸⁷¹ There is also a responsibility to monitor that the children in specific cases receive text books, writing materials and uniforms from their respective admitted schools free of cost, and in particular a child with disability also is entitled to receive support material.⁸⁷²

Local Authority⁸⁷³ has to ensure that the child belonging to weaker section⁸⁷⁴ and disadvantaged group⁸⁷⁵ pursue and complete this study.⁸⁷⁶ Records of the children who are entitled to pursue elementary schooling should be maintained by the Authority every year.⁸⁷⁷ There is also a responsibility to monitor school infrastructure including the school building, teaching staff and provision of learning material.⁸⁷⁸

⁸⁶⁹ *Supra* note 707.

The Director who heads the Directorate of Education in State of Goa acts in the capacity as ‘Local Authority’ in the State of Goa. For more details See, sub-chapter 4.4.

⁸⁷⁰ *Ibid.*

⁸⁷¹ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec 9, cl. (a). Every local authority shall provide free and compulsory education to every child:

Provided that where a child is admitted by his or her parents or guardian, as the case may be, in a school established, owned, controlled or substantially financed by funds

Government of Goa, Directorate of Education, *Guidelines for Admission in Primary, Middle, & Secondary Schools in the State of Goa*, dated Jan., 25, 2018, (June, 13, 2019, 12:59 AM), <http://www.education.goa.gov.in/sites/default/files/Guidelines-for-Admissions-in-Schools.pdf>.

⁸⁷² The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 4, sub-rule (1). A child attending s school of the Government or local authority referred to in sub clause (i) of clause (n) of section 2, of the Act a child attending a school referred to in sub clause (ii) of clause (n) of said section 2 in pursuance of clause (b) of sub – section (1) of section 12 of the Act and a child attending a school referred to in sub – clauses (iii) and (iv) of clause (n) of said section 2 in pursuance of clause (c) of sub –section (1) of section 12, shall be entitled to free text books, writing materials and uniforms:

Provided that a child with disabilities shall also be provided free special learning and support material.

Explanation: In respect of the child admitted in pursuance of clause (b) of sub – section (1) of said section 12 and a child admitted in pursuance of clause (c) of sub – section (1) of said section 12, the responsibility of providing the free entitlement shall be of the school referred to in sub – clause (ii) of clause (n) of section 2 and of sub – clauses (iii) and (iv) of clause (n) of section 2, respectively.

⁸⁷³ *Supra* note 707.

⁸⁷⁴ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 2, cl. (e).

⁸⁷⁵ *Supra* note 690.

⁸⁷⁶ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 9, cl. (c).

The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 7.

⁸⁷⁷ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 9, cl. (d).

The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 5.

⁸⁷⁸ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 9, cl. (f).

Thus the Local Authority⁸⁷⁹ has to ensure quality education at the elementary level that would be in conformity with the norms⁸⁸⁰ expressed under the RTE law and further monitor the schools functioning within its jurisdiction.⁸⁸¹

Any grievance relating to the right of a child can be placed before the Local Authority⁸⁸² having jurisdiction, by any person through a written complaint.⁸⁸³ Within three months from the date of the receipt of the complaint, the matter has to be decided by the Authority.⁸⁸⁴ Fair hearing has to be given to parties at dispute by the Authority.⁸⁸⁵

Aggrieved party can prefer an appeal from the decision of the Local Authority⁸⁸⁶ before the appropriate forum.⁸⁸⁷ The statute confers immunity on the Local Authority⁸⁸⁸, whereupon no legal action shall lie against it with respect to the acts done in good faith under the RTE legislation.⁸⁸⁹

4.6 Conclusion

RTE 2009 was that central legislation which public longed for many years. While on the other hand, State of Goa already had legislation on education that was assented to

⁸⁷⁹ *Supra* note 707.

⁸⁸⁰ For details See, sub-chapter 4.5.4.

⁸⁸¹ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 9, cl. (h) and cl. (l).

⁸⁸² *Supra* note 707.

⁸⁸³ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 32, sub-sec. (1).

Government of India, MHRD, Department of School Education & Literacy, *Advisory on implementation of sections 31 and 32 of the RTE Act, 2009*, F.No. 1-18/2010-EE-4, dated Feb., 14, 2012, (June., 13, 2019, 12:02 AM), https://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/30.pdf.

⁸⁸⁴ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 32, sub-sec. (2).

Government of India, MHRD, Department of School Education & Literacy, *Advisory on implementation of sections 31 and 32 of the RTE Act, 2009*, F.No. 1-18/2010-EE-4, dated Feb., 14, 2012, (June., 13, 2019, 12:02 AM), https://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/30.pdf.

⁸⁸⁵ *Ibid.*

⁸⁸⁶ *Supra* note 707.

⁸⁸⁷ The Right of Children to Free and Compulsory Education Act, 2009, No. 35, 2009, sec. 32. (3) Any person aggrieved by the decision of the local authority may prefer an appeal to the State Commission for Protection of Child Rights or the authority prescribed under sub-section (3) of section 31, as the case may be.

(4) The appeal preferred under sub-section (3) shall be decided by State Commission for Protection of Child Rights or the authority prescribed under sub-section (3) of section 31, as the case may be, as provided under clause (c) of sub-section (1) of section 31.

Government of India, MHRD, Department of School Education & Literacy, *Advisory on implementation of sections 31 and 32 of the RTE Act, 2009*, F.No. 1-18/2010-EE-4, dated Feb., 14, 2012, (June., 13, 2019, 12:02 AM), https://mhrd.gov.in/sites/upload_files/mhrd/files/upload_document/30.pdf.

⁸⁸⁸ *Supra* note 707.

⁸⁸⁹ *Supra* note 868.

by the President of India in 1985. Subsequently in the year 1996 statute on elementary stage of education was also enacted in Goa. With all the legislations in force, it is pertinent to study and analyze, whether education as a right is genuinely accessible and available to the children at the elementary stage or right to education as a fundamental right and also as a statutory right is only a misnomer.

In the successive Chapter ground reality of the actual implementation of the central law in the State of Goa through empirical field work has been projected.

CHAPTER - V

LEGAL IMPLICATIONS

OF

RTE ACT

IMPLEMENTATION

IN THE STATE OF GOA

—

AN EMPIRICAL STUDY

5. Pre Liberation Educational set up in the State of Goa

Education system in Goa, Daman and Diu was rudimentary before the Portuguese rule. Education was imparted to the students by *Sanskrit Pathshalas* before the reign of Portuguese.⁸⁹⁰ It was in 1772 Goa witnessed the introduction of primary education and slowly from the year 1829 the government schools became functional.⁸⁹¹

The commencement of the 19th century witnessed secondary education managed by the seminaries which gave rise to English and Portuguese medium schools.⁸⁹² The year of 1961 saw the liberation of Goa, Daman and Diu from the clutches of Portuguese canon. At that time there were primary schools inclusive of private and government; and Marathi was the medium of instruction in most of the private schools.⁸⁹³

5.1 Post Liberation Education system in Goa

Grant-in-Aid Code 1963 was an administrative order issued by the government of Goa, Daman and Diu for payment of grants to the recognized educational institutions except primary schools and also for administrating the non-government secondary schools.⁸⁹⁴ Besides this, few of the key rules of the code dealt with admission procedure, examination system, fee structure, school hours and academic term, service terms for teachers, recognition conditions and matters pertaining to giving of various grants, and even for the training institutions, few of which were in Hindi medium.⁸⁹⁵

In 1975, the Legislative Assembly of the Union Territory passed the Goa, Daman and Diu Secondary and Higher Secondary Education Board Act.⁸⁹⁶ This Act incorporated

⁸⁹⁰ BALDEV MAHAJAN, J.C.GOYAL, R.V. URANKAR, EDUCATIONAL ADMINISTRATION IN GOA, STRUCTURES, PROCESSES AND FUTURE PROSPECTS 39 (First Published 1994).

⁸⁹¹ *Ibid.*

⁸⁹² *Ibid.*

⁸⁹³ *Ibid.*

⁸⁹⁴ *Id.* at 33 – 34.

⁸⁹⁵ *Id.* at 35.

⁸⁹⁶ Act No. 13 of 1975

and constituted a Board⁸⁹⁷ for the Secondary⁸⁹⁸ and the Higher Secondary education⁸⁹⁹. The Act further mentions the powers and duties of Board; officers, members and Board authorities; academic council, executive council, finance committee, recognition committee, board of studies, school recognition and other related matters. Rules referred as the Goa, Daman and Diu Secondary and Higher Secondary Education Board 1975 covers syllabus, examination, assessment, result and other incidental matters.

Then the Goa, Daman and Diu School Education Act 1984 was passed by the Legislative Assembly of the Union Territory.⁹⁰⁰ The Act covers establishment of schools, its recognition, affiliation and management inclusive of aid given to the schools; admission, fee and other charges; teachers' and employees pay scale and their service conditions; school property which includes school fund and staff account.

The rules made thereunder titled as, The Goa, Daman and Diu School Education Rules, 1986 deals with regulation of education, classification of schools, course of study and remedial teaching, disciplinary measures, examination and assessment. Goa was part of Union Territory and on 30th May 1987 it acquired statehood and was constituted as a state of the Indian Union.

Compulsion of elementary education for every school age child was made by the State by enacting the 1995, Goa Compulsory Elementary Education Act.⁹⁰¹ And to further this objective, the Goa Government also undertook the responsibility of providing sufficient number of elementary schools in the State.⁹⁰²

⁸⁹⁷ The Goa, Daman and Diu Secondary and Higher Secondary Education Board Act, 1975, No. 13, 1975, sec. 2, cl. (2).

⁸⁹⁸ The Goa, Daman and Diu Secondary and Higher Secondary Education Board Act, 1975, No. 13, 1975, sec. 2, cl. (15). "secondary education" means such general, technical, vocational or special education (including any combined course thereof) which is designed to meet the educational needs of the period of adolescence and which follows, immediately the primary education and precedes immediately the higher secondary education.

⁸⁹⁹ The Goa, Daman and Diu Secondary and Higher Secondary Education Board (Amendment) Act, 1975, No. 19, 1975, sec. 2, cl. (8a). 'higher secondary education' means such general or combinations of general and technical or vocational or special education which is designed to meet the educational needs of students in classes XI and XII.

⁹⁰⁰ Act No. 15 of 1985.

⁹⁰¹ Goa Act No. 4 of 1996.

⁹⁰² The Goa Compulsory Elementary Education Act, 1995, Goa Act No. 4 of 1996, sec. 3.

School education in the State of Goa is dealt by the Directorate of Education as per the rules and provisions of the Goa, Daman and Diu School Education Act.⁹⁰³ The Director⁹⁰⁴ heads over the Directorate and its headquarters is based at Porvorim.⁹⁰⁵ The persons in the organizational structure assisting the Director includes, the Director from the Administration section, Joint Director of Accounts, Deputy Directors of Education from the Academic section, Adult and Vocational sections, Assistant Directors of Education, Vocational Education Officer and Environmental Education Officer.⁹⁰⁶

For better organization, administration and development, Goa is fragmented into three educational zones⁹⁰⁷ which includes Central, South and North, with headquarters at Panjim, Margao and Mapusa respectively.⁹⁰⁸ Each of the zone⁹⁰⁹ has a zonal office which is headed by the Deputy⁹¹⁰ Director of Education.⁹¹¹ The head is supported by Assistant Director of Education and a Deputy Education Officer who administers academic matters.⁹¹²

State of Goa has twelve talukas and each of these zones cover four talukas.⁹¹³ Thus central zone comprises Tiswadi, Ponda, Dharbondoda and Sanguem; south zone encompasses Canacona, Quepem, Salcete and Mormugao and north zone includes Pernem, Bardez, Bicholim and Sattari taluka each.⁹¹⁴ Education is monitored by the Assistant District Education Inspectors (A.D.E.Is)⁹¹⁵ at the Taluka level. The senior most A.D.E.I⁹¹⁶ manages the taluka or the block level education office and is the

⁹⁰³ The Goa, School Education (Amendment) Act, 1998, No. 22, 1998, sec 4. Power of Government to regulate education in schools - (1)With a view to enable the Government to provide for the planned development of school education in Goa, every individual, association of individuals, Society or Trust, desiring to establish a school or to open additional classes in an existing school, shall, before establishing such school or opening additional classes in an existing school, as the case may be, apply to the Director in writing in such manner and on payment of such fees as may be prescribed.

⁹⁰⁴ *Supra* note 679.

⁹⁰⁵ *Supra* note 13.

⁹⁰⁶ *Ibid.*

⁹⁰⁷ *Supra* note 681.

⁹⁰⁸ *Supra* note 13.

⁹⁰⁹ *Supra* note 681.

⁹¹⁰ *Supra* note 744.

⁹¹¹ *Supra* note 13.

⁹¹² *Ibid.*

⁹¹³ *Ibid.*

⁹¹⁴ *Ibid.*

⁹¹⁵ The Goa, Daman and Diu School Education Rules, 1986, rule 2, cl. (b). "The Asstt. Dist. Educational Inspector (A.D.E.I.)" means an officer of the Education Department working at the Taluka level in charge of the taluka or part thereof.

⁹¹⁶ *Ibid.*

drawing and disbursing officer for the government, primary and middle schools.⁹¹⁷ A.D.E.Is⁹¹⁸ are supervised and guided at the zonal level by the Assistant Directors of education.⁹¹⁹

5.2 Levels of Education in Goa

Education in Goa can be broadly classified as pre-primary⁹²⁰, primary⁹²¹, middle⁹²², secondary⁹²³ and ‘higher secondary’⁹²⁴ education.⁹²⁵ Inclusive of this classification, the definition of school also brings within its ambit institutions below degree level imparting training or education, but excludes those institutions imparting technical education.⁹²⁶ In 1996 the collegiate section of the Directorate of Education was separated and brought under the Directorate of Higher Education.⁹²⁷

The Central Act i.e. RTE legislation implemented to provide elementary education⁹²⁸ comprising both quality and quantity to the children of age group six to fourteen years, was brought into force on 1st April 2010. The educational set up in the State of Goa is governed by the provisions of the Goa, Daman and Diu School Education Act of 1984 and the RTE Act of 2009 along with the Rules framed thereunder.

⁹¹⁷ *Supra* note 13.

⁹¹⁸ *Supra* note 915.

⁹¹⁹ *Supra* note 13.

⁹²⁰ The Goa, Daman and Diu School Education Rules, 1986, rule 4, sub-rule (1). Classification of schools.- (a)(i) Pre-Primary schools, i.e. schools imparting education below the primary stage.

⁹²¹ The Goa, Daman and Diu School Education Rules, 1986, rule 2, cl. (g). “Primary Stage” means a stage of school education from classes I-IV (both inclusive).

⁹²² The Goa, Daman and Diu School Education Rules, 1986, rule 2, cl. (f). “Middle Stage” means a stage of school education from classes V-VII (both inclusive).

⁹²³ The Goa, Daman and Diu School Education Rules, 1986, rule 2, cl. (i). “Secondary Stage” means a stage of school education, having VIII-X classes or V-X classes as the case may be (both inclusive).

⁹²⁴ The Goa, Daman and Diu School Education Rules, 1986, rule 2, cl. (e). “Higher Secondary Stage” means a stage of school education, above class X.

The Goa, Daman and Diu School Education Rules, 1986, rule 4, sub-rule (1), Classification of schools.- Higher Secondary Schools, i.e. to say, schools imparting higher secondary stage of education, whether or not in addition to any stage of education below the Higher Secondary Stage; and including Technical High Schools.

See also, *Supra*, 899.

⁹²⁵ The Goa, Daman and Diu School Education Rules, 1986, rule 4.

⁹²⁶ The Goa, School Education (Amendment) Act, 2000, No. 26, 2000, sec 2, cl. (u).

⁹²⁷ Directorate of Higher Education, <https://www.goa.gov.in/department/higher-education/> (last visited June, 17, 2020).

⁹²⁸ *Supra* note 702. For details See, sub-chapter 4.5.2.

5.3 Roadmap for Empirical Study in the State of Goa and Limitations

Considering the area of State of Goa which is 3,702 Sq. kms, the total population of the State is 14,58,545 with 88.70 percent literacy rate as per 2011 census.⁹²⁹ The Statistical Section of the Directorate of Education at Goa maintains the record of school education as per the Goa, Daman and Diu School Education Act. Education at the elementary level under RTE Act constitutes classes from first till eighth.⁹³⁰ For the purpose of data required for Table I, education at the Secondary level as per the Goa, Daman and Diu School Education Act, constitutes classes from VIII – X or V – X, hence class VIII cannot be taken exclusively due to non-availability of its independent data. Table 1 denotes the average area covered by the schools with the classification of education and the corresponding average population enrolled in schools in Goa.

Table 1 *Average Area covered and the Population served by School*

Year	Average area covered by School (Sq. km.)			Average population served by School		
	Primary	Middle	Secondary	Primary	Middle	Secondary
2010-11	2.97	8.35	9.71	1171	3291	3826
2011-12	3.01	8.34	9.74	1188	3283	3836
2012-13	2.99	8.26	9.49	1176	3254	3738
2013-14	3.00	8.39	9.37	1181	3305	3690
2014-15	3.05	8.10	9.25	1205	3190	3644
2015-16	3.09	8.39	9.18	1221	3307	3619
2016-17	3.12	7.78	9.07	1229	3064	3575
2017-18	3.18	7.73	8.92	1252	3045	3515
2018-19	3.19	7.70	8.75	1255	3032	3448
2019-20	3.19	7.70	8.75	1255	3032	3448

Source: Government of Goa, Directorate of Education, Statistics Section, Educational Statistics 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19, 2019-20.

⁹²⁹ GOVERNMENT OF GOA, DIRECTORATE OF EDUCATION, STATISTICS SECTION, EDUCATIONAL STATISTICS AT A GLANCE (i) (2019 – 20), <https://education.goa.gov.in/sites/default/files/Educational%20Statistics%202019-20.pdf>.

⁹³⁰ *Supra* note 702.

It can be seen from Table 1 that the average area covered by the Primary School in the year 2010 was 2.97 sq. km. and in the subsequent year of 2011-12 there has been a rise where the area covered is 3.01 sq. km. except for the years of 2012-13 and 2013-14 where the area showed a slight decline, projecting the same as 2.99 and 3.00 Sq. km. respectively. The succeeding years post 2014 reflect escalation in the average area enclosed by the schools and finally the figure reflecting for the year 2019-20 is 3.19 sq. km. There has also been corresponding increase year wise in the admission of students at the primary level, where the year of 2010-11 projects average population of 1171 and the year of 2019-20 projects a population of 1255. However, the years of 2012-13 and 2013-14 have shown a minor decline in the average population served thereby projecting figures of 1176 and 1181 respectively.

Considering the average area enclosed by Middle schools comparing the years of 2010-11 and 2019-20, there has been considerable fall from 8.35 sq. km. to 7.70 sq. km. Except for the years of 2013-14 and 2015-16 where the area enclosed reflects a figure of 8.39 sq. km. rest of the years project a slow decline in the area covered. Similarly, there has been a slight drop in the corresponding average population served by these schools, which is reflected through the years of 2010-11 and 2019-20, where the population served drops from 3291 to 3032. However, the years of 2013-14 and 2015-16 reflect an increase in admission of students reflecting a figure of 3305 and 3307 respectively.

The average area covered by the Secondary schools have shown consistent decline year wise which can be perceived from the year 2010-11 and 2019-20 where the figure drops from 9.71 sq. km. to 8.75 sq. km. respectively. With only exception of the year 2011-12 where there has been minor increase projecting a figure of 9.74 Sq. km. The corresponding average population served by the schools for the year 2011-12 is 3836 which reflects a slight increase as compared to the preceding year of 2010-11 which is 3826. Otherwise there has been consistent fall in the admission of the students right from the years 2010-11 to 2019-20 as finally the year reflects a figure of 3448.

The years of 2018-19 and 2019-20 show consistency in the figures as to the average area covered by schools and the population served too. So far the average area covered

by the school as depicted in the year 2019-20 is 19.64 sq. km. and the average population served is 7,735.

5.3.1 Scheme of the Empirical Study

The study was initiated with an objective to assess, examine and analyse the effective implementation of the RTE statute from the perspective of children, schools, parents or guardian and the monitoring bodies in the state of Goa. The State has been fortunate to have legislations on education from the time it was a part of Union territory of Goa, Daman and Diu. Further, it was an added advantage with the central law coming into force with vivacious beneficial provisions.

The research commenced with hypothesis tested with doctrinal as well as empirical study. Primary data has been collected by means of structured questionnaires and Interview Schedule. Insight and opinion of respondents through Interview Schedule has given more clarity to the hypothesis framed. The responses gathered have been converted into data and further examined through tabulation and data analysis tools. This has led to verifying the hypothesis thereby giving final suggestions.

The field study is limited to the State of Goa and by adopting random sampling as a statistical tool, respondents from the North, Central and South educational zones have been covered sincerely. Through structured questionnaires response was collected from following respondents:

- (i) Headmaster / Headmistress / Head Teacher of school;
- (ii) Headmaster / Headmistress / Head Teacher of Unaided school;
- (iii) Parent / Guardian; and
- (iv) Member of School Management Committee or Managing Committee except Headmaster / Headmistress.

During the study care has been taken to collect the response from those respondents who are associated with elementary schools only. As minority schools are not completely excluded from the ambit of RTE law, these schools were also brought

within the parameters of study. There being only twenty-nine Unaided minority schools in Goa, study was conducted on twenty schools each of Government, Aided minority, Aided non-minority, Unaided minority and Unaided non-minority. Further, there being only seven Specified Category Schools in Goa, three schools were undertaken for study. Thus total 349 responses have been collected through structured questionnaires which is bifurcated in the tabular form as follows:

Table 2 Respondents for Questionnaire I*

	Questionnaire I: Headmaster/ Headmistress / Head Teacher of School						Total
	G	AM	ANM	UM	UNM	SCS	
Respondents	20	20	20	20	20	03	103

***Annexure I** G – Government, AM – Aided Minority, ANM – Aided Non-minority, UM – Unaided Minority, UNM – Unaided non-minority and SCS – Specified Category School.

Table 3 Respondents for Questionnaire II*

	Questionnaire II: Headmaster/ Headmistress / Head Teacher of Unaided school		Total
	Minority	Non-minority	
Respondents	20	20	40

***Annexure II**

Table 4 Respondents for Questionnaire III*

	Questionnaire III: Parent / Guardian						Total
	G	AM	ANM	UM	UNM	SCS	
Respondents	20	20	20	20	20	03	103

***Annexure III** G – Government, AM – Aided Minority, ANM – Aided Non-minority, UM – Unaided Minority, UNM – Unaided non-minority and SCS – Specified Category School.

Table 5 Respondents for Questionnaire IV

	Questionnaire IV: Member of School Management Committee / Managing Committee except Headmaster / Headmistress						Total
	G	AM	ANM	UM	UNM	SCS	
Respondents	20	20	20	20	20	03	103

***Annexure IV** G – Government, AM – Aided Minority, ANM – Aided Non-minority, UM – Unaided Minority, UNM – Unaided non-minority and SCS – Specified Category School.

Responses from officials from Directorate of Education and Local Authority members was gathered through Interview Schedule. Body or authority that regulates the school administration is the Local Authority as per the RTE law. In this context, the North district of Goa has 120 Village Panchayats, 6 Municipal Councils, 1 Municipal Corporation and 1 Zilla Panchayat.⁹³¹ In the South District of Goa there are 89 Village Panchayats, 1 Zilla Panchayat and 8 Municipalities.⁹³² Total 20 elected members from different bodies were interviewed for the purpose of the study.

From the Directorate of Education and its Zonal offices, officials not below the rank of Assistant Director of Education were interviewed. Total 6 officials were interviewed for the Empirical study.

Therefore, total 375 respondents have been covered in the Empirical study.

The objectives of the Questionnaires and Interview were as follows:

- (i) To analyse whether the schools fulfill the infrastructural provisions in accordance with the norms and standards and whether Government schools by virtue of their birth escape the infrastructural mandates.

⁹³¹ North Goa Zilla Panchayat, Government of Goa, <https://www.goa.gov.in/department/north-go-a-zilla-panchayat/#:~:text=Goa%20state%20is%20divided%20into%20two%20districts%20i.e.,Panchayat%20which%20is%20called%20North%20Goa%20Zilla%20Panchayat> (last visited, Sep. 11, 2021).

⁹³² South Goa Zilla Panchayat, <http://zpsouthgoa.in/#:~:text=The%20South%20Goa%20consists%20of%207%20talukas%20Ponda%20Salcete%2C,in%20the%20South%20Goa%20district%20and%208%20Municipalities> (last visited, Sep. 11, 2021).

(ii) To understand which of the specific norms that dilutes the infrastructural mandates are lacking in government schools.

(iii) To examine whether children belonging to weaker and disadvantaged category get the privilege of reservation in unaided schools and whether these schools demand capitation fee.

(iv) To analyze whether there is evasion of duties by the monitoring bodies, the reason for such default and to propose measures for their better functioning and for effective implementation of RTE Law in the State of Goa.

Questionnaire I was addressed to the Headmaster or Headmistress or Head teacher of different schools. The questionnaire sought general information as to the school's infrastructure and then asked for specific information on nature of teaching equipment's, sport facilities and about the provision for mid-day meal. It also constituted responses on school inspection, constitution of school committees and the committee duties. Responses were also gathered on provision of entitlements to children by school.

Questionnaire II was addressed to the Headmaster or Headmistress of Unaided minority and non-minority schools. The questionnaire sought specific information about the admission of children under twenty-five percent reservation in class I and the status of the seats if they continue to fall vacant. Questions were also on demand for capitation fee and the issuance of money receipt to parents or guardian by the school.

Questionnaire III was addressed to Parent or Guardian of the children pursuing elementary education in different schools. This questionnaire was addressed to different cross sections of society so as to gather the response from open and other categories. Specific questions sought information on the awareness of twenty-five percent reservation quota kept in Unaided schools, meetings convened by the school committees and its disclosure in public, nature of teaching equipment's and sport facilities possessed by schools and whether there is a provision for mid-day meal. Responses were also on demand for capitation fee, whether toilets are hygenic;

adequacy of drinking water facility; equipped library; adequacy of sport facility; entitlements to children.

The questionnaire also sought general information as to the school's infrastructure. This information was collected for correlative and comparative analysis of the data acquired from parent or guardian and school authorities.

Questionnaire IV was addressed to School Management Committee or Managing Committee member of different schools. Specific question was raised about the type of committee constituted in schools. General questions included the functioning and functions performed by the committee. At the time of collecting this data, the researcher endeavored to avoid those school committee members who have already given their response for Questionnaire I, II or III in the capacity as Headmaster or Headmistress or Head teacher of the school or Parent or guardian, so as to minimize prejudice involved if any.

5.4 Data on count of Schools, Levels of education and Enrollment

The study mandates the count of different categories of schools established in Goa. Added to this is the further classification based on whether the schools are established by minorities or non-minorities. The study has also gathered data on the, levels of education at the school, enrollment of children at these levels and further, total enrollment in schools.

Table 6 *Zone wise count of categories of Schools**

Educational Zones	Government Schools	Aided Schools	Unaided Schools	Specified Category Schools	Total
North	320	142	42	02	506
Central	252	119	38	02	411
South	195	145	58	03	401
Total	767	406	138	07	1,318

*Manually counted, **Source:** Government of Goa, Directorate of Education, Statistics Section, Educational Statistics at a Glance 2018-19.

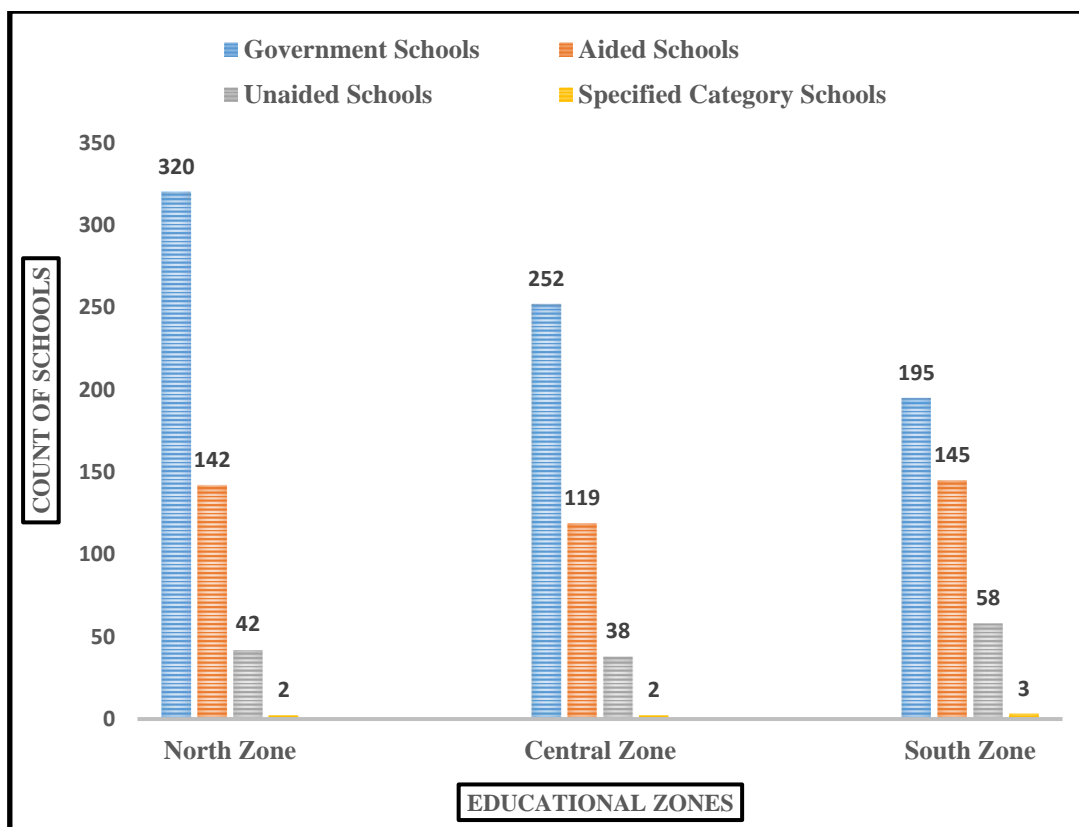


Figure 1 No. of Schools established in educational zones

Table 6 and Figure I depicts that, schools are scattered all across the three educational zones of the State. North, Central and South zones reflect 506, 411 and 401 schools respectively. There are total 767 Government Schools, 406 Aided Schools, 138 Unaided schools and 7 Specified category schools commonly referred to as Central Government schools. Thus the total number of schools in the state are 1,318.

Table 7 Year wise Classification/Levels of education in schools

Year	Primary Level (I-IV)	Middle Level (V-VII)	Secondary Level (V-X / VIII-X)
2010 – 11	1245	443	381
2011 – 12	1227	444	380
2012 – 13	1240	448	390
2013 – 14	1234	456	395
2014 – 15	1210	460	400

2015 – 16	1195	434	403
2016 – 17	1181	68	401
2017 – 18	1157	64	408
2018 – 19	1157	58	416
2019 - 20	1149	54	419

Source: Government of Goa, Directorate of Education, Statistics Section, Educational Statistics at a Glance 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19, 2019-20.

The level wise count of schools for the decade from 2010-11 to 2019-20 can be seen in Figure 2.

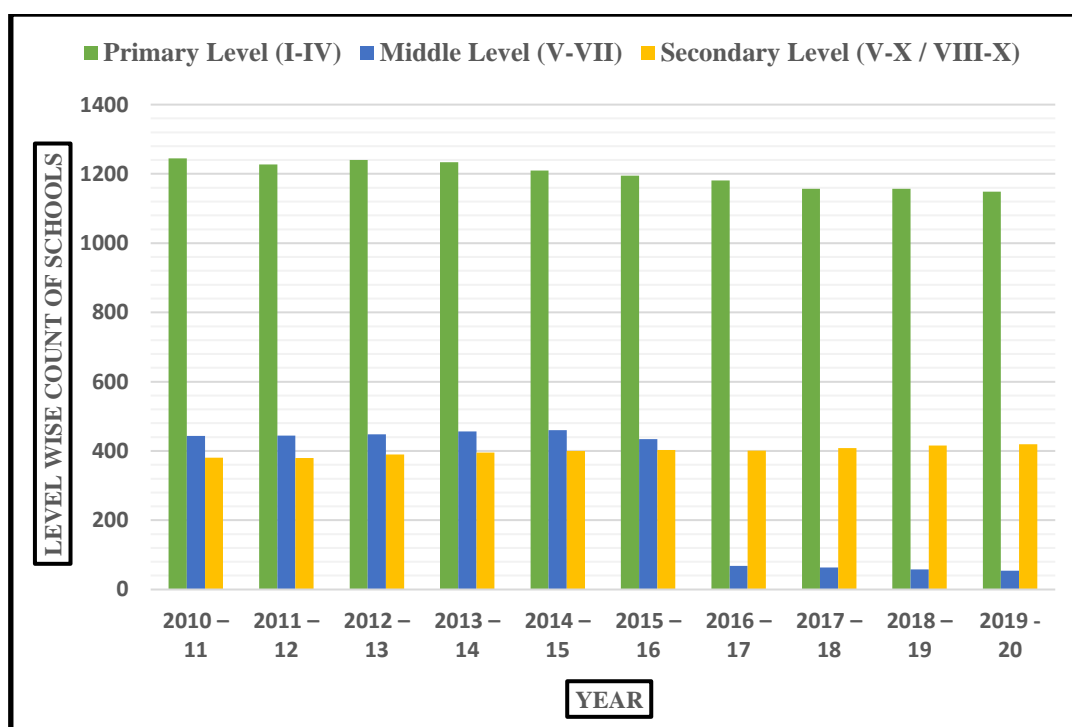


Figure 2 Year wise Classification of education at the school

It can be seen from Table 7 and Figure 2 that, the year of implementation of RTE legislation 2010-11 shows the highest count of schools at primary level and each of the succeeding years the total number of these schools decreases, reflecting a count of 1149 for the year 2019-20. With respect to Middle schools the year of 2010-11 reflect a count of 443 and the succeeding years show an increase in the number of schools till the year 2014-15 reflecting a count of 460 schools. However, from the year 2015-16 the number decreases to 434 and the succeeding years show a huge diminution in the total number

and finally the year of 2019-20 reflect a number of 54 schools. In case of Secondary schools there are slight variations considering the ten-year period. But comparing the year of 2010-11 where the count is 381 schools, the year of 2019-20 reflect a number of 419 schools. Therefore, the ten-year period from 2010-11 to 2019-20 show increase in the number of Primary and Secondary schools and considerable decrease in the number of Middle schools in the state.

Table 8 *No. of Non-Minority and Minority Schools*

	Non-minority Schools	Minority Schools	Total
Aided Schools	265	141	406
Unaided Schools	109	29	138

Source: UDISE 2018-19, SPD Goa Samagra Shiksha.

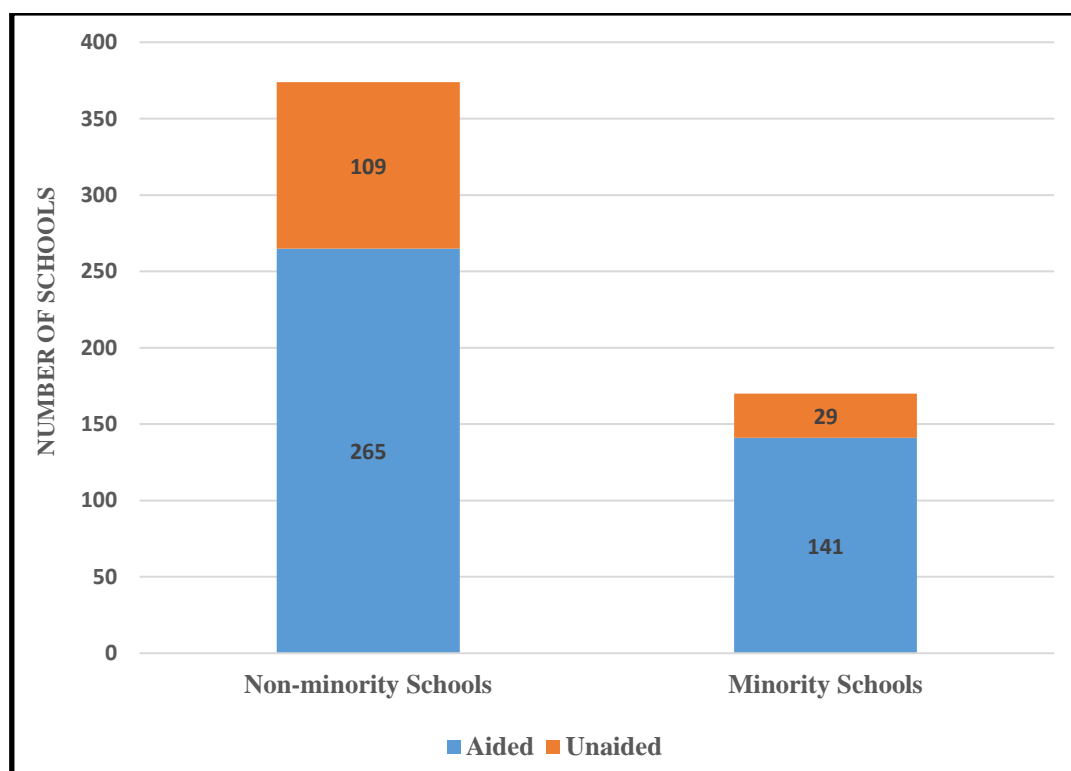


Figure 3 *Count of Non-Minority and Minority Schools*

Table 8 and Figure 3 reflect 406 and 138 as total number of Aided and Unaided schools respectively. Out of 406 Aided schools, there are 141 minority established ones whereas out of 138 Unaided schools there are only 29 schools established by minorities.

Table 9 *Level wise Enrollment of students in schools*

Year	Primary Level (I-IV)	Middle Level (V-VII)	Secondary Level (VIII-X)
2010 – 11	99975	74233	58913
2011 – 12	100206	75863	63055
2012 – 13	98718	75798	69189
2013 – 14	98724	75529	73529
2014 – 15	96139	72121	74641
2015 – 16	95555	70774	73555
2016 – 17	96467	71162	71789
2017 – 18	97044	71160	71630
2018 – 19	98227	71510	71189
2019 – 20*	98520	70938	70992

*Specified Category/Central Government enrollment for the year 2019-20 has been excluded. **Source:** Government of Goa, Directorate of Education, Statistics Section, Educational Statistics at a Glance 2019-20.

The annual enrollment of students for a decade from 2010-11 to 2019-20 at different levels in schools is depicted in Figure 4.

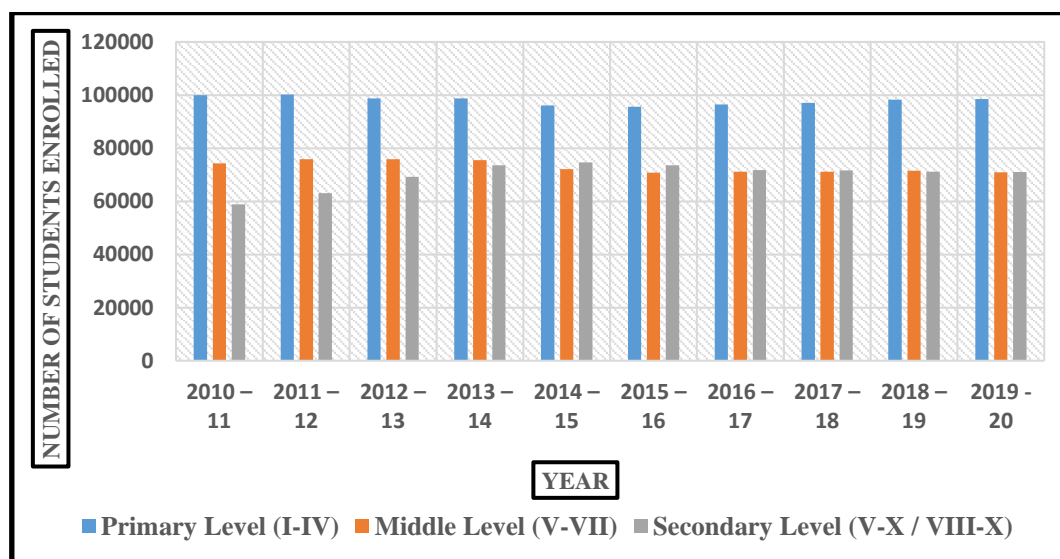


Figure 4 *Level wise student enrollment at the school*

Comparing the years of 2010-11 and 2019-20 from Table 9 and Figure 4, there has been a slight decrease in the number of students enrolled at the Primary and Middle schools.

At the primary level admission has dropped from 99975 to 98520 and at the Middle level the drop is from 74233 to 70938.

Only for the year 2011-12 the enrollment crossed 1 lakh at the primary level. Added to this, the years of 2012-13 and 2013-14 reflect almost similar enrollment at the Primary school. Then again there is drop in the enrollment rate in succeeding year except for the years of 2016-17 and thereafter. At the primary level, the enrollment being 95555 for the year 2015-16, the year of 2019-20 reflect the admission count as 98520. The Middle schools also reflect a slight increase in the number of students enrolled for the year 2011-12 showing a figure of 75863. Then the succeeding years show diminution of the admission at the Middle Level and the number of students enrolled for the year 2015-16 comes to 70774. Again there is a slight increase in the admission for the next immediate year 2016-17 where the count comes to 71162 and thereafter there is subsequent drop in the enrollment reflecting a figure of 70938 for the year 2019-20. Enrollment at the Secondary level starts with 58913 for the year 2010-11 and then the succeeding years show sizeable rise in the admission, where the year of 2014-15 show an enrollment count of 74641. The subsequent years thereafter show a decline in the admission rate and the year of 2019-20 reflect a figure of 70992 as the students enrolled.

Table 10 *Student admission in Schools at elementary stage*

Year	Government Schools	Aided Schools	Unaided Schools	Specified Category
2010 – 11	49191	119651	29947	-
2011 – 12	47018	119239	32396	-
2012 – 13	44205	120877	33330	-
2013 – 14	42054	123544	31981	-
2014 – 15	37598	124827	29803	-
2015 – 16	33428	126958	29363	1979
2016 – 17	31455	128949	30007	-
2017 – 18	30537	130501	30749	-
2018 – 19	29878	132172	31096	-
2019 - 20	29487	132821	30616	-

Source: Government of Goa, Directorate of Education, Statistics Section, Educational Statistics at a Glance 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19, 2019-20.

The annual enrollment of students in different schools at elementary level for a decade from 2010-11 to 2019-20 is depicted in Figure 5.

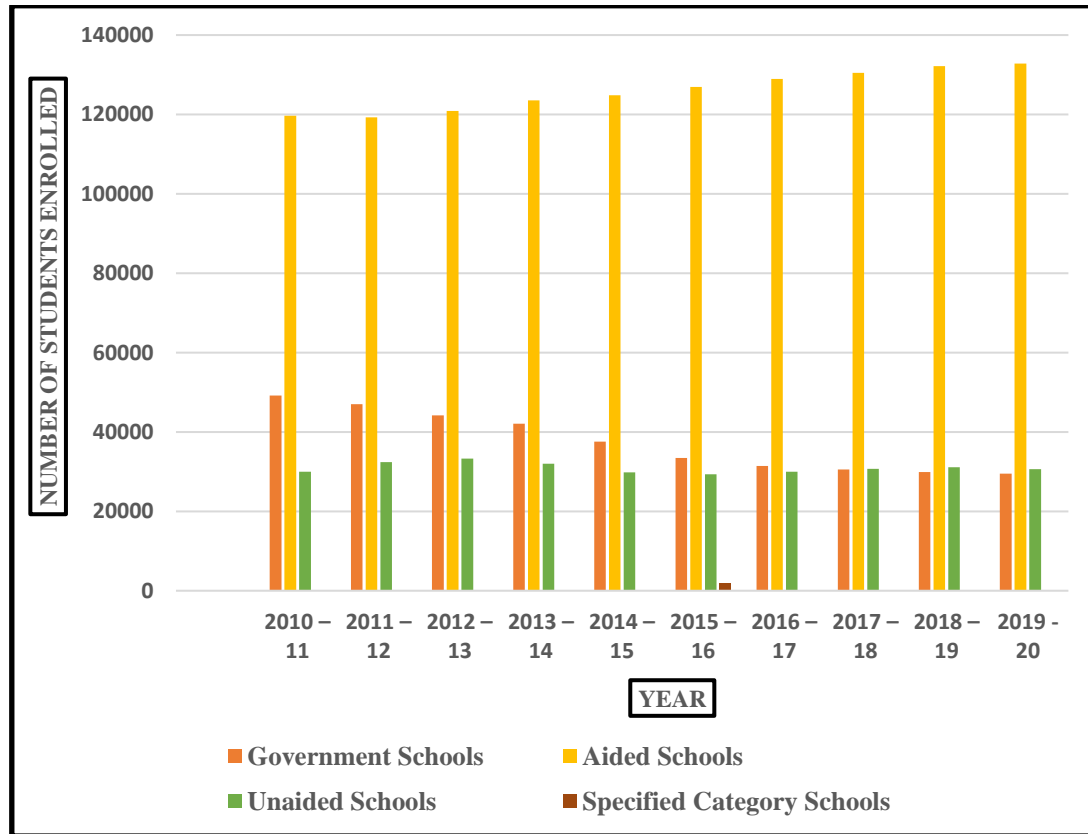


Figure 5 Elementary level enrollment of students in Schools

Table 6 depicts that, there are 767 Government schools in the State which is the highest as compared to other schools. But as can be seen in Table 10 and Figure 5, Aided schools have the highest annual enrollment. Considering the admission of students in Aided schools, the year of 2010-11 reflect a figure of 119651 and enrollment has significantly increased in successive ten-year period reflecting a count of 132821 in the year 2019-20.

Though there are only 138 Unaided schools as reflecting in Table 6, the annual enrollment as per Table 10 and Figure 5, comparing the years of 2010-11 and 2019-20 have shown an increase in the admission rate from 29947 to 30616. However, the ten-year period reflects a lot of fluctuations in the admission rate of Unaided schools. From the count of 29947 which is the enrollment for the year 2010-11, there has been an escalation in the admission to 33330 for the year 2012-13. Subsequently this rate

decreased to 29363 for the year 2015-16. Again there was growth in admission in successive years and 2018-19 reflected a count of 31096. But the enrollment decreased for the year 2019-20 getting the enrollment to 30616.

As can be seen in Table 10 and Figure 5, Government schools reflect a significant decline in the enrollment of students during the ten-year period from 2010-11 to 2019-20. The number has decreased from 49191 to 29487 from the year of 2010-11 to 2019-20. Due to non-availability of data from Specified Category Schools except for the year 2015-16, nothing can be perceived. However, despite there being 7 schools the admission rate reflects a number of 1979 for 2015-16.

5.5 Empirical Data on enrollment under reservation quota in Unaided Schools

The RTE legal provision of twenty-five percent reservation in Class I of Unaided schools commonly referred to as private unaided schools tried to create a homogenous atmosphere for children coming from varied backgrounds. The privilege of reservation is for the children categorized as weaker and disadvantaged community which include SC, ST, socially and educationally backward caste, child with disability, child whose parents' annual income is below one lakh and others.⁹³³

The study is to decipher whether there is compliance of twenty-five percent reservation by the Unaided schools. The data collected reflects enrollment of students in class I of different schools, enrollment of children belonging to the reserved section in Class I of different schools, and Unaided school specifically.

Table 11 *Enrollment of students in Class I of Schools*

Year	Government Schools	Aided Schools	Unaided Schools	Specified Category
2010 – 11	8977	9564	7255	-

⁹³³ For details See, sub-chapter 4.5.1.

2011 - 12	8097	9887	7664	-
2012 - 13	7058	10133	7663	-
2013 - 14	6672	10788	7174	298*
2014 - 15	6007	11683	6595	-
2015 - 16	5455	12343	6285	423*
2016 - 17	5138	12578	6568	262*
2017 - 18	5205	12858	6517	-
2018 - 19	5283	13523	6575	-
2019 - 20	4962	13278	6488	-

*Primary Data, **Source:** Government of Goa, Directorate of Education, Statistics Section, Educational Statistics at a Glance 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19, 2019-20.

The annual enrollment of students in Class I of schools for a ten-year period from 2010-11 to 2019-20 can be seen in Figure 6.

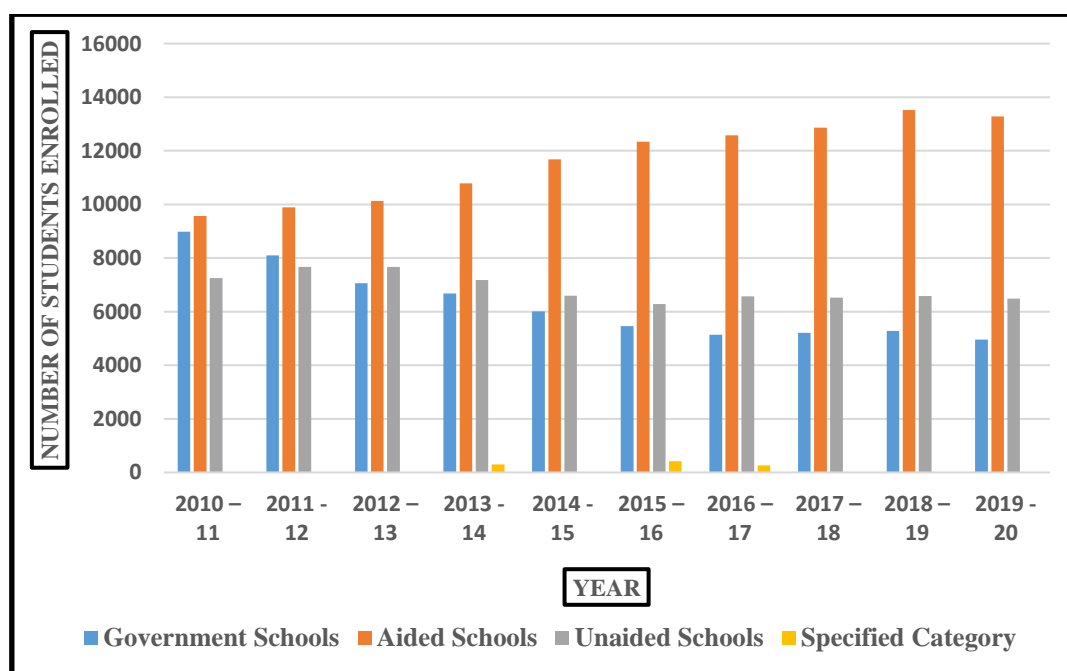


Figure 6 Student enrollment in Class I of Schools

Considering Table 11 and Figure 6, the aided school's annual enrollment of students in class I have shown rise in the ten-year period. The year 2010-11 reflect the admission rate as 9564 whereas the year 2018-19 show a figure of 13278. However, the enrollment rate of 2019-20 has decreased as compared to 2018-19 which reflect the count as 13523.

The Government schools have shown a considerable decrease in the enrollment. Comparing the year of 2010-11 which reflect a figure of 8977, the year of 2019-20 show an enrollment of 4962. However, a slight increase can be seen for the year 2017-18 which show admission rate as 5205 as compared to the admission rate of the year 2016-17 which reflects the enrollment as 5138.

The enrollment of students in Class I show a lot of fluctuations during the decade as far as unaided schools are concerned. The year of 2010-11 reflects admission rate as 7255, whereas the year of 2019-20 show considerable decrease reflecting the number as 6488. Increase in enrollment can be seen for the years 2011-12 and 2012-13 which reflects as 7664 and 7663 respectively. The successive years then show a decrease and the enrollment number rises to 6568 for the year 2016-17 as compared to preceding year which reflect the figure as 6285. And then the enrollment again marginally rises to 6575 during the year 2018-19.

As the data for the period from 2010-2019 of the enrollment in specified category schools is not available, hence a concrete conclusion cannot be perceived as far as the admission rate in class I of these schools are concerned.

Table 12 *Enrollment of children belonging to Weaker & Disadvantaged group in Class I of Schools*

	Government Schools			Total	Aided / Unaided Schools			Total
	SC	ST	OBC		SC	ST	OBC	
2010 - 11	285	1042	799	2126	109	582	745	1436
2011 - 12	248	896	694	1838	228	764	739	1731

Source: Government of Goa, Directorate of Education, Statistics Section, Educational Statistics at a Glance 2010-11, 2011-12.

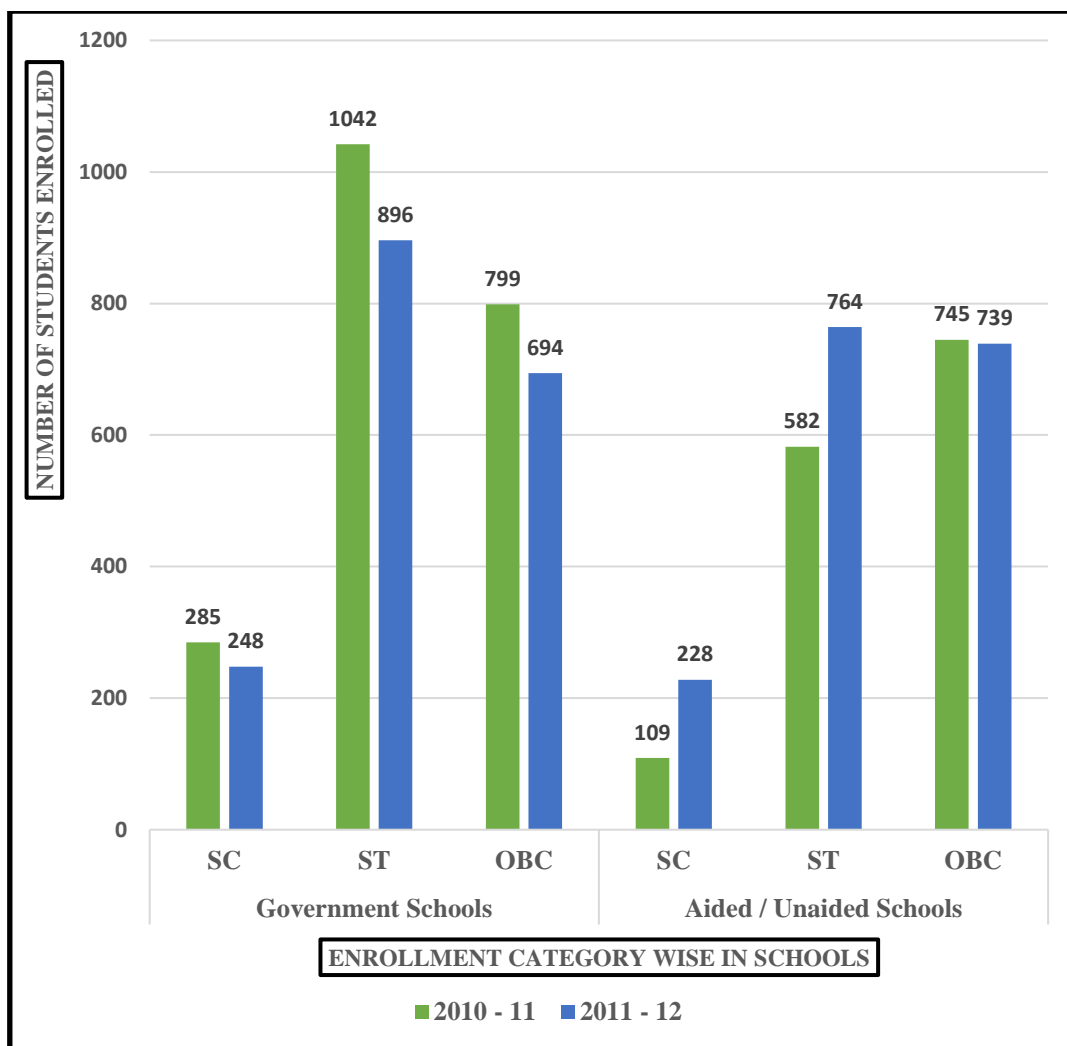


Figure 7 Enrollment of children belonging to reserved category in Class I of Schools

As the two-year period of 2010-11 and 2011-12 provide for collective data of Aided and Unaided schools, the said years are represented separately as Table 12 and Figure 7. Correlating the data of Table 12 with Table 11, in Government Schools for the year 2010-11 out of 8977 students having enrolled in Class I, 2126 students were SC, ST and OBC. For the succeeding year 2011-12 out of 8097 students having enrolled in Class I, 1838 students belonged to weaker and disadvantaged section of society.

In case of aided and unaided schools, for the year 2010 -11 out of 16,819 students having enrolled in Class I, 1436 students belonged to weaker and disadvantaged section of society. Similarly, for the year 2011-12, the number of SC, ST and OBC comes to 1731 out of 17,551 student having enrolled in Class I of these schools.

Table 13 Enrollment of children belonging to Weaker & Disadvantaged category in Class I of Government Schools

Year	Government Schools			Total
	SC	ST	OBC	
2012-13	207	945	614	1766
2013-14	128	767	468	1363
2014-15	89	832	484	1405
2015-16	59	752	293	1104
2016-17	81	604	282	967
2017-18	97	690	263	1050
2018-19	88	860	289	1237
2019-20	53	782	311	1146

Source: Government of Goa, Directorate of Education, Statistics Section, Educational Statistics at a Glance 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19, 2019-20.

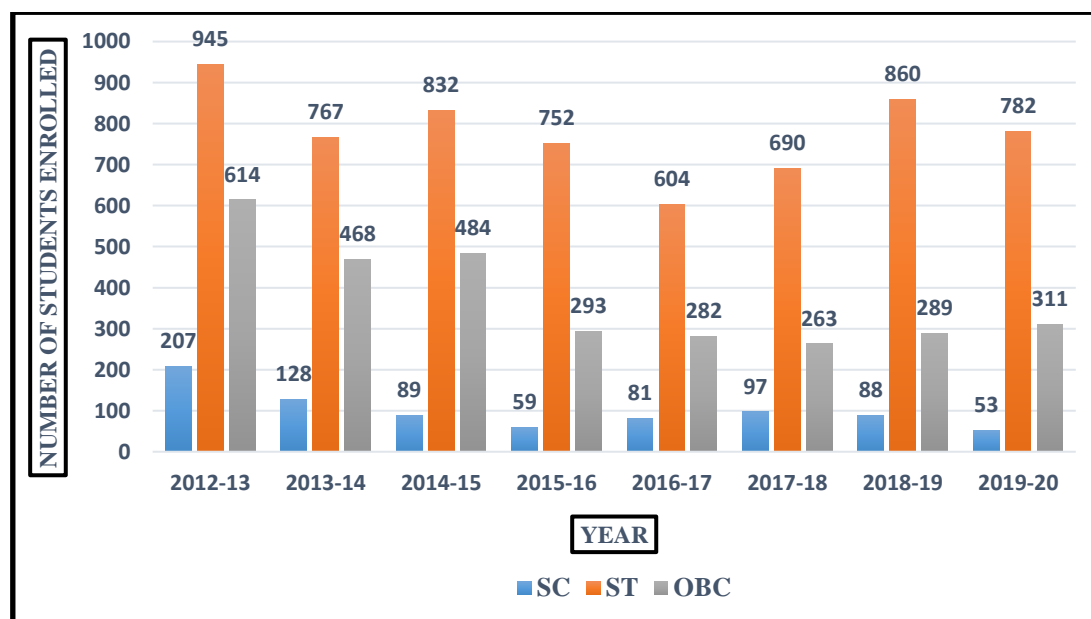


Figure 8 Enrollment of children belonging to reserved category in Class I of Government Schools

Correlating Table 11 with Table 13 for the years 2012-2020, out of the total students having admitted in Government schools, students belonging to weaker and disadvantaged sections of society consistently seek admission annually in class I of these schools. Count of SC, ST and OBC students enrolled on annual basis in

Government schools for the eight-year period from 2012-2020 can be seen in Table 13 and Figure 8.

Table 14 *Enrollment of children belonging to Weaker & Disadvantaged section in Class I of Aided Schools*

Year	Aided Schools				Total
	SC	ST	OBC	DISABLED*	
2012-13	88	719	632	-	1439
2013-14	88	526	644	-	1258
2014-15	98	585	668	-	1351
2015-16	72	554	670	-	1296
2016-17	82	636	712	-	1430
2017-18	75	1061	800	1506	3442
2018-19	98	673	853	1570	3194
2019-20	82	688	695	1521	2986

*Primary Data, **Source:** Government of Goa, Directorate of Education, Statistics Section, Educational Statistics at a Glance 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19, 2019-20.

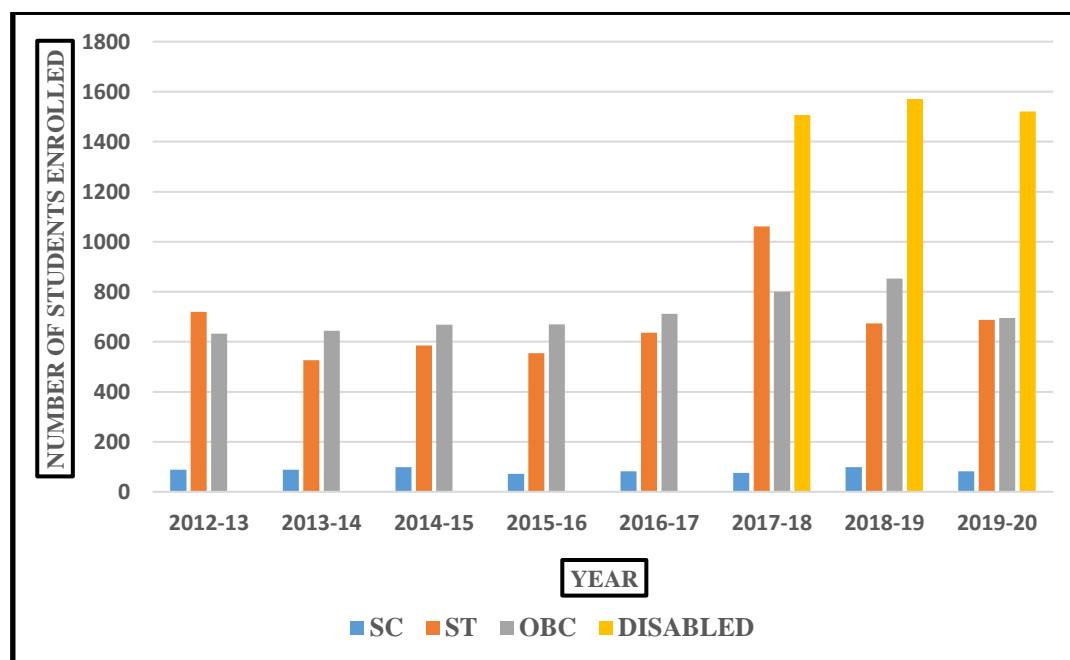


Figure 9 *Enrollment of children belonging to Weaker & Disadvantaged category in Class I of Aided Schools*

Table 14 and Figure 9 projects children categorized as weaker and disadvantaged section of society who are admitted in Class I of Aided schools. The data of children with disability enrolled in these schools for the years 2012-2017 is not available.

Comparing Table 11 with Table 14 out of 10133 students who were enrolled in Class I of Aided schools for the year 2012-13, the children belonging to weaker and disadvantaged section were 1439. The admission of this section of society has been fluctuating in the succeeding years. For the years 2017-18, 2018-19 and 2019-20 the admission rate of weaker and disadvantaged section of society reflects as 3442, 3194 and 2986 respectively.

Table 15 *Enrollment of children belonging to Weaker & Disadvantaged section in Class I of Unaided Schools*

Year	Unaided Schools			Total
	SC	ST	OBC	
2012-13	35	200	310	545
2013-14	22	142	406	570
2014-15	26	86	246	358
2015-16	29	89	232	350
2016-17	26	92	223	341
2017-18	15	53	181	249
2018-19	38	116	235	389
2019-20	44	107	233	384

Source: Government of Goa, Directorate of Education, Statistics Section, Educational Statistics at a Glance 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19, 2019-20.

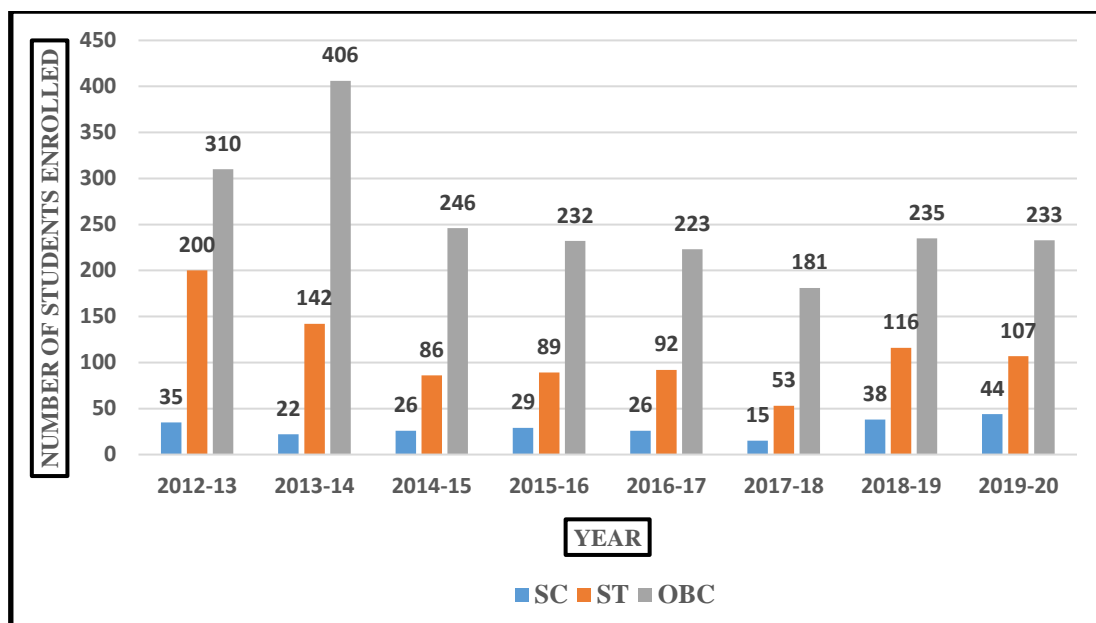


Figure 10 Enrollment of children belonging to Weaker & Disadvantaged category in Class I of Unaided Schools

It can be seen from Table 15 and Figure 10 that, children belonging to SC, ST and OBC also seek admission in Class I of Unaided schools. Correlating Table 11 with Table 15 out of 7663 students having enrolled in Class I for the year 2012-13, Total 545 students belonged to the weaker and disadvantaged section of society. Though there is not much consistency in the admission of this section of society except for the years 2014-15, 2015-16 and 2016-17, the years of 2018-19 and 2019-20 show a sudden rise, reflecting an enrollment of 389 and 384 respectively.

It can be concluded from Table 12, Table 13, Table 14 and Table 15 that children belonging to weaker and disadvantaged sections of society enroll in Class I of Government, Aided and Unaided schools.

Table 16 Enrollment under twenty-five percent reservation in Class I of Unaided Non-minority Schools - Response from Schools

Enrollment of children belonging to weaker & disadvantaged section under twenty-five percent reservation in Class I	
Yes	No
0	20

Source: Primary Data

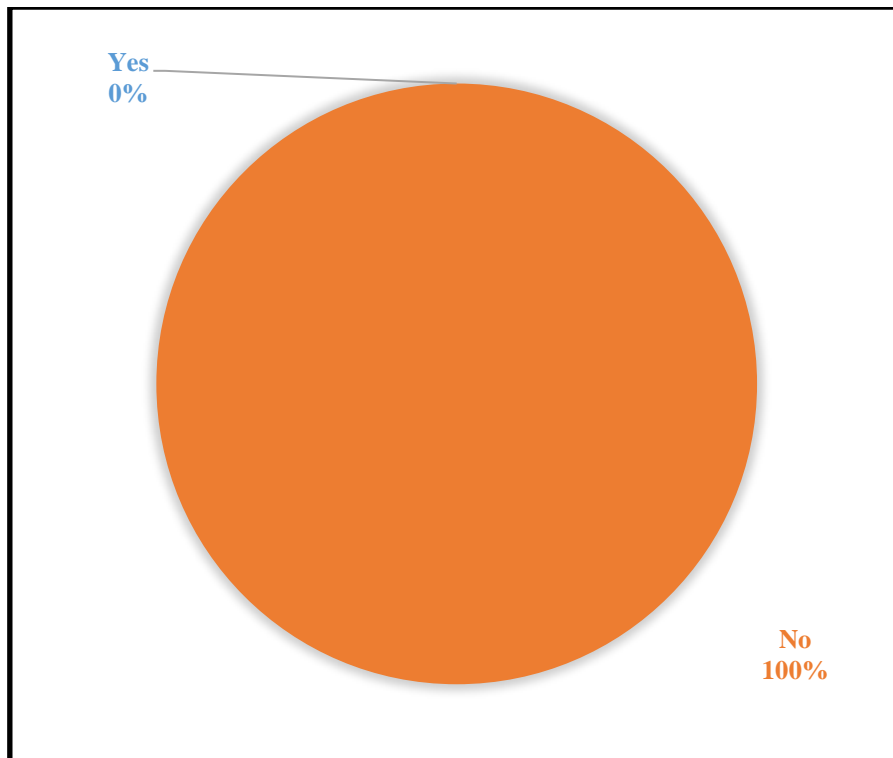


Figure 11 Admission under twenty-five percent reservation in Class I of Unaided Non-minority Schools - Response from Schools

Table 16 and Figure 11 depicts the response of Unaided Non-minority schools that indicate that no children belonging to weaker and disadvantaged community enroll under twenty-five percent reservation in Class I. Therefore, the reserved seats in Class I has never been filled in any of the Unaided Schools in the State of Goa.

5.5.1 Empirical Data on Awareness of Reservation kept in Unaided Non-minority schools and the status of these seats falling vacant

The Researcher during the course of study has analyzed as to whether the parents or guardian of children are aware of the reserved seats kept in Unaided Non-minority schools as per the mandates of RTE statute. The responses were gathered from open category as well as weaker and disadvantaged section of society.

The research also reflects the status of seats under reservation quota kept in Unaided Schools.

Table 17 Awareness of twenty-five percent reservation in Class I of Unaided Non-minority Schools amongst parents or guardian

Awareness amongst Open Category			Awareness amongst Weaker & Disadvantaged category		
Yes	No	Not Aware	Yes	No	Not Aware
9	6	5	0	20	0

Source: Primary Data

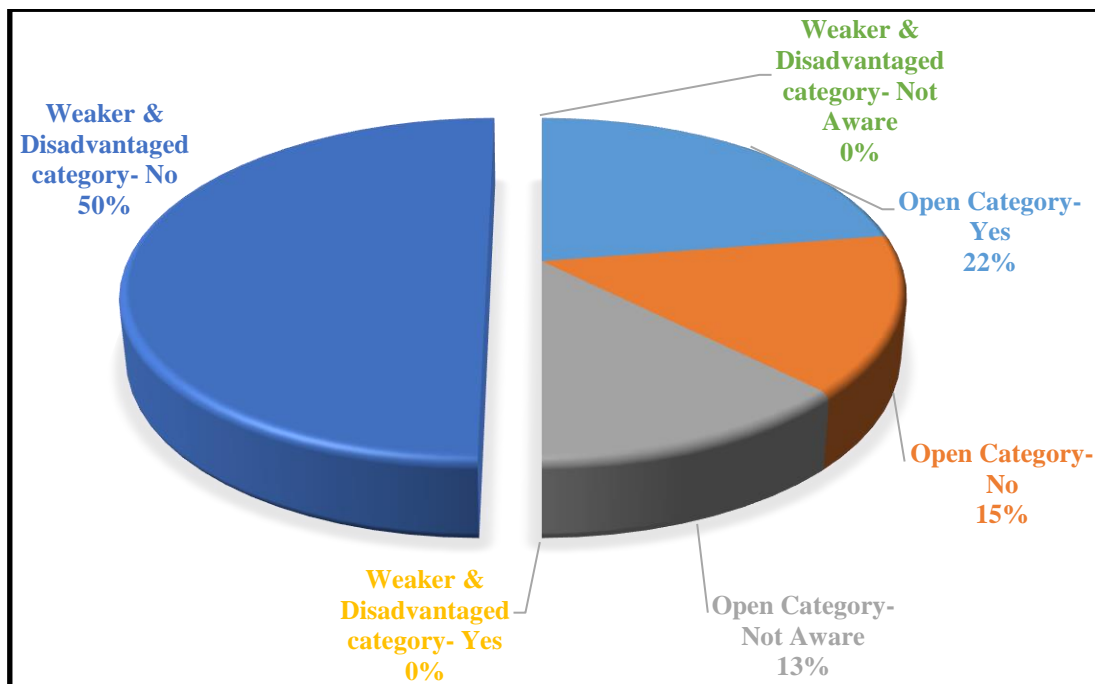


Figure 12 Awareness amongst parents or guardian of twenty-five percent reservation in Class I of Unaided Non-minority schools - comparative response

Parents or guardian from Open and other categories were asked about the awareness of the provision of twenty-five percent reservation kept in Unaided Non-minority schools. The responses of the respondents are clubbed for comparative analysis in Table 17 and Figure 12.

13% of the open category are not aware of the provision, whereas 15% do not know the existence of provision. Only 22% of this category is aware of the reservation clause. On the other hand, the entire 50% of the weaker and disadvantaged category do not know that the reservation provision exists under RTE law.

Table 18 *Stand of weaker and disadvantaged category on admission of their child under twenty-five percent reservation in Unaided Non-minority schools*

Other category would have admitted the child in Class I of Unaided school	Other category would not have admitted the child in Class I of Unaided school
13	07

Source: Primary Data

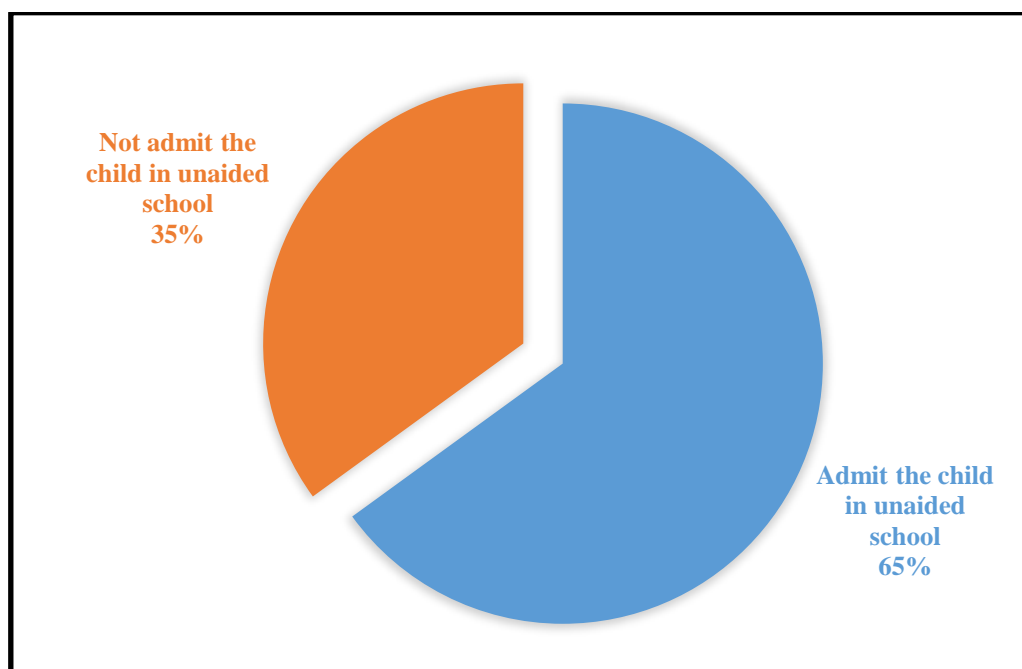


Figure 13 *Stand of other category on admission of their child under twenty-five percent reservation in Unaided Non-minority schools*

The Researcher elicited the take of parents or guardian of children belonging to weaker and disadvantaged section of society, about the admission of their child under reservation quota, had they been aware of the reservation provision in Class I of the Unaided Non-minority schools. The response gathered reflect in Table 18 and Figure 13.

65% of the respondents would have admitted their child in Unaided Non-minority schools, if they were aware of the twenty-five percent reservation provision. However, 35% of the respondents have denied to elect the option of reservation. Thus majority has expressed their desire of admitting their child under the reservation quota in Unaided Non-minority schools.

Table 19 Status of twenty-five percent reserved seats of Class I falling vacant in Unaided Non-minority Schools

Seats continue to fall vacant	Seats are merged with general seats	Not Applicable
2	7	11

Source: Primary Data

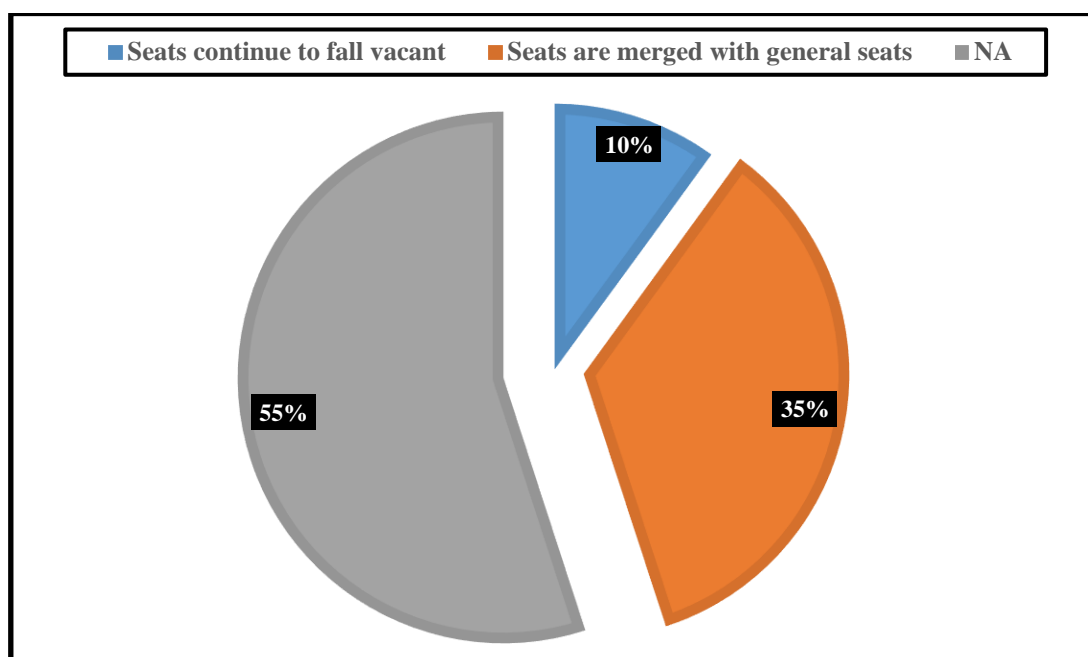


Figure 14 Status of twenty-five percent reserved seats of Class I falling vacant in Unaided Non-minority Schools

As per the response provided by Unaided Non-minority schools, it can be seen from Table 19 and Figure 14, that 35% of the reserved seats are directly merged with the general seats, and that only 10% of the reserved seats continue to fall vacant. Further, 55% of these schools also deny the applicability of the reservation provision to them.

5.6 Empirical Data on Capitation Fee demanded by Unaided schools

Any demand made voluntarily or involuntarily by the Unaided schools from the parents or guardian or children pursuing elementary education would be capitation fee. The response given by, parents or guardian of such children and that of the Unaided schools is collected and analyzed.

Table 20 *Donation or payment or contribution demanded by Unaided Non-minority schools*

Response from Parents or Guardian			Response from School		
Always	Occasionally	Never	Always	Occasionally	Never
4	8	8	6	7	7

Source: Primary Data

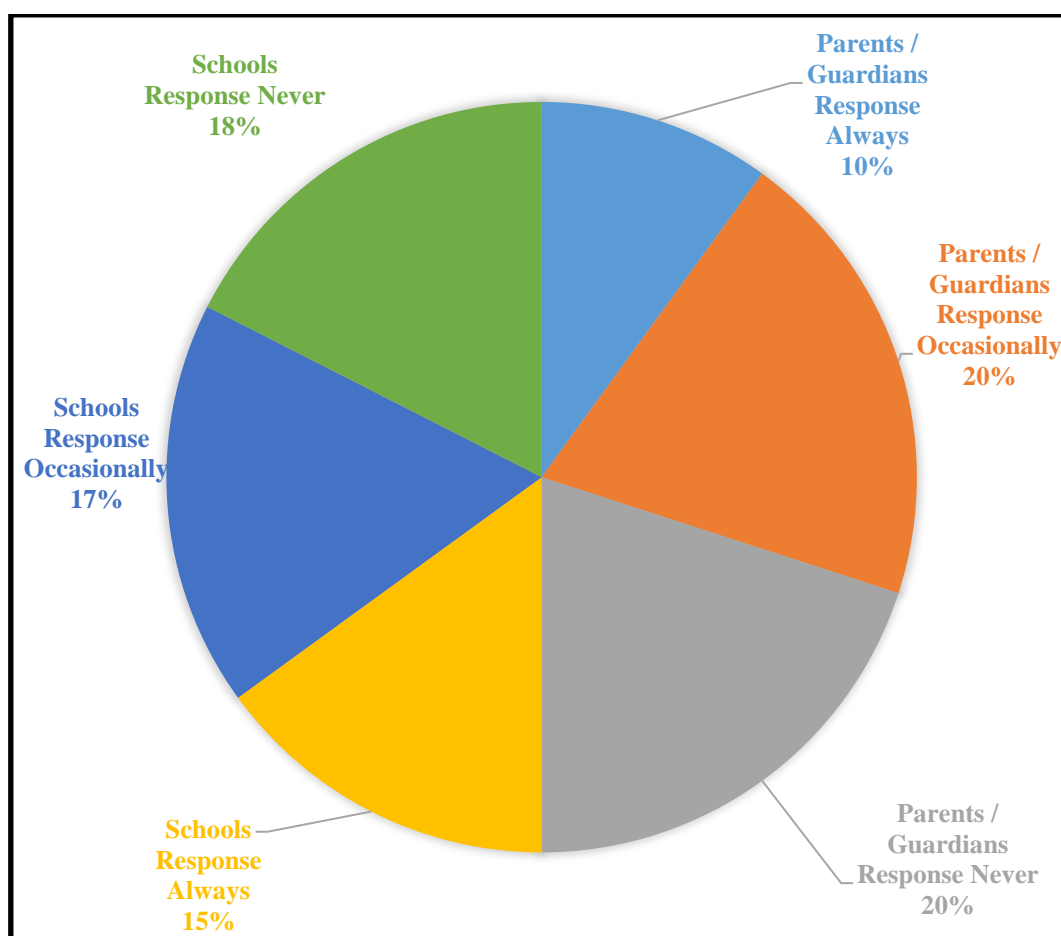


Figure 15 *Voluntary or Involuntary demand made by Unaided Non-minority schools - comparative response*

It is reflected from Table 20 and Figure 15 that, as far as there is no demand of capitation fee, 20% of the parents or guardian and 18% of Unaided Non-minority schools have affirmed the same. However, 20% of the parents or guardian and 17% of these schools have responded that there is occasional demand of capitation fee. Further, 10% of the parents or guardian and 15% of the Unaided Non-minority schools have answered that there is always a demand of capitation fee.

Table 21 *Donation or payment or contribution demanded by Unaided minority schools*

Response from Parents or Guardian			Response from School		
Always	Occasionally	Never	Always	Occasionally	Never
2	10	8	0	10	10

Source: Primary Data

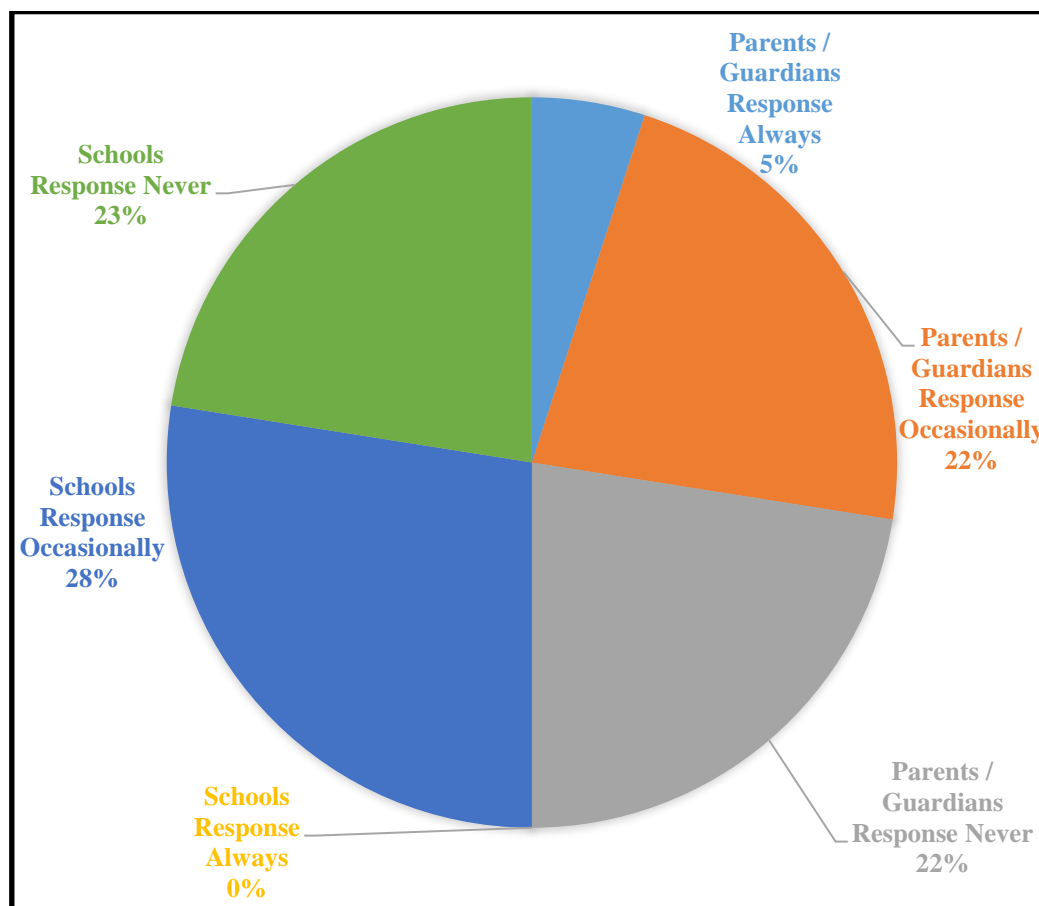


Figure 16 *Voluntary or Involuntary demand made by Unaided minority schools - comparative response*

22% of the parents or guardian and 23% of Unaided minority schools have affirmed that there is never a demand of capitation fee as per Table 21 and Figure 16. However, 22% of the parents or guardian and 28% of these schools have responded that there is occasional demand of capitation fee. Further, Unaided minority schools have completely denied that they always demand capitation fee but on the other hand 5% of the parents or guardian have answered that there is always a demand of capitation fee.

Correlative analysis of the Figure 15 with Figure 16 reveal that out of total 32% of the demand of capitation fee by the Unaided Non-minority schools, 15% have always and 17% have occasionally demanded the said fee; Whereas 28% of the Unaided minority schools respond that there is only occasional demand of capitation fee.

On the other hand, as per Figure 15 and 16, the response of the parents or guardian is that, out of total 30% of the demand of capitation fee by the Unaided Non-minority schools, 10% have always and 20% have occasionally demanded the same. Also, 5% of the parents or guardian have answered that Unaided minority schools always demand capitation fee and 22% says that these schools have occasionally demanded this fee.

Table 22 *Issuance of receipt by the Unaided Non-minority schools towards donation or payment or contribution demanded*

Response from Parents or Guardian		Response from School	
Receipt issued	Receipt not issued	Receipt issued	Receipt not issued
02	10	13	0

Source: Primary Data

It can be seen from Table 20 that; 12 parents or guardian have responded that the Unaided Non-minority schools have always or occasionally demanded Capitation fee from them. Further, 13 Unaided Non-minority schools have agreed that they too are involved in voluntarily or involuntarily demand. Said response is tabulated in Table 22 to analyze the count of Unaided Non-minority schools who have issued receipt for accepting this demand and this is further represented as Figure 17 and 18.

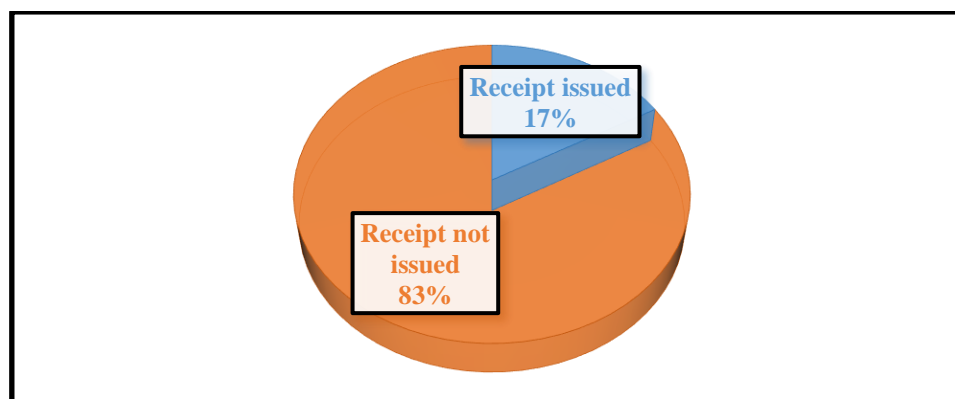


Figure 17 *Issuance of receipt by the Unaided Non-minority schools for the voluntary or involuntary demand made - Response from Parents/guardian*

It can be deciphered from Table 22 and Figure 17 that, 83% of the Parents or guardian affirm that Unaided Non-minority schools do not issue receipt for any voluntary or involuntary demand accepted by them.

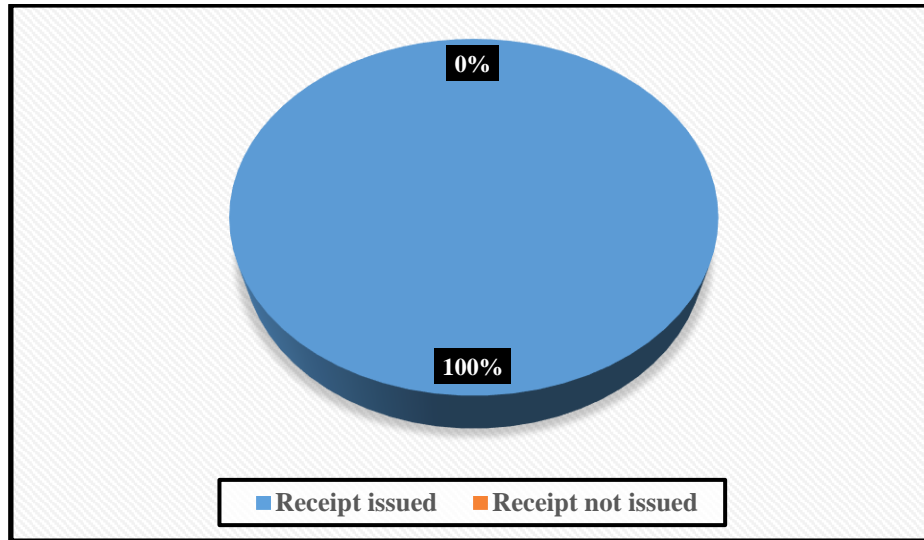


Figure 18 Issuance of receipt by the Unaided Non-minority schools for the donation or payment or contribution demanded - Response from said schools

Table 22 and Figure 18 reflects that 100% of Unaided Non-minority schools issue receipt to parents or guardian for any demand made and accepted by them. Thus there is a considerable disparity in the responses given by parents or guardian on one side, and Unaided Non-minority schools on the other side and the same is projected in Figure 17 and 18 respectively.

Table 23 Issuance of receipt by the Unaided minority schools toward donation or payment or contribution demanded

Response from Parents or Guardian		Response from School	
Receipt issued	Receipt not issued	Receipt issued	Receipt not issued
04	08	10	0

Source: Primary Data

As per Table 21, there are 12 parents or guardian who have responded that they have satisfied the voluntary or involuntary demand made by the Unaided minority schools. Whereas 10 of these schools have answered that they too have accepted donation or

payment or contribution from the parents or guardian of the children pursuing elementary study in their schools. This response is tabulated in Table 23 to analyze the number of Unaided minority schools who have issued receipt for the demand accepted by them. Also this data is represented as Figure 19 and Figure 20.

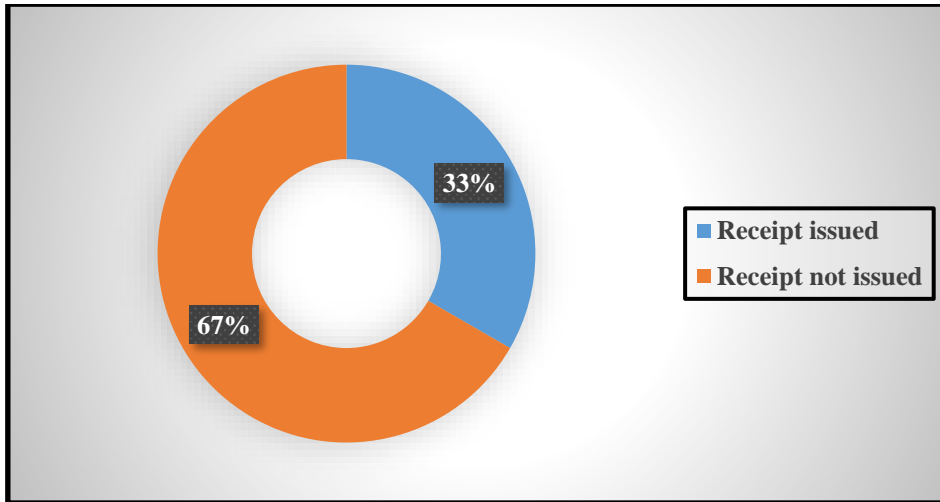


Figure 19 Issuance of receipt by the Unaided minority schools towards donation or payment or contribution demanded - Response from Parents/guardian

Figure 19 projects that, 67% of the Parents or guardian have responded that Unaided minority schools do not issue receipt for the voluntary or involuntary demand accepted by them from the said parents or guardian.

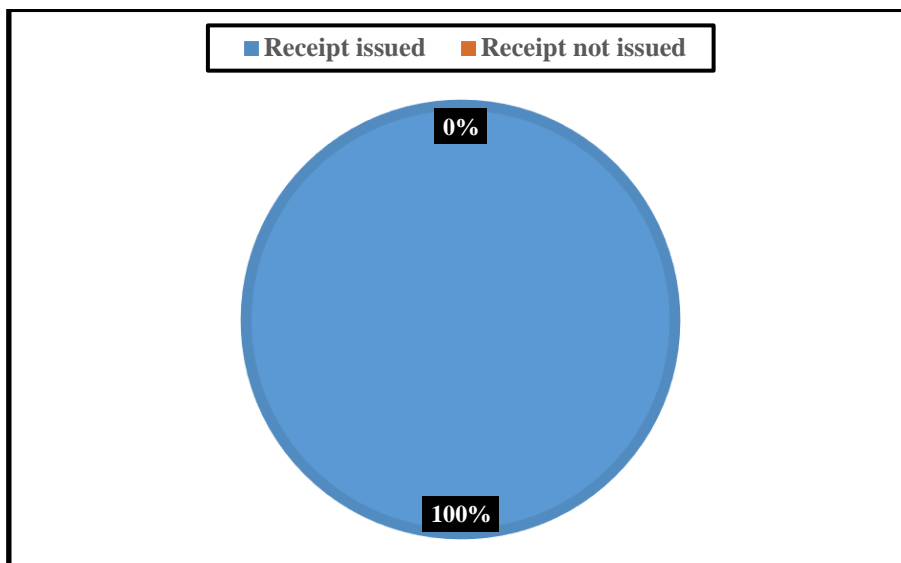


Figure 20 Issuance of receipt by the Unaided minority schools for the voluntary or involuntary demand made - Response from said schools

100% of Unaided minority schools have said that for any donation or contribution or payment received by them, a receipt is issued to the parents or guardian and this reflects in Figure 20. It can be concluded that there is a substantial disparity between Figure 19 and 20 as to the responses given by both the respondents.

5.7 Empirical Data on norms and standards relating to infrastructure of Government Schools and Recognition granted

All schools established before or after 1st April 2010 have to adhere to all the norms and standards of infrastructural requirements as per the RTE law, for the purpose of grant of school recognition. This is not the case with Government schools, as these schools are born with recognition at the time of their establishment. The study reveals whether there is compliance of infrastructural requirement by the Government schools as per the legal mandate. Analysis is made of even those schools that completely lack a specific or certain norms. Responses from parents or guardian on one side and schools on the other side has been tabulated and represented for better clarity and accuracy.

Table 24 *Compliance of Infrastructural Facilities by Schools*

Government		Aided Minority		Aided Non-minority		Unaided Minority		Unaided Non-minority		Specified Category	
WI*	WOI**	WI	WOI	WI	WOI	WI	WOI	WI	WOI	WI	WOI
08	12	11	09	13	07	00	20	00	20	00	03

*WI – with Infrastructure **WOI – without infrastructure, **Source:** Primary Data

Table 25 *Compliance of Infrastructural Facilities by Schools in percent*

Government		Aided Minority		Aided Non-minority		Unaided Minority		Unaided Non-minority		Specified Category	
WI*	WOI**	WI	WOI	WI	WOI	WI	WOI	WI	WOI	WI	WOI
40	60	55	45	65	35	00	100	00	100	00	100

*WI – with Infrastructure **WOI – without infrastructure, **Source:** Primary Data

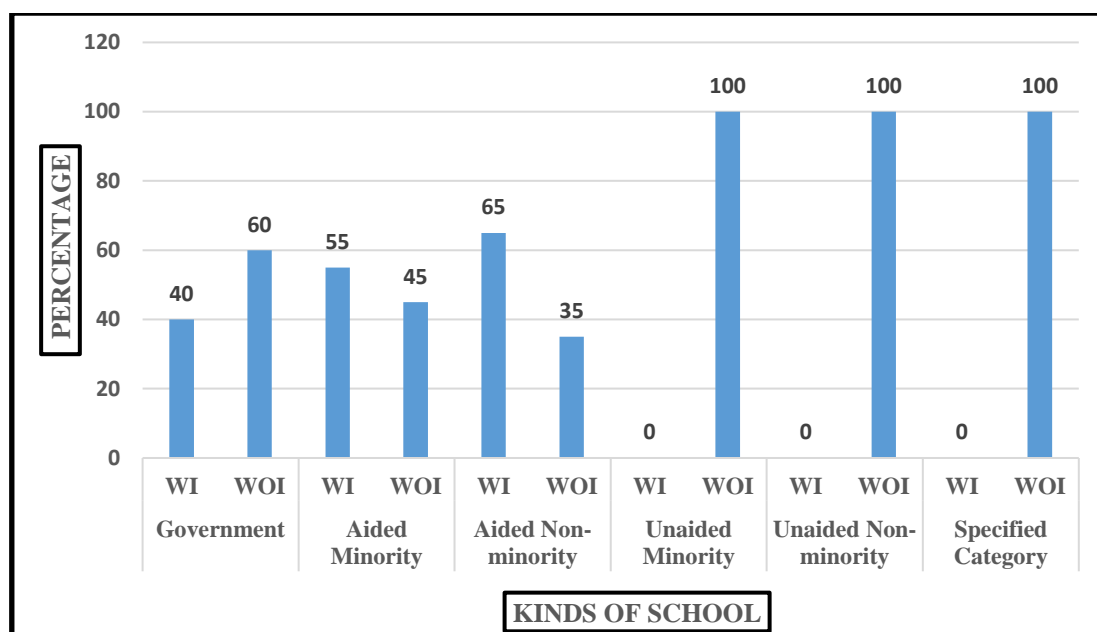


Figure 21 *Compliance of Infrastructural Facilities by Schools*

As per the response given by schools, it can be deciphered from Table 24, Table 25 and Figure 21 that, 100% of the Unaided Schools and Specified Category schools are without infrastructural. With regard to rest, 60% of the Government schools, 45% of the Aided minority schools, 35% of the Aided Non-minority schools are devoid of infrastructural mandates.

The specific indicators in the form of infrastructural requirement that are absent in Unaided and Specified Category schools reflects in the data tabulated in Tables 29, 30 and 31 and are further represented in Figures 24 and 25. Also it is clear from Figure 21 that 60% of the Government schools are devoid of infrastructural requirement, and the details of the indicators are projected in Table 33 and Figure 27.

Table 26 *No. of Schools with Infrastructural facilities - Response from Parents or Guardian*

Government		Aided Minority		Aided Non-minority		Unaided Minority		Unaided Non-minority		Specified Category	
WI*	WOI**	WI	WOI	WI	WOI	WI	WOI	WI	WOI	WI	WOI
07	13	11	9	12	08	00	20	00	20	00	03

*WI – with Infrastructure **WOI – without infrastructure, **Source:** Primary Data

Table 27 Schools with Infrastructural facilities in percent - Response from Parents or Guardian

Government		Aided Minority		Aided Non-minority		Unaided Minority		Unaided Non-minority		Specified Category	
WI*	WOI**	WI	WOI	WI	WOI	WI	WOI	WI	WOI	WI	WOI
35	65	55	45	60	40	00	100	00	100	00	100

*WI – with Infrastructure **WOI – without infrastructure, **Source:** Primary Data

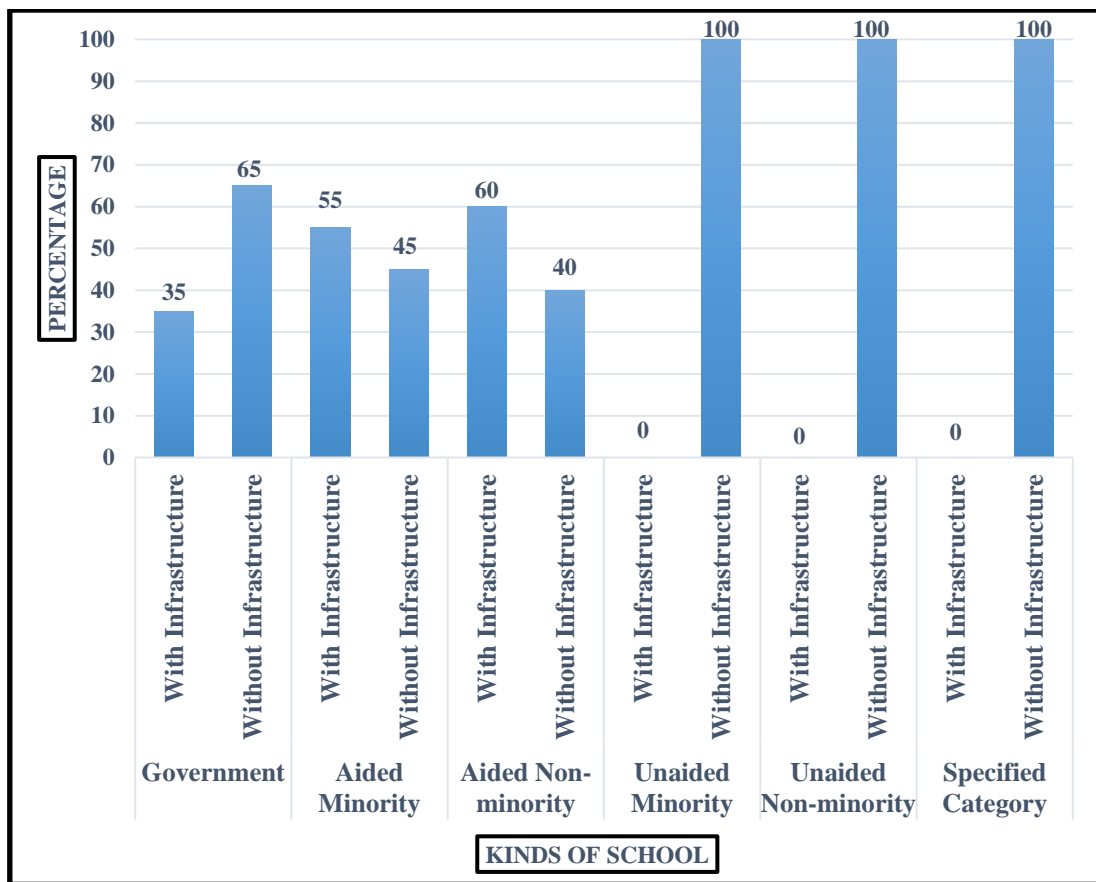


Figure 22 Response from Parents or Guardian on compliance of Infrastructural Facilities by Schools

Response from Parents or Guardian project that, 100% of the Unaided schools and Specified Category schools are without infrastructure. Further, 65% of the Government schools, 45% of the Aided minority schools, 40% of the Aided Non-minority schools are devoid of infrastructural mandates. This can be seen in Table 26, Table 27 and Figure 22.

The study refers to certain infrastructural norms that are lacking in Unaided and Specified Category schools and the data is tabulated in Tables 29, 30 and 31 and further represented in Figures 24 and 25. Also it is clear from Figure 22 that 65% of the Government schools are lacking infrastructural requirements, and the details of the indicators are projected in Table 33 and Figure 28.

Table 28 *Compliance of Infrastructural facilities by Specified Category Schools*

Response from Schools		Response from Parents or Guardian	
WI*	WOI**	WI	WOI
00	03	00	03

*WI – with Infrastructure **WOI – without infrastructure, **Source:** Primary Data

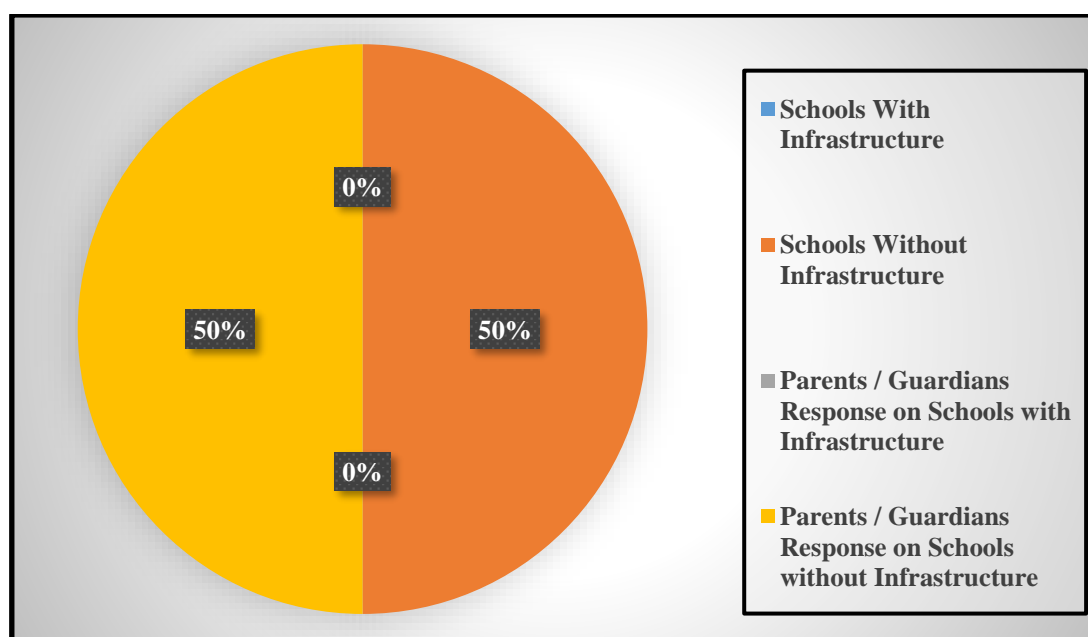


Figure 23 *Specified Category Schools complying with the Infrastructural facilities - comparative response*

It can be seen from Tables 24, 25, 26, 27 and Figure 21 and 22 that all Specified Category schools lack specific norm under the school infrastructural facility. Both the respondents i.e. the Specified Category schools and the Parents or Guardian have answered the same in affirmative. Exclusive data of these schools is indicated in Table 28 and represented in Figure 23.

Table 29 *No. of Specified Category Schools lacking Infrastructural norms*

Infrastructural Facilities	Response from Schools	Response from Parents or Guardian
Habitable Building	0	0
School Fencing	0	0
Barrier free access	0	0
Separate classes for Std. & Divisions	0	0
Head teacher room	0	0
Mid-Day Meal facility	3	3
Gender based separate toilets	0	0
Safe Drinking water facility	0	0
Playground facility	0	0
Class wise Sport Facility	0	3
Implementation of Disaster Management Guidelines on School Safety Policy 2016	0	1

Source: Primary Data**Table 30** *Specified Category Schools in percent deficient in Infrastructural norms*

Infrastructural Facilities	Response from Schools	Response from Parents or Guardian
Habitable Building	0	0
School Fencing	0	0
Barrier free access	0	0
Separate classes for Std & Divisions	0	0
Head teacher room	0	0
Mid-Day Meal facility	100	100
Gender based separate toilets	0	0
Safe Drinking water facility	0	0
Playground facility	0	0
Class wise Sport Facility	0	100
Implementation of Disaster Management Guidelines on School Safety Policy 2016	0	33

Source: Primary Data

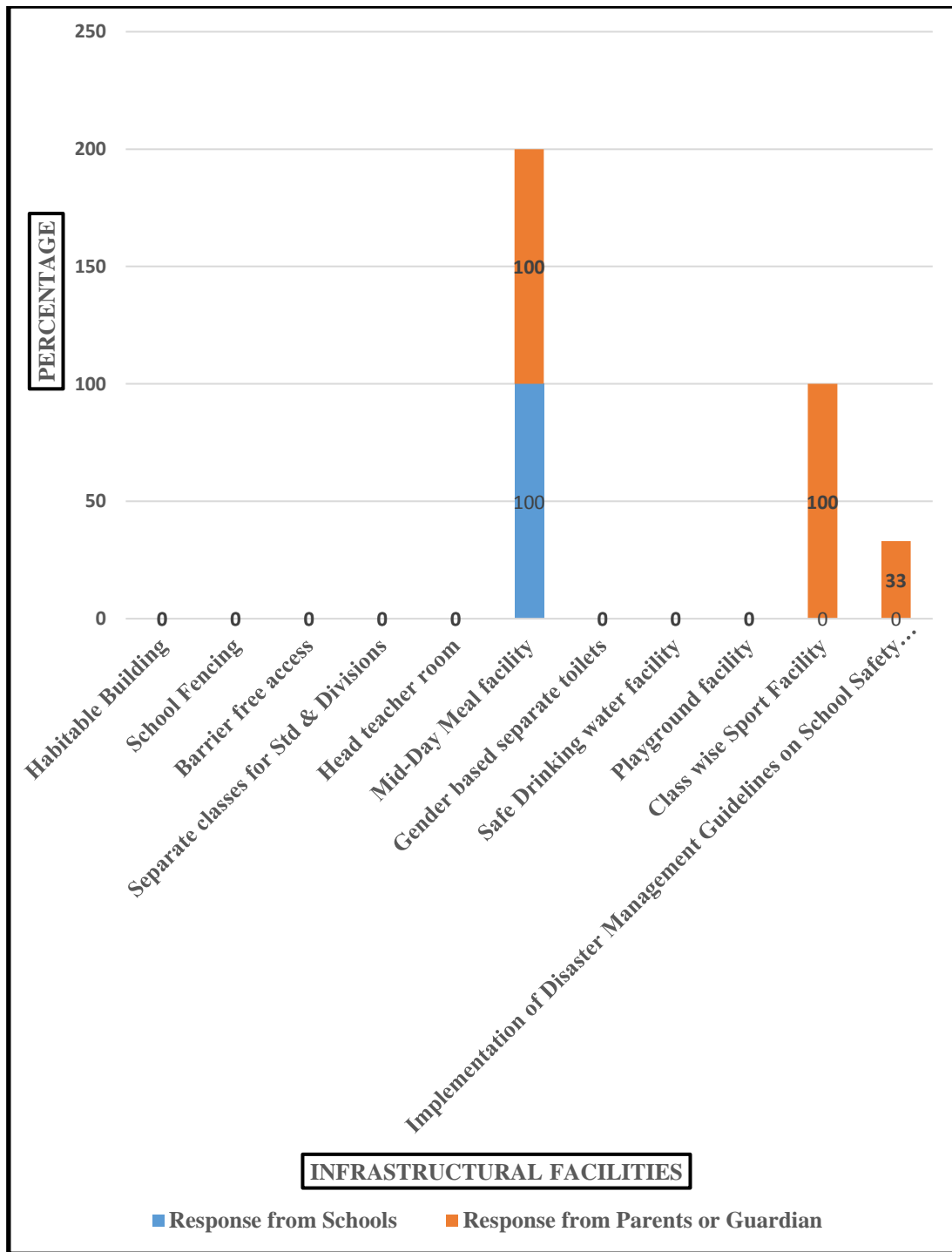


Figure 24 Specified Category Schools devoid of Infrastructural norms - comparative response

Table 29, Table 30 and Figure 24 reflect the response given by the Specified Category Schools and the Parents and Guardian of the children pursuing education in these schools. It is crystal clear that, there is no provision of Mid-day meal in these schools as per the response from both the respondents. Further, 100% of the schools lack class

wise sport facility and in 33% of the schools there is no implementation of Disaster Management Guidelines on School Safety Policy 2016 as per the response from Parents/guardian. Figure 24 reflects that rest all of the infrastructural facilities are complied with by the specified category schools.

However, the norm relating to provision of library facility and class wise teaching learning equipment's in Specified Category schools is projected for comparative analysis of schools in Tables 66, 67, 68, 69 and Figures 57, 58 and 59.

Table 31 *No. of Unaided Schools lacking Infrastructural norms*

Infrastructural Facilities	Unaided minority schools		Unaided Non-minority schools	
	Response from School	Response from Parents / Guardian	Response from School	Response from Parents / Guardian
Habitable Building	0	0	0	0
School Fencing	0	0	0	0
Barrier free access	0	0	0	0
Separate classes for Std & Divisions	0	0	0	0
Head teacher room	0	0	0	0
Mid-Day Meal facility	20	20	20	20
Gender based separate toilets	0	0	0	0
Safe Drinking water facility	0	0	0	0
Playground facility	0	0	0	0
Class wise Sport Facility	5	5	2	3
Implementation of Disaster Management Guidelines on School Safety Policy 2016	0	4	0	3

Source: Primary Data

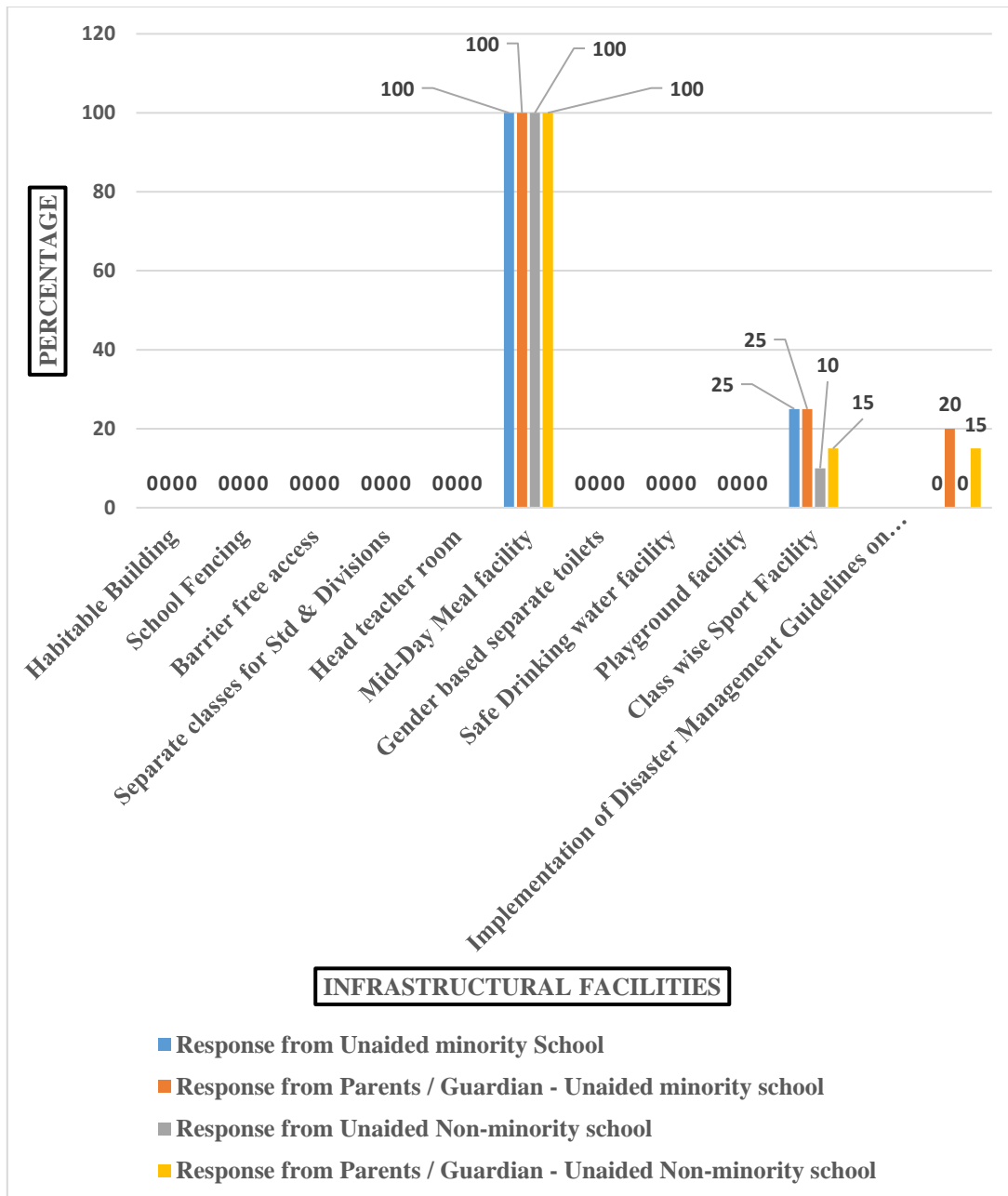


Figure 25 No. of Unaided Schools devoid of specific infrastructural norms - comparative response

As per the response given by Unaided Schools and the Parents and Guardian of the children pursuing education in these schools, it is clear from Table 31 and Figure 25 that, there is no provision of Mid-day meal in these schools. Added to this 25% of the Unaided minority schools lack class wise sport facility. Also, 20% of Unaided minority schools do not implement Disaster Management Guidelines on School Safety Policy 2016 as per the response of Parents or guardian. In case of Unaided Non-minority schools, 10% of the schools lack class wise sport facility, whereas as per the response of Parents or guardian 15% of the schools are devoid of this facility. Also, Parents or

guardian have responded that 15% of Unaided Non-minority lack implementation of Disaster Management Guidelines on School Safety Policy 2016.

Rest all norms are complied with by the Unaided schools as far as compliance with school infrastructure is concerned. However, the norm relating to provision of library facility and class wise teaching learning equipment's in these schools is projected for comparative analysis of different categories of schools and the data reflects in Tables 66, 67, 68, 69 and Figures 57, 58 and 59.

Table 32 *Compliance of Infrastructural facilities by Government Schools*

Response from Schools		Response from Parents or Guardian	
WI*	WOI**	WI	WOI
8	12	7	13

*WI – with Infrastructure **WOI – without infrastructure, **Source:** Primary Data

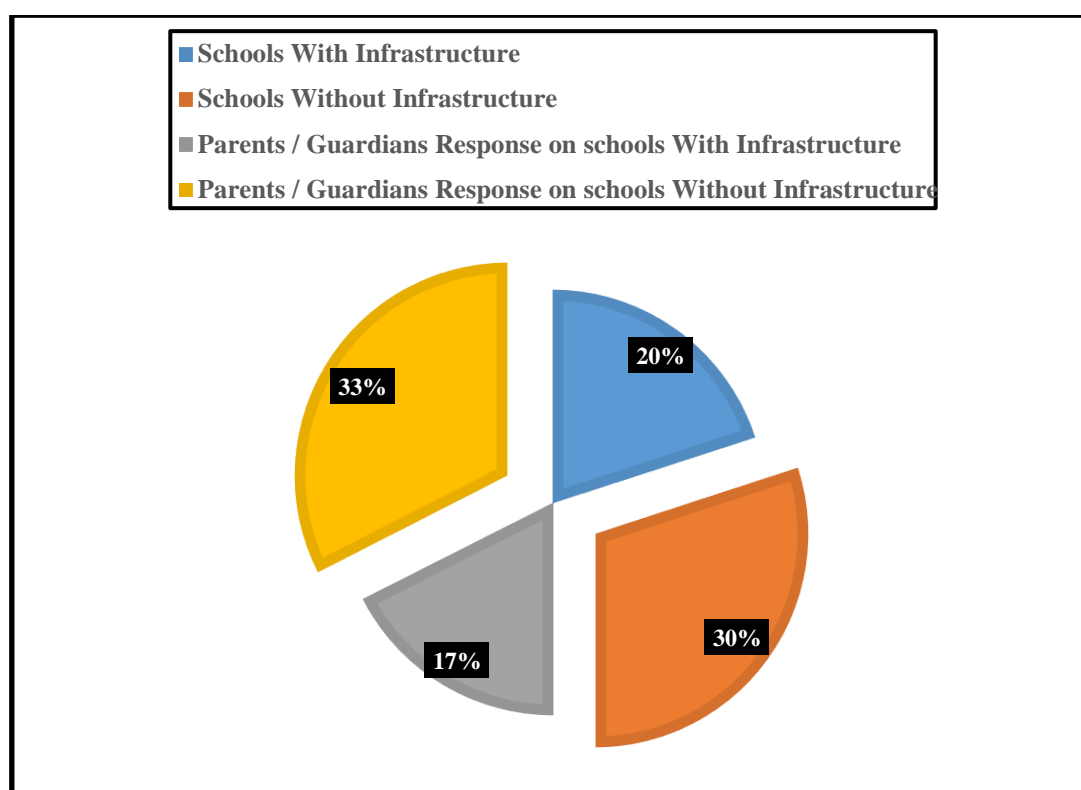


Figure 26 *Compliance of Infrastructural facilities by Government Schools - comparative response*

As projected in Tables 24, 25, 26 and 27 and Figure 21 and 22, there is minor variation between the responses given by Government schools and the Parents or Guardian of the children pursuing elementary education in these schools. An exclusive data on Government schools pertaining to the infrastructural compliance under norms and standards is tabulated in Table 32 and Figure 26.

As per the information collected from Parents or guardian 33% of these schools are devoid of infrastructural norms, whereas as per the response received from School, 30% of the Government schools do not comply with the infrastructural requirements.

Table 33 *No. of Government Schools not complying with the Infrastructural norms*

Infrastructural Facilities	Response from Schools	Response from Parents or Guardians
Habitable Building	11	13
School Fencing	10	11
Barrier free access	9	7
Separate classes for Std & Divisions	8	5
Head teacher room	11	3
Mid-Day Meal facility	1	1
Equipped School Library	2	2
Teaching Learning Equipment's per class	2	1
Gender based separate toilets	2	0
Safe Drinking water facility	1	4
Playground facility	8	8
Class wise Sport Facility	3	9
Implementation of Disaster Management Guidelines on School Safety Policy 2016	9	7

Source: Primary Data

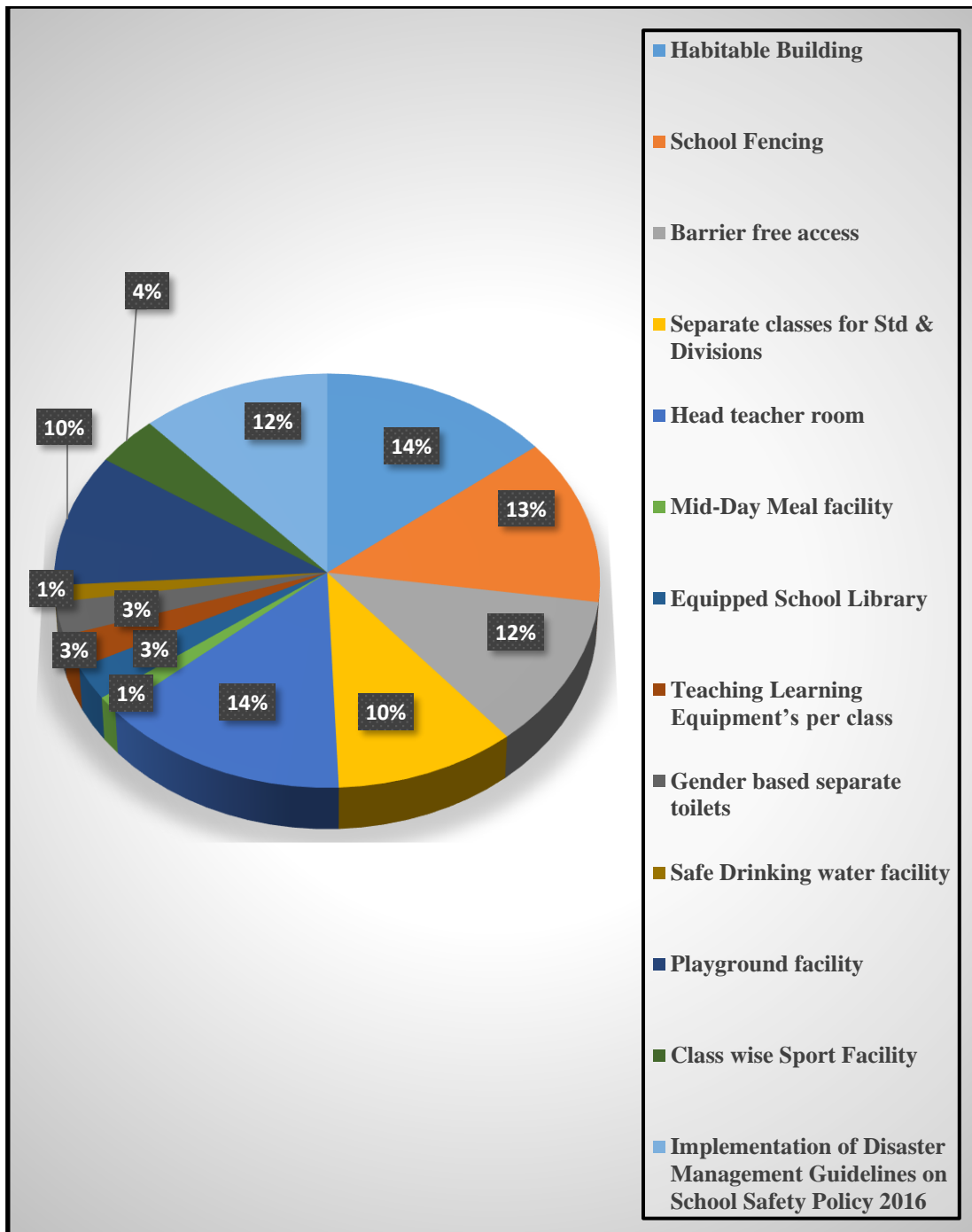


Figure 27 Government Schools devoid of Specific Infrastructural norms as per the response given by Schools

As per Table 32 there are 12 Government schools out of 20 that lack the infrastructural requirements as per the response from these schools. Also, Figure 21 reflects that 60% of the Government schools are devoid of infrastructure as per the legal mandate. Further, Table 33 and Figure 27 gives the detailed breakup of the infrastructural facilities that are lacking in these 60% Schools or the 12 schools.

Thus, 14% of these schools do not have Habitable Building, 13% are devoid of School Fencing, 12% lack barrier free access, 10% do not have separate classes, 14% lack Head teacher room, 1% do not provide Mid-Day Meal provision, 3% lack Equipped School Library, 3% are devoid of Teaching Learning Equipment's in individual classes, 3% lack Gender based toilets, 1% do not have Safe Drinking water facility, 10% do not have Playground facility, 4% lack class wise Sport Facility and 12% have not implemented Disaster Management Guidelines on School Safety Policy 2016.

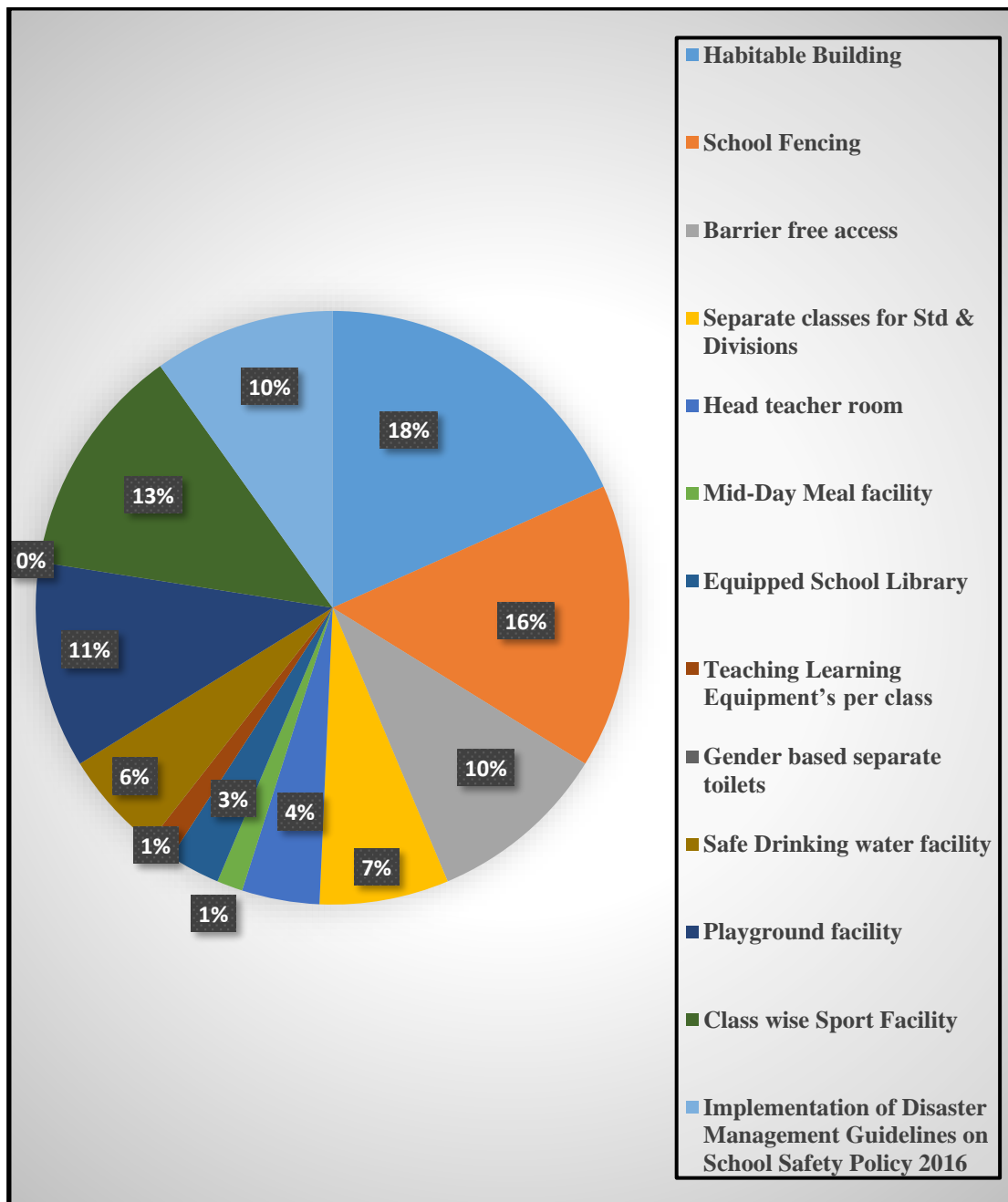


Figure 28 Government Schools lacking specific infrastructural norms as per the response from Parents or Guardian

It can be seen from Table 32 that 13 Government schools out of 20 lack the infrastructural requirements as per the response provided by Parents or guardian. Figure 22 also indicate that 65% of these schools lack the infrastructural facilities.

Table 33 and Figure 28 indicate a further break up. Thus, 18% of these schools do not have Habitable Building, 16% are devoid of School Fencing, 10% of the school buildings do not have barrier free access, 7% lack separate classes for Std and Divisions, 4% lack Head teacher room, 1% do not provide Mid-Day Meals, 3% lack Equipped School Library, 1% are devoid of Teaching Learning Equipment's in individual classes, 6% do not have safe Drinking water facility, 11% do not have Playground facility and 13% lack class wise Sport Facility and 10% have not implemented Disaster Management Guidelines on School Safety Policy 2016. However as per the response gathered all government schools have gender based toilet facility.

5.7.1 Empirical Data on Provision of Teaching aids, Water facility and other requirements in Schools

It is pertinent to mention that 2010 being the year of implementation of the RTE Act, the teaching learning equipment's in school were focused to blackboard or whiteboard, chalk or marker and duster. However, responses have been gathered from Government schools on one hand and the parents or guardian on the other hand as to whether along with the basic teaching learning facilities, these schools also have the provision of computers with internet accessibility and Information Communication Technology mechanism as the same aids in enhancing the quality of education.

The study further has also sought answers on adequacy of toilet facilities, drinking water facility and sport facility in Government schools. The norms and standards which a school is required to adhere for the purpose of being recognized make a mention of games, play material and sports equipment, and the same has been brought within the purview of sport facility by the Researcher.

Table 34 *No. of Government schools with Adequate Teaching Learning Equipment's class wise*

Response from Schools		Response from Parents or Guardian	
Yes	No	Yes	No
0	20	0	20

Source: Primary Data

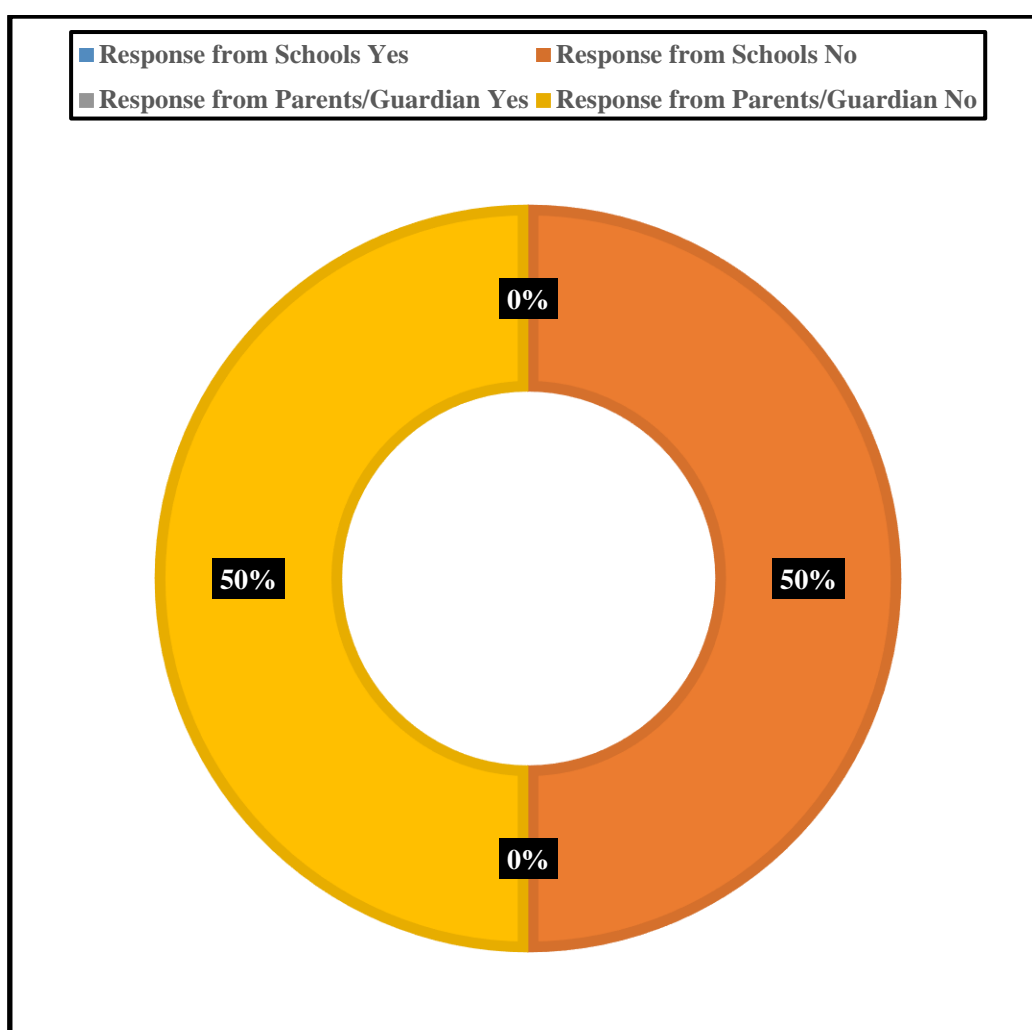


Figure 29 *Government Schools with Sufficient No. of Teaching Learning Equipment's class wise - comparative response*

It can be inferred from Table 34 and Figure 29 that all Government schools lack the teaching aids class wise, and the response given by these schools as well as the Parents or guardian is the same.

Table 35 No. of Government schools deficient in specific Teaching Learning Equipment's class wise

Teaching Learning Equipment's	Schools Response	Parents/Guardian Response
Blackboard/Whiteboard	0	0
Chalk/Marker	2	1
Duster	1	0
Computer with internet access	20	20
Information & Communication Technology	20	20

Source: Primary Data

Table 36 Government schools lacking specific Teaching Learning Equipment's class wise in percent

Teaching Learning Equipment's	Schools Response	Parents/Guardian Response
Blackboard/Whiteboard	0	0
Chalk/Marker	10	5
Duster	5	0
Computer with internet access in individual class	100	100
Information & Communication Technology	100	100

Source: Primary Data

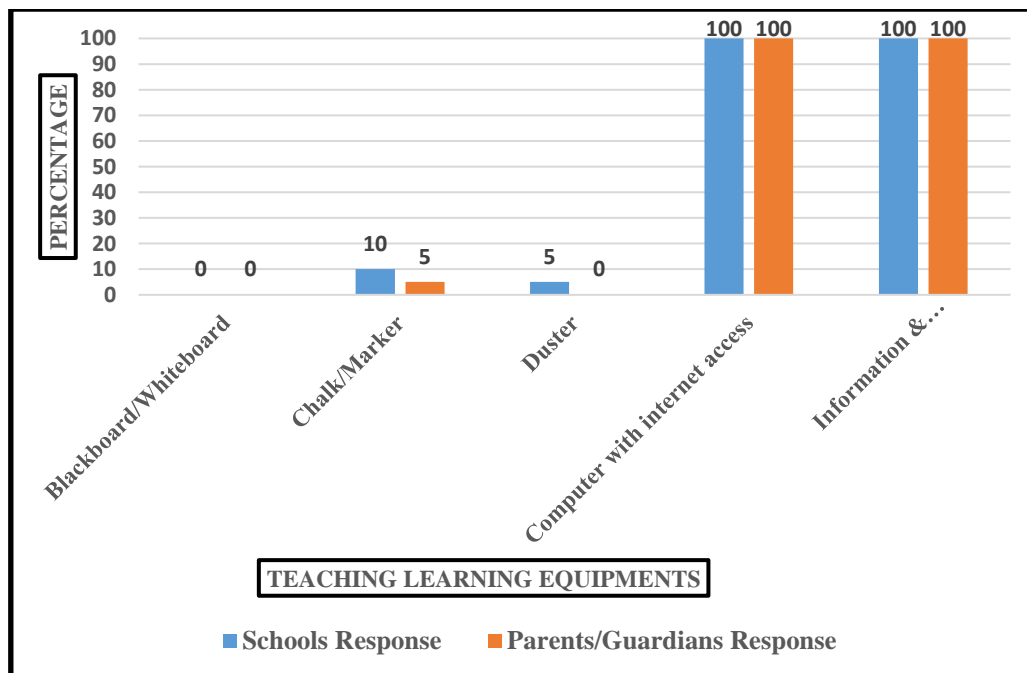


Figure 30 Government Schools devoid of specific Teaching Learning Aids class wise - comparative response

Correlating the response received from the Government schools and the Parents or guardian of children schooling in these institutions, as per Table 35, Table 36 and Figure 30, it can be seen that the issue lies with computer and internet accessibility and the next problem expressed is with Information and Communication Technology system. The schools as well as parents or guardian have responded that 100% of the Government schools do not have computer with internet accessibility in independent class and are also devoid of Information and Communication Technology system. Further, 10% of these schools do not have chalk or marker and 5% of the schools lack duster as per the response gathered from schools. On the other hand, as per the response received from parents or guardian, 5% of these schools do not have chalk or marker.

Table 37 *No. of Government schools having accessible and hygienic Toilet facility*

Response from Schools			
Totally Agree	Agree	Partially Agree	Disagree
1	7	12	0

Source: Primary Data

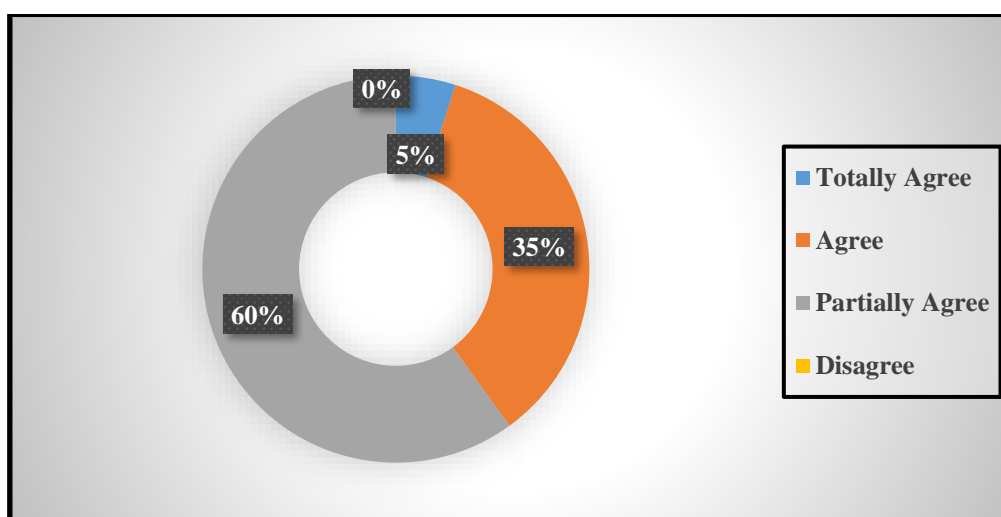


Figure 31 *Government school's response on Status of Toilets being accessible and hygienic*

It can be seen from Table 37 and Figure 31 that only 5% of the Government school toilets are totally accessible and hygienic. Though there is no complete disagreement, 60% partially agree and the rest agree that the toilet facility in these schools is accessible and hygienic.

Table 38 *No. of Government Schools having accessible and hygienic toilet facility in Government Schools*

Response from Parents or Guardian			
Totally Agree	Agree	Partially Agree	Disagree
0	5	11	4

Source: Primary Data

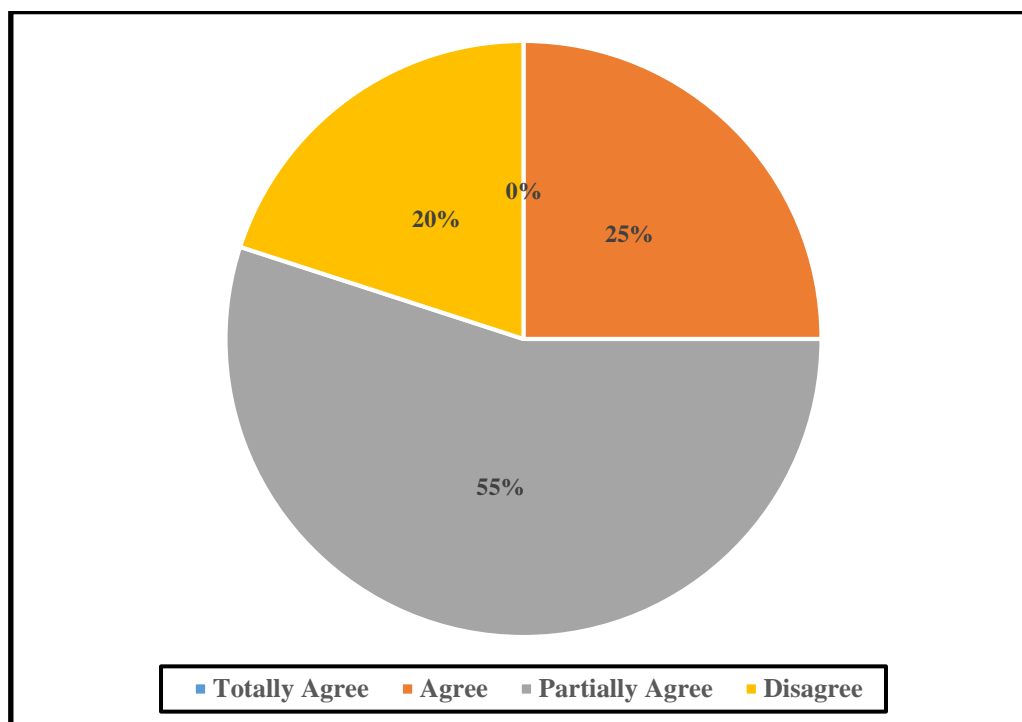


Figure 32 *Government schools with accessible and hygienic Toilet facility - as per Parents or guardians response*

Table 38 and Figure 32 reveal the response given by Parents or guardian of the children enrolled in the Government schools, as to the accessibility and hygiene of the toilets at the school. None of the respondents totally agree with the statement. However, 20% disagree, 55% partially agree and 25% agree that toilet facility at the Government schools are accessible and hygienic.

Correlating Table 37 and Figure 31 with Table 38 and Figure 32, only 5% of the Government Schools totally agree that the toilets in these schools are accessible and hygienic. 20% of the Parents or guardian disagree about the accessibility and hygiene of the toilets in these schools.

Table 39 *No. of Government schools having Adequate and Safe Drinking Water facility*

Response from Parents or Guardian			
Totally Agree	Agree	Partially Agree	Disagree
0	6	10	4

Source: Primary Data

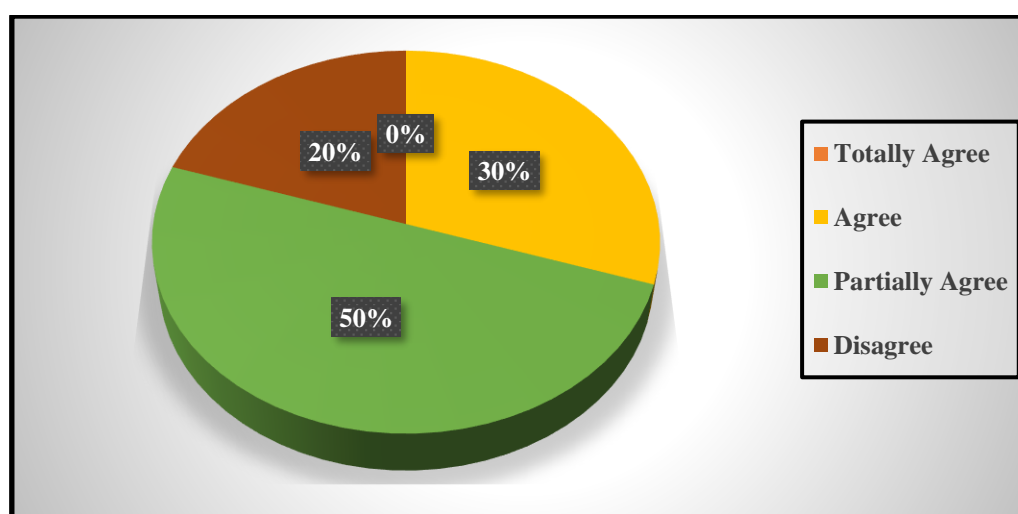


Figure 33 *Government schools having Adequate and Safe Drinking Water facility - Response from Parents or Guardian*

It can be seen from Table 39 and Figure 33 that, 20% of the respondents have disagreed about the adequacy and safety of the drinking water facility provided by Government schools, 50% partially agree, whereas only 30% agree about the adequacy and safety of this facility.

Table 40 *No. of Government Schools having Adequate and Safe Drinking Water facility*

Response from Schools			
Totally Agree	Agree	Partially Agree	Disagree
0	11	7	2

Source: Primary Data

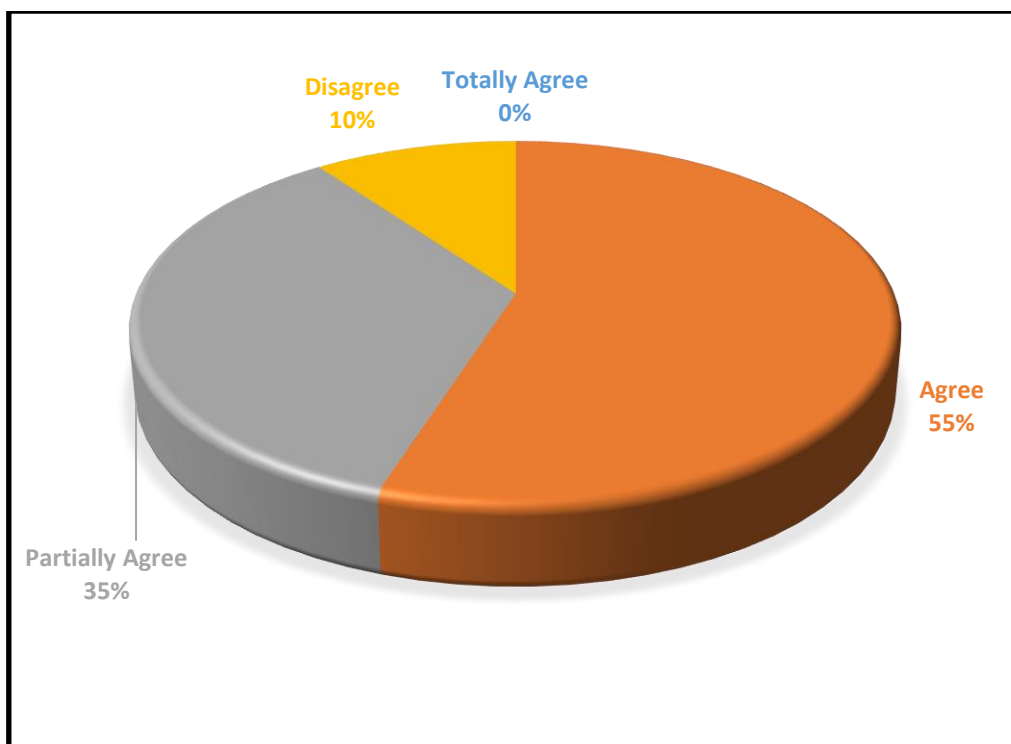


Figure 34 *Government Schools having Safe and Adequate Drinking Water facility - as per Schools response*

As projected in Table 40 and Figure 34, It can be seen that 10% of the respondents have disagreed about the adequacy and safety of the drinking water facility provided by Government schools. 35% partially agree, whereas 55% agree about the adequacy and safety of this facility.

Correlating Table 39 and Figure 33 with Table 40 and Figure 34, none of the respondents have totally agreed that Government schools do have safe and adequate drinking water facility. 20% of the Parents or guardian and 10% of the Government schools have agreed that the schools do not have this facility.

Table 41 *No. of Government Schools with insufficient Facility class wise*

Sports Facility	Response from Schools	Response from Parents or Guardian
Play Material	0	4
Sports Equipment	2	6
Games	2	8

Source: Primary Data

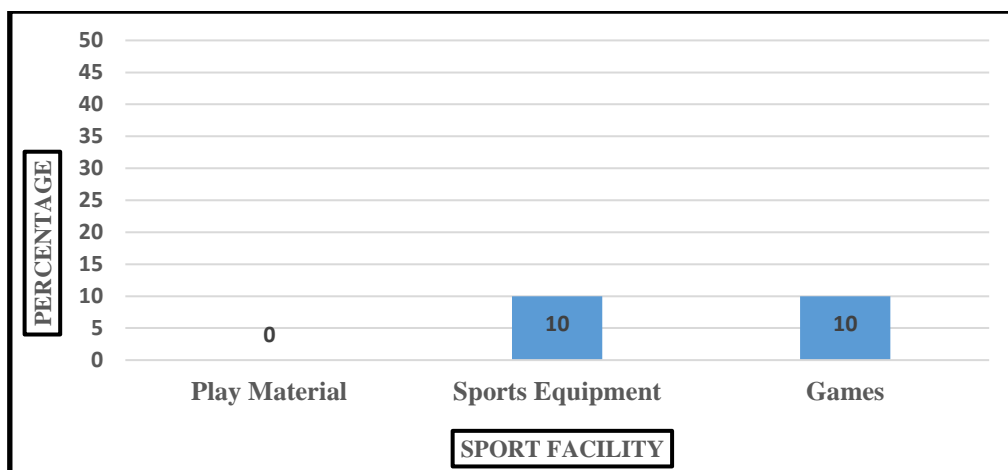


Figure 35 Government Schools deficient in Sports Facility class wise as per Schools response

As per the response given by Government schools there are 12 schools that lack the infrastructural facilities and this reflects in Table 32. Further, it can be seen from Table 33 that out of 12 schools, 3 of these independent schools do not have class wise sport facility.

Table 41 reflects the items under the sport facility. Thus as per Table 41 and Figure 35, in terms of the response given by schools 10% of the Government schools have insufficient class wise sports equipment and games. Figure 36 below projects the response of the Parents or guardian on the insufficiency of the sports facility in Government schools.

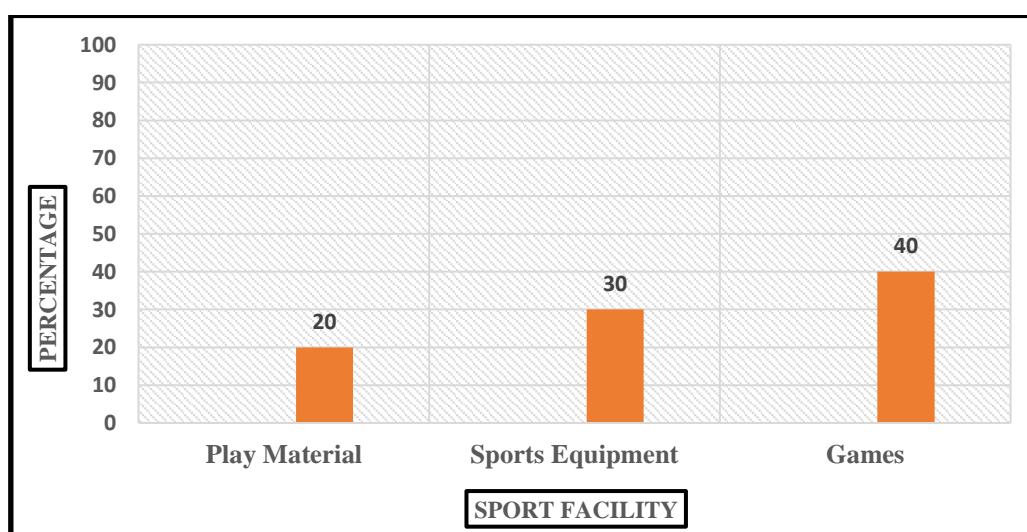


Figure 36 Government Schools lacking Sports facility class wise as per the response from Parents or Guardian

As per the Parents or guardian's response there are 13 schools that are devoid of infrastructural mandates and this reflects in Table 32. Further, it can be seen from Table 33 that out of 13 schools, 9 of the independent schools lack class wise sport facility.

Table 41 lists the items under the sport facility. Thus as per Table 41 and Figure 36, in terms of the response given by Parents or guardian 20% of the Government schools do not have play material, 30% lack sports equipment and 40% are devoid of games in individual classes.

Thus comparative analysis of Figure 35 and Figure 36 reflects that government schools definitely are devoid of sports equipment's and games in individual classes. However, Parents or guardian have responded that these schools also lack play material.

5.7.2 Inspection of Government Schools and the Budget sanctioned

Inspection of schools amounts in keeping proper check and balance and this results in legitimate functioning of the schools. Even grant of school recognition is subject to school inspection to be conducted by the concerned Authority.⁹³⁴ The Researcher has tabulated the data pertaining to the inspection of Government schools and the same has been represented as figures. Also the budget on education at the elementary schooling sanctioned by the State and the Infrastructure expenses incurred by Government Schools is projected.

Table 42 *No. of Government schools visited by the Officer under the Directorate of Education to assess the quality of Mid-day meals*

Response Given by Government Schools			
Always	Occasionally	Never	Not Aware
2	18	0	0

Source: Primary Data

⁹³⁴ The Goa Right of Children to Free and Compulsory Education Rules, 2012, rule 15, sub rule (1), cl. (e). the school is open to inspection by any officer authorized by the Government or the local authority.

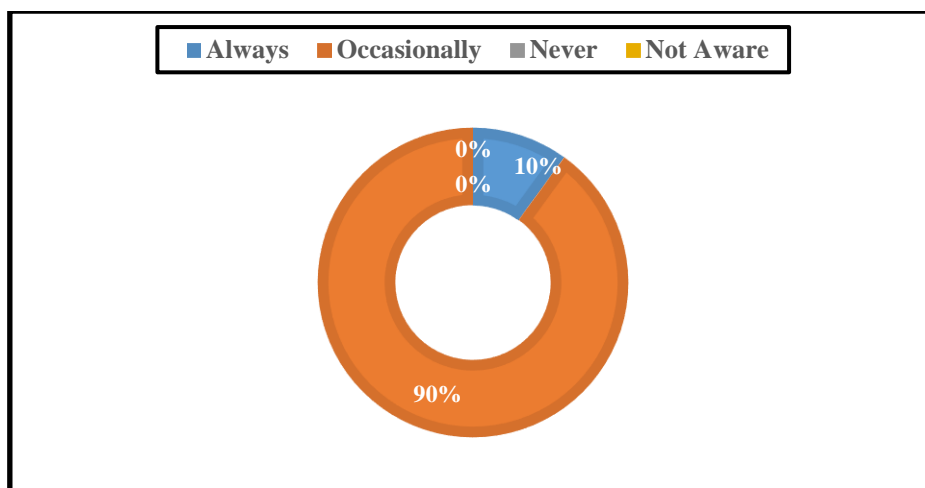


Figure 37 Government Schools visited by the officer under the Directorate of Education to assess the quality of Mid-day meals - As per Schools response

As per the response given by the Government schools, Table 42 and Figure 37 clearly reflects that, 90% of these schools are visited occasionally by the Officer to assess the quality of Mid-day meals served in these schools.

Table 43 No. of times Government Schools inspected by the (A.D.E.I)

Response given by Government schools				
Once in a Year	Twice in a Year	Thrice in a Year	< 3 times a Year	Occasionally
12	4	0	0	4

Source: Primary Data

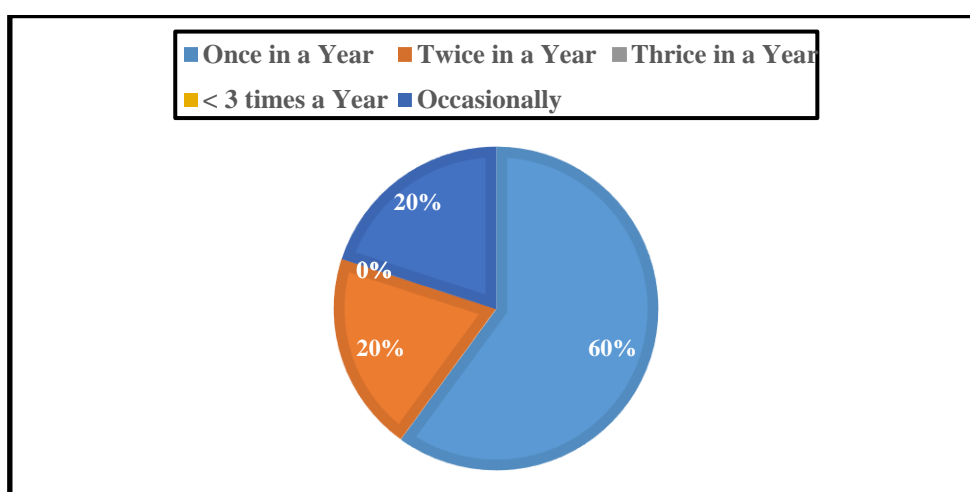


Figure 38 No. of times Government Schools inspected by the (A.D.E.I) - As per the response given by schools

Table 43 and Figure 38 depicts that 60% of the Government schools are inspected by A.D.E.I. once a year. Inspection is also done occasionally or twice in a year as responded by 20% of the Government schools respectively.

Table 44 *Budget sanctioned by State and actual expenditure on Infrastructure by Government Schools*

Rs. in Lakhs

Year	Budget sanctioned	Actual Expenditure
2010-11	-	-
2011-12	600.00	-
2012-13	1320.00	-
2013-14	900.00	544.25
2014-15	900.00	1895.73
2015-16	3900.00	1473.55
2016-17	1250.00	1666.66
2017-18	3000.00	1662.10
2018-19	13500.00	2020.10
2019-20	14000.00	2880.09

Source: Primary Data

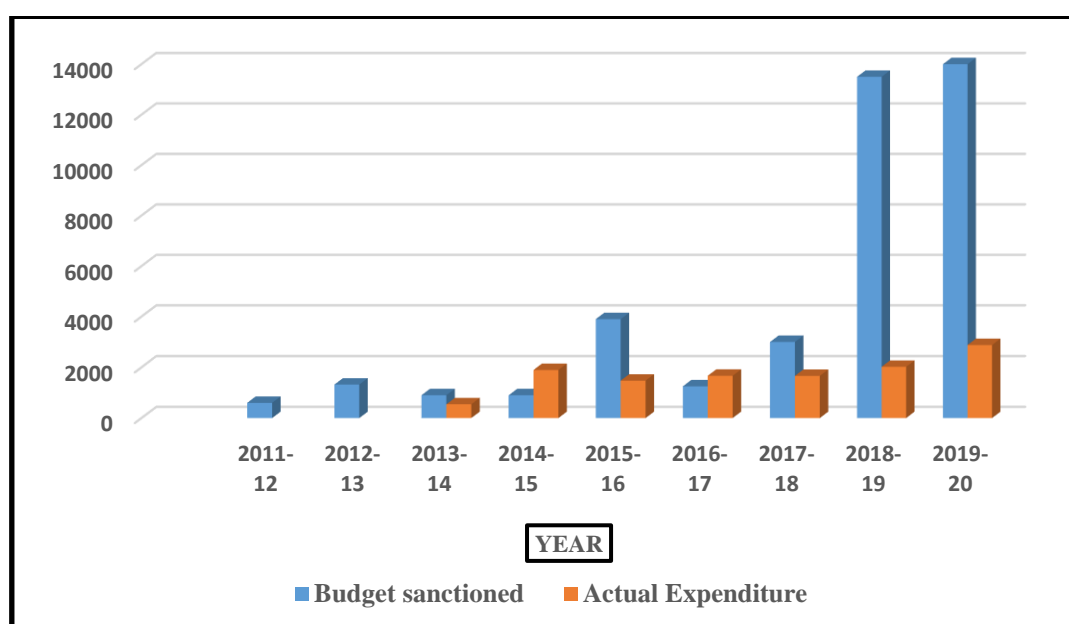


Figure 39 *Budget sanctioned by State and actual expenditure incurred on Infrastructure by Government Schools*

Data for the year 2010-11 is not available and expenditure for period of succeeding two years 2011-2013 is also not available as per Table 44, hence respective columns do not reflect in Figure 39. It can be seen that the actual expenditure for the years 2014-15 and 2016-17 have exceeded the budget sanctioned. However, for the years 2013-14, 2015-16 and 2017-18 the expenditure is within the annual budget. For the years 2018-19 and 2019-20, the expenditure is significantly less as compared to the budget sanctioned by the State. For these years the budget sanctioned is 135cr and 140cr, whereas the actual expense is only 20cr and 28cr for the years 2018-19 and 2019-20 respectively.

Also, the budget for the years 2013-14 and 2014-15 is 9cr and is less as compared to the year 2012-13 which is 13cr. Again the budget for the year 2015-16 rises to 39cr and decreases to 12cr for the year 2016-17 and then again rises to 30cr for the year 2017-18. However, the budget for the years 2018-19 shows a significant increase which is 135cr and for the year 2019-20 is 140cr though the actual expenditure is less for these two years. The said data is projected in Table 44 and Figure 39.

5.8 Empirical Data on constitution of School Committees and its functioning

All schools established and recognized in the State have to constitute School Committees⁹³⁵ either as per the RTE legislation or Goa, Daman and Diu School Education Act of 1984. These committees have a heterogeneous composition of members from differing fields. The committee under RTE law is referred to as School Management Committee and the one under Goa, Daman and Diu School Education Act is known as Managing Committee⁹³⁶ and they are responsible to carry administrative and other functions.

Unaided Schools are excluded from constituting School Management Committee as per RTE law, but these have to constitute a committee as per the Rules framed under the Goa School Education Act.⁹³⁷ The duties of the Managing Committee⁹³⁸ include

⁹³⁵ For details See, sub-chapter 4.5.7.a)

⁹³⁶ *Supra* note 859.

⁹³⁷ *Supra* note 837 and 840.

⁹³⁸ *Supra* note 859.

keeping checks to prohibit financial irregularities;⁹³⁹ ensure appropriate school infrastructure, equipped library, teaching aids, sports material;⁹⁴⁰ filling of annual audit;⁹⁴¹ and other assigned administrative duties to its members.⁹⁴²

School Management Committee constituted in Aided schools are only advisory in nature as per RTE legislation but Goa RTE rules 2012 approves the constitution of Managing committee in Aided schools with all powers and responsibilities as per the Goa Daman and Diu School Education Act and the rules thereunder.⁹⁴³ Even School Management Committee constituted in Minority schools is an advisory body.⁹⁴⁴

The duties assigned to SMC by RTE Act are more specific and detailed as compared to Managing Committees under Goa Daman and Diu School Education Act. The duty of conducting monthly meetings by the School Management Committee and thereby making its decision public is taken up specifically and other duties of the school committees follow. Prima facie it is essential to know the number of committees constituted by different schools.

Table 45 *Constitution of School Committees*

As per Response from Schools						
School Committee	Government	Aided Minority	Aided Non-minority	Unaided Minority	Unaided Non-minority	Specified Category
SMC*	18	7	12	0	0	3
Managing Committee	1	4	3	20	20	0
SMC & Managing Committee	1	9	5	0	0	0

⁹³⁹ The Goa, Daman and Diu School Education Rules, 1986, rule 46, cl. (2), sub-cl (e).

⁹⁴⁰ The Goa, Daman and Diu School Education Rules, 1986, rule 46, cl. (2), sub-cl (g).

⁹⁴¹ The Goa, Daman and Diu School Education Act, 1984, No. 15, 1985, sec 6. School Fund and School Staff Account Fund.- (7) The managing committee of every recognised private school shall file every year with the Director such duly audited financial and/other returns as may be prescribed, and very return shall be audited by such authority as ay be prescribed.

⁹⁴² The Goa, Daman and Diu School Education Rules, 1986, rule 46, cl. (2), sub-cl (h) (i).

⁹⁴³ *Supra* note 841, 939, 940, 941. *Ibid.*

⁹⁴⁴ *Supra* note 841.

Not Applicable	0	0	0	0	0	0
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*SMC – School Management Committee, **Source:** Primary Data

Table 46 Constitution of School Committees in percent

As per Response from Schools						
School Committee	Government	Aided Minority	Aided Non-minority	Unaided Minority	Unaided Non-minority	Specified Category
SMC*	90	35	60	0	0	100
Managing Committee	10	20	15	100	100	0
SMC & Managing Committee	10	45	25	0	0	0
Not Applicable	0	0	0	0	0	0

*SMC – School Management Committee, **Source:** Primary Data

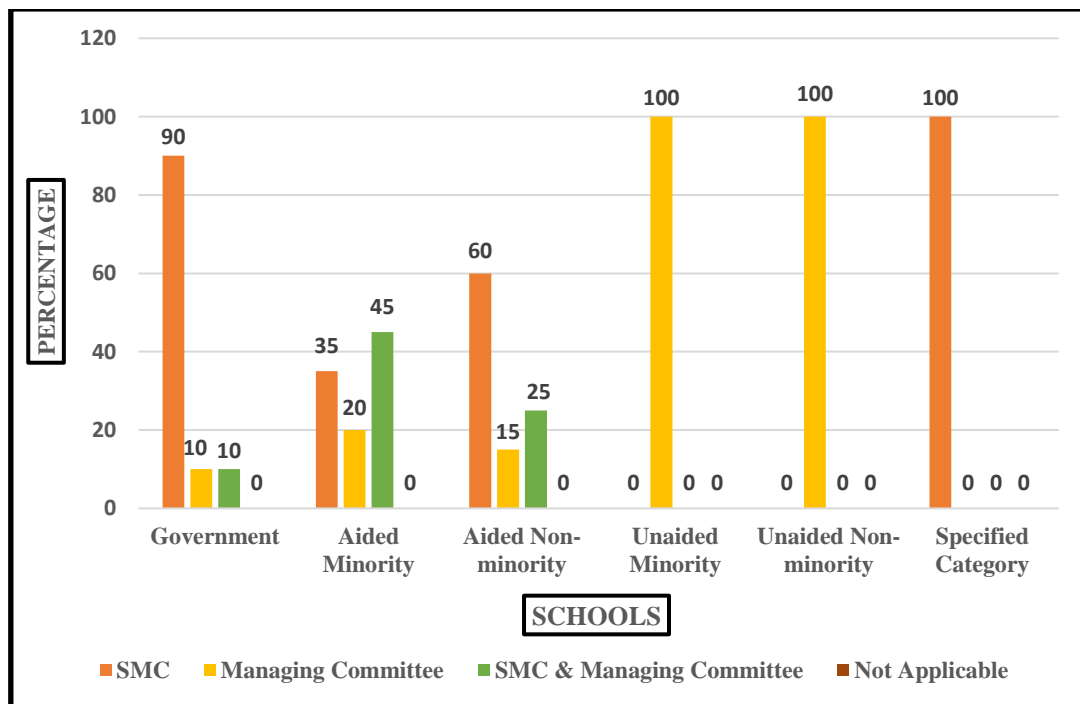


Figure 40 Constitution of School Committees as per Response from Schools

As per the response given by schools, Table 45, Table 46 and Figure 40 indicates that SMC is constituted in 90% of the Government schools, 35% of the Aided minority schools, 60% of the Aided Non-minority schools and 100% of the Specified category schools. Also, Managing Committee is constituted in 10% of the Government schools, 20% of the Aided minority schools, 15% of the Aided Non-minority schools and 100% of the Unaided schools. Both, SMC and Managing Committee is constituted in 10% of the Government schools, 45% of the Aided minority schools and 25% of the Aided Non-minority schools.

Thus Unaided schools have exclusive constitution of Managing committees only and on the other hand specified category schools have exclusive constitution of SMC only.

Table 47 *Constitution of School Committees*

As per Response from School Committee Member						
School Committee	Government	Aided Minority	Aided Non-minority	Unaided Minority	Unaided Non-minority	Specified Category
SMC*	14	11	6	0	0	3
Managing Committee	2	9	2	20	20	0
SMC & Managing Committee	4	0	8	0	0	0
Not Applicable	0	0	4	0	0	0

*SMC – School Management Committee, **Source:** Primary Data

Table 48 *Constitution of School Committees in percent*

As per Response from School Committee Member						
School Committee	Government	Aided Minority	Aided Non-minority	Unaided Minority	Unaided Non-minority	Specified Category
SMC	70	55	35	0	0	100

Managing Committee	10	45	15	100	100	0
SMC & Managing Committee	20	0	50	0	0	0
Not Applicable	0	0	0	0	0	0

*SMC – School Management Committee, **Source:** Primary Data

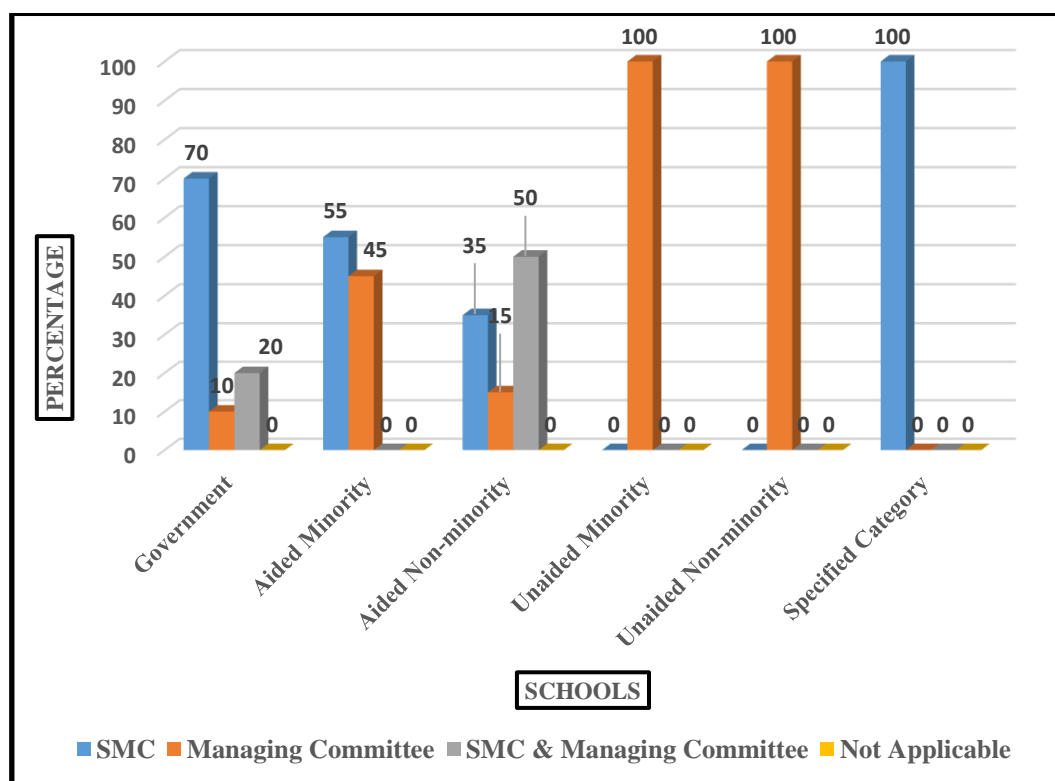


Figure 41 Constitution of School Committees as per response from School Committee Members

The response gathered from School Committee Members is reflected in Table 47, Table 48 and Figure 41. SMC is constituted in 70% of the Government schools, 55% of the Aided minority schools, 35% of the Aided non-minority schools and 100% of the Specified category schools. Further, Managing committee is constituted in 10% of the Government schools, 45% of the Aided minority schools, 15% of the Aided non-minority schools and 100% of the Unaided schools. Both, SMC and Managing committee is constituted in 20% of the Government schools and 50% Aided non-minority schools.

Thus Unaided schools have exclusive constitution of Managing committees only and on the other hand specified category schools have exclusive constitution of SMC only.

Comparative analysis of Figure 40 with 41 reflect that Government and Aided Non-minority schools have constitution of SMC and Managing Committees in their educational institutions. Further, Unaided schools have only Managing Committees while Specified Category schools have only SMC. However, there is disparity in the constitution of committees in Aided minority schools. Figure 40 reflects that both committees are established in Aided minority schools whereas this cannot be seen in Figure 41.

Table 49 *Monthly meetings conducted by Government School Committees and making it public*

Response from Schools			Response from Parents or Guardian		
Yes	No	Not Aware	Yes	No	Not Aware
16	4	0	14	2	4

Source: Primary Data

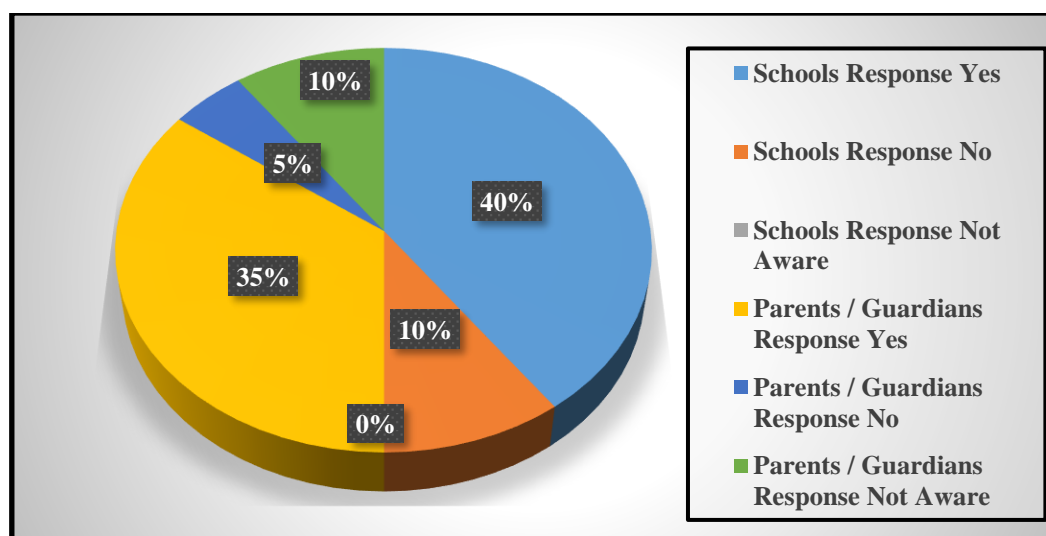


Figure 42 *Monthly meetings conducted by Government School Committees and Making it public - comparative response*

It can be analysed from Table 49 and Figure 42, as per the response from schools that 40% of the Government School committees conduct school meetings and makes its

decision public. According to Parents or guardian 35% of these school committees also do the same. Thus majority of respondents affirm the statement. However, 10% of Parents or guardian have expressed that they are unaware as to whether meetings are conducted and decisions are made public.

Table 50 *Monthly meetings conducted by Aided Minority school committees and making it public*

Response from Schools			Response from Parents or Guardian		
Yes	No	Not Aware	Yes	No	Not Aware
17	3	0	7	6	5

Source: Primary Data

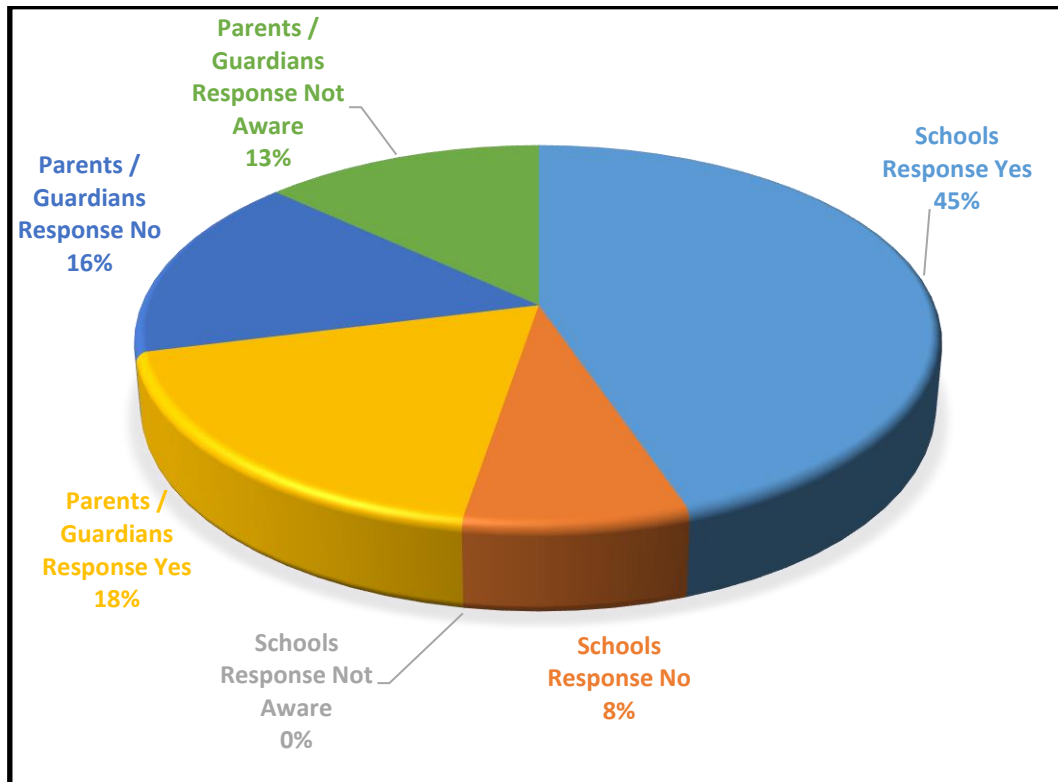


Figure 43 *Monthly meetings conducted by Aided Minority school committees and making it public - comparative response*

As per the response from Aided minority schools, 45% of these school committees conduct monthly meetings and makes its decision public. This reflects in Table 50 and Figure 43. Further, response from Parents or guardian is that, 18% of these school committees conduct school meetings and makes its decision public. As far as denial of

the statement is concerned, the response from the Parents or guardian is 16% of the Aided minority schools do not conduct monthly meetings and make its decision public. Further 13% of the Parents or Guardian are unaware about it.

Table 51 *Monthly meetings conducted by Aided Non-minority school committees and making it public*

Response from Schools			Response from Parents or Guardian		
Yes	No	Not Aware	Yes	No	Not Aware
17	3	0	14	2	4

Source: Primary Data

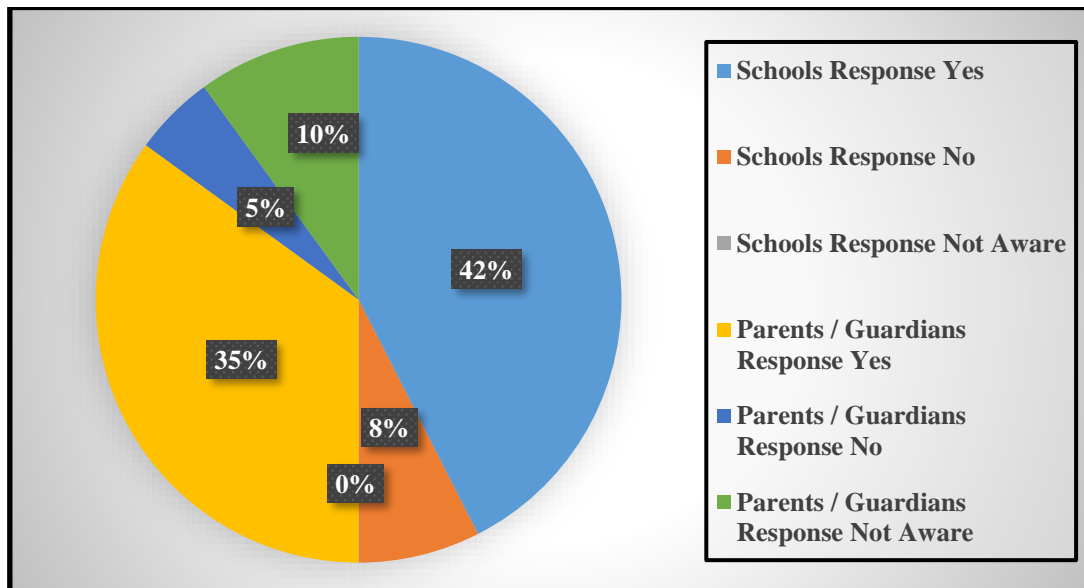


Figure 44 *Monthly meetings conducted by Aided Non-minority school committees and making it public - comparative response*

Table 51 and Figure 44 depicts from the response of schools that 42% of Aided Non-minority school committees conduct school meetings and makes its decision public. According to Parents or guardian 35% of these school committees also do the same. Thus in case of Aided Non-minority schools, majority of respondents affirm the statement. A very negligible percent of respondents 13% have denied that these school committees conduct meetings and makes its decisions public. However, 10% of parents/guardians have expressed that they are unaware as to whether meetings are conducted and decisions are made public.

Table 52 *Monthly meetings conducted by Unaided minority school committees and making it public*

Response from School			Response from Parents or Guardian		
Yes	No	Not Aware	Yes	No	Not Aware
15	5	0	7	13	0

Source: Primary Data

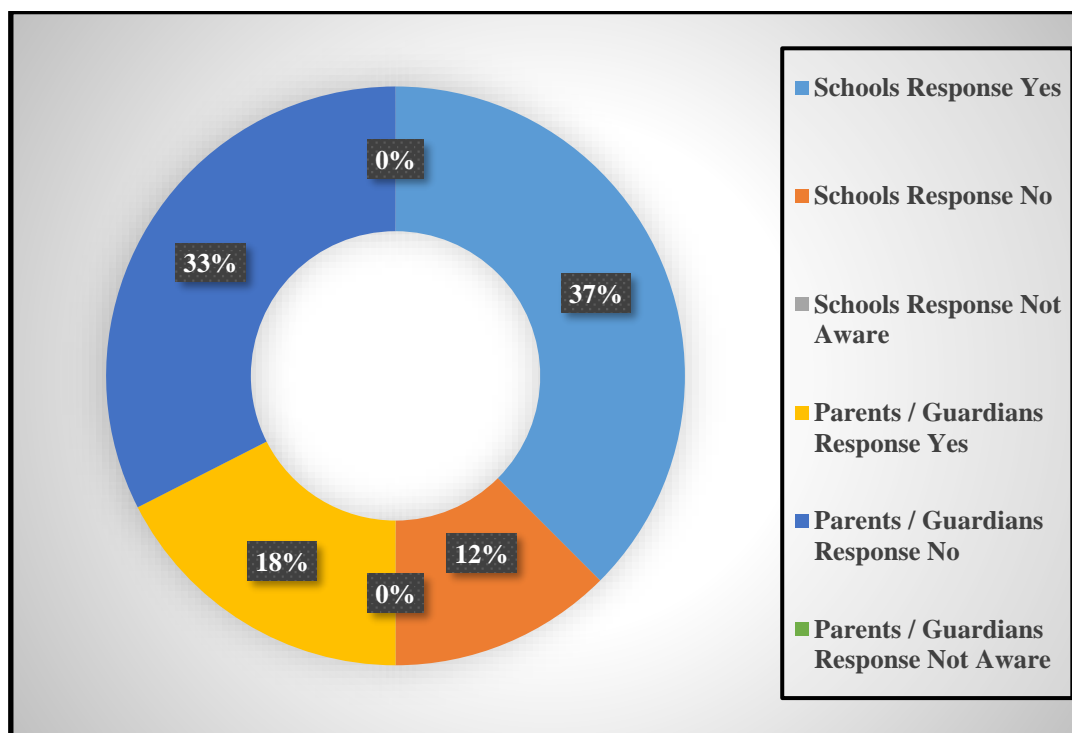


Figure 45 *Monthly meetings conducted by Unaided minority school committees and making it public - comparative response*

As per the response from schools, 37% of the Unaided minority school committee conduct meetings and makes its decision public. Parents or Guardian have responded that only 18% of these schools do the same. This is projected in Table 52 and Figure 45. Thus there is a major disparity in the statement. However, 33% of the Parents or guardian and 12% of the schools denies the statement.

It is very clear from Figure 40 and 41 that these schools have constituted only Managing Committee as per Goa Daman and Diu School Education Act and the Act is silent about conducting monthly meetings and making the decisions public.

Table 53 *Monthly meetings conducted by Unaided Non-minority school committees and making it public*

Response from Schools			Response from Parents or Guardian		
Yes	No	Not Aware	Yes	No	Not Aware
0	20	0	3	12	5

Source: Primary Data

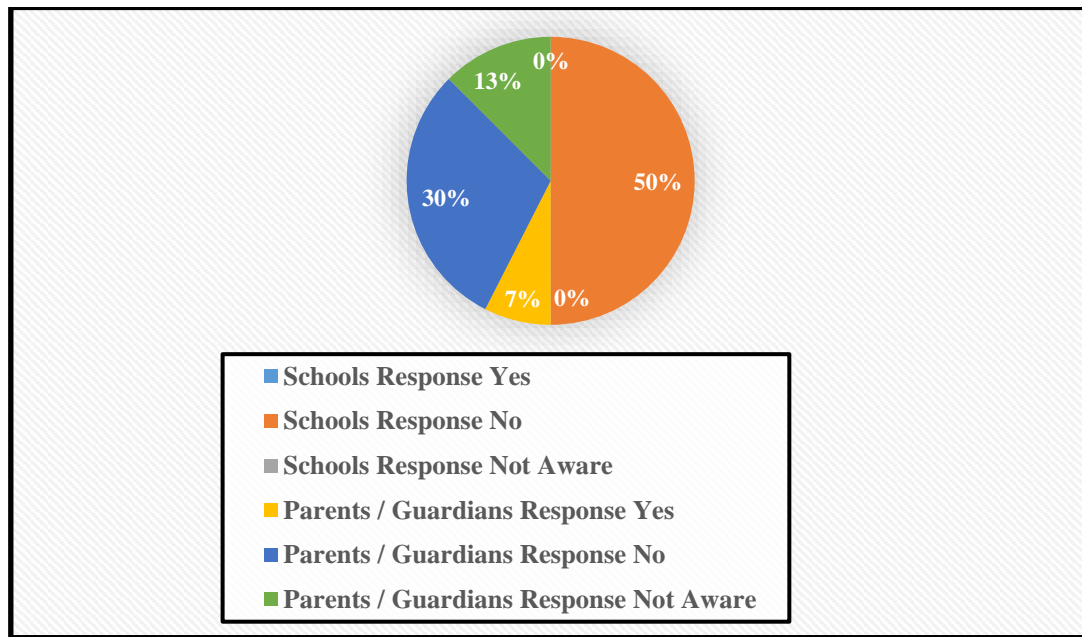


Figure 46 *Monthly meetings conducted by Unaided Non-minority school committees and making it public - comparative response*

It is depicted from Table 53 and Figure 46, that as per response from Unaided Non-minority schools all schools have denied that the school committee conducts meetings and makes its decisions public. On the other hand, 30% of the Parents or guardian have also denied the statement. Thus majority of the respondents have not affirmed the statement. Only 7% of the Parents or guardian have confirmed it.

Table 54 *Monthly meetings conducted by Specified Category school committees and making it public*

Response from Schools			Response from Parents or Guardian		
Yes	No	Not Aware	Yes	No	Not Aware
0	03	0	1	2	0

Source: Primary Data

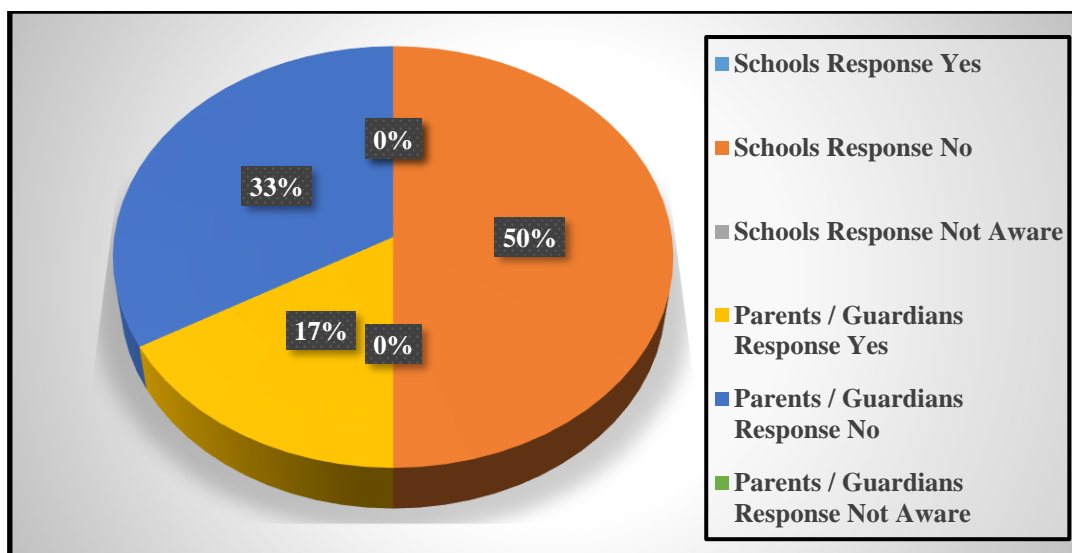


Figure 47 *Monthly meetings conducted by Specified Category school committees and making it public - comparative response*

It can be analyzed from the response of Specified Category schools that its school committees do not conduct school meetings and neither makes its decision public. This reflects in Table 54 and Figure 47. Further, according to Parents or guardian 33% of the school committees also do not conduct meetings nor makes any of its decisions public. Thus in case of specified category schools, majority of respondents have denied the statement. A very negligible percent of Parents or guardian i.e. 17% have affirmed that schools conduct meetings and makes its decisions public.

Analysis of Figure 40 and 41 make it clear that, these schools have constituted SMC as per the central law but violate the provision of conducting the monthly meetings and making the decisions public.

Table 55 *Status of performance of functions by School Committees*

Response from School Committee Members											
Government		Aided Minority		Aided Non-minority		Unaided Minority		Unaided Non-minority		Specified Category	
Yes	No	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
7	13	9	11	12	8	0	20	0	20	0	3

Source: Primary Data

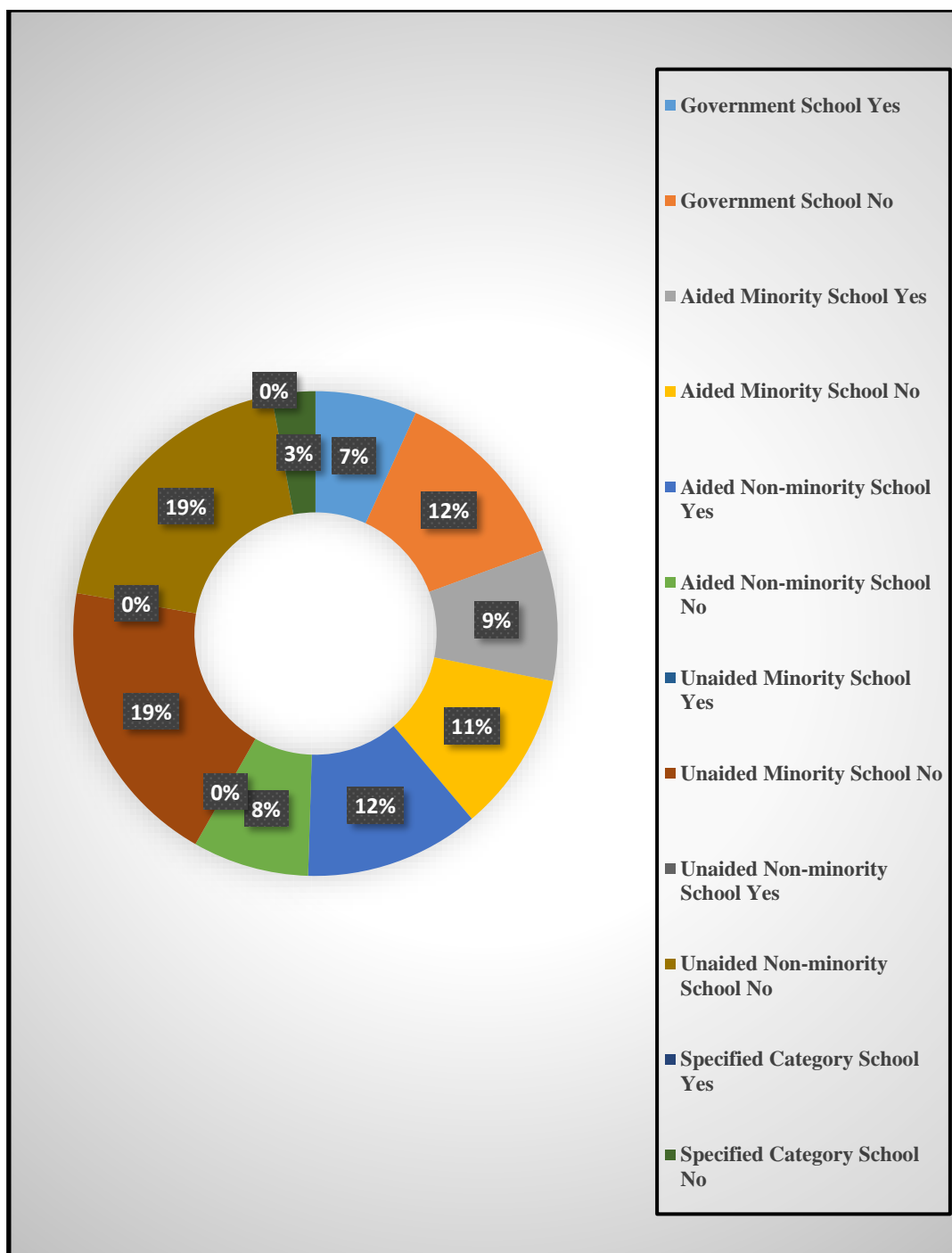


Figure 48 Status of performance of functions by School Committees - as per Committee Members response

As per the response given by the School Committee members, Table 55 and Figure 48 depict that, 7% of the Government, 9% of the Aided minority, 11% of the Aided Non-minority perform their duties. On the other hand, 12% of the Government, 11% of the Aided minority, 8% of the Aided Non-minority, 19% of the Unaided minority, 19% Unaided Non-minority and 3% of the Specified Category schools do not perform their duties.

Thus Government, Aided minority, Unaided Schools and Specified Category schools do not perform their duties as mandated by law; whereas majority of Aided Non-minority schools perform their duties.

Table 56 *No. of Schools where School Committees do not perform their functions*

Response from School Committee Members						
School Committee Functions	No. of schools					
	GS	AM	ANM	UM	UNM	SC
Prepare & recommend 3 year SDP*	13	4	5	5	5	3
Submission of SDP to the Director before financial year ends	12	6	7	20	20	3
Monitor utilization of school grants / funds	0	4	3	3	2	0
Communicate the rights of the child and duties of Local Authority, School & Parent	13	11	8	20	20	1
Monitor implementation of school infrastructure, equipped library, teaching aids, sports material	0	8	5	7	7	0
Monitor identification, enrollment & facilities for the education of children with disability	11	7	5	15	15	0
Monitor implementation of mid-day meals	0	0	0	20	20	3
Prepare an annual account of receipts & expenditure of the school and make it available to the Director	4	3	3	15	16	3
Monitor implementation of measures as per Disaster Management Guidelines on School Safety 2016	0	0	3	3	2	0

*SDP – School Development Plan, GS- Government School, AM – Aided Minority, ANM – Aided Non-minority, UM – Unaided Minority, UNM – Unaided Non-minority, SC – Specified Category **Source:** Primary Data

Table 57 *Schools in percent where School Committees do not perform their functions*

Response from School Committee Members						
School Committee Functions	No. of schools					
	GS	AM	ANM	UM	UNM	SC
Prepare & recommend three year SDP	65	20	25	25	25	100
Submission of SDP to the Director before financial year ends	60	30	35	100	100	100
Monitor utilization of school grants / funds	0	20	15	15	10	0
Communicate the rights of the child and duties of Local Authority, School & Parent	65	55	40	100	100	33
Monitor implementation of school infrastructure	0	40	25	35	35	0
Monitor identification, enrollment & facilities for the education of children with disability	55	35	25	75	75	0
Monitor implementation of mid-day meals	0	0	0	100	100	100
Prepare an annual account of receipts & expenditure of the school and make it available to the Director	20	15	15	75	80	100
Monitor implementation of measures as per Disaster Management Guidelines on School Safety 2016	0	0	15	15	10	0

*SDP – School Development Plan, GS- Government School, AM – Aided Minority, ANM – Aided Non-minority, UM – Unaided Minority, UNM – Unaided Non-minority, SC – Specified Category **Source:** Primary Data

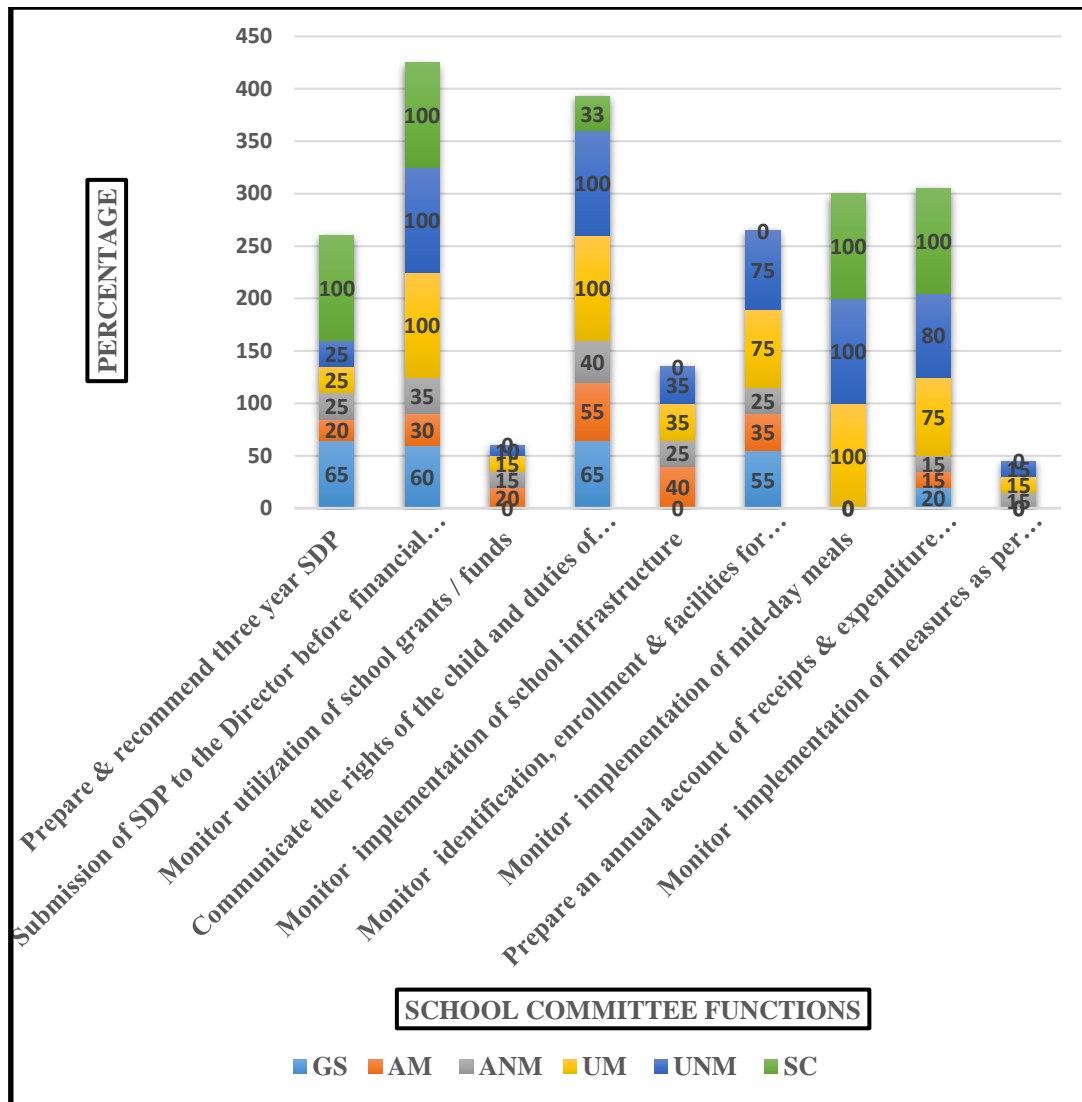


Figure 49 Schools in percent where School Committees do not perform their functions - as per response from School Committee Members

Table 56, Table 57 and Figure 49 lists the duties of School Committees and also lists the count of schools that evade performance of the duties. Table 55 and Figure 48 reflect the number of schools who fail to perform their duties and this includes, 13 Government schools, 11 Aided minority schools, 8 Aided Non-minority schools, 20 Unaided minority schools, 20 Unaided Non-minority schools and 3 Specified Category schools. As per the response given by the School Committee members, it can be seen in Table 57 and Figure 49 that, 65% of the Government schools fail to prepare and recommend SDP, 60% of these schools do not submit SDP to the Director, 55% fail to monitor the identification, enrollment & facilities for the education of children with disability, 65% do not communicate the rights of the child and duties of the Local Authority, school and parents and 20% lack to prepare the school annual account of the receipts and

expenditure and make it available to the Director. In case of Aided minority school committee, 20% do not prepare and recommend School Development Plan, 30% do not submit the Plan to the Director before the end of the financial year, 20% do not monitor the utilization of the school grants; 55% do not communicate the rights of the child and duties of the Local Authority, Parents and guardian to the surrounding people; 40% fail to monitor the implementation of the school infrastructure and 35% fail to monitor the identification, enrollment & facilities for the education of children with disability. 25% of the Aided Non-minority schools fail to prepare and recommend SDP, 35% fail to submit the Plan to the Director, 15% do not monitor utilization of school grants, 40% do not communicate the rights of the child and the duties of the functionaries to the surrounding people, 25% fail to monitor the implementation of the school infrastructure; 25% fail to monitor the identification, enrollment and facilities for the education of children with disability, 15% lack to prepare the school annual account of the receipts and expenditure and make it available to the Director. Further, 15% of Aided Non-minority schools fail to monitor the implementation of measures as per Disaster Management Guidelines on School Safety 2016.

Unaided schools both minority and non-minority fail to perform all the functions in bits and parts, more so when it comes to any submissions to be made to the Director, communicating to the people around the rights of the children and the duties of Local Authority, Parents and guardian; in the case of monitoring the implementation of Mid-day meals and also in the case of monitoring the identification, enrollment and facilities for the children with disability. Specified category schools also evade the duties when it comes to preparation and recommendation of the School Development Plan, any of the submissions to be made to the Director, communicating the rights of the children and the duties of the Local Authority, Parents and guardian and also in the case of monitoring the implementation of Mid-day meals.

The data relating to performance of the duties with respect to provision of educational facilities to children with disability, entitlements to be provided by the schools, infrastructure that relates to library, teaching aids in class, sport facilities class wise is also tabulated and represented in the form of charts.

Table 58 *No. of Government schools where Educational facilities are provided to Students with Disability*

Response from Schools				Response from Parents or Guardian			
Always	Occasionally	Never	NA*	Always	Occasionally	Never	NA*
6	7	0	7	7	3	1	9

*NA – Not Applicable **Source:** Primary Data

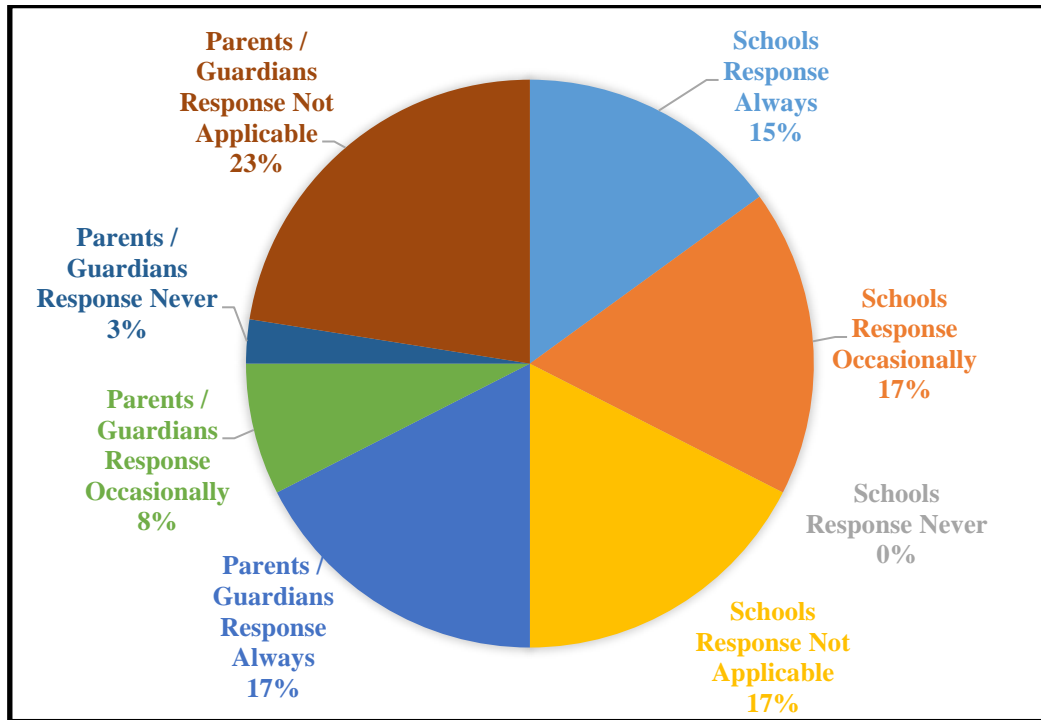


Figure 50 Government Schools where Educational facilities are provided to Students with Disability - comparative response

It can be deciphered from Table 58 and Figure 50 that, 15% of the Government schools affirm that they provide educational facilities to the children with disability and another 17% say that this is occasionally done whereas 17% have said that this is not applicable to their educational institutions. Parents or guardian of children with disability pursuing education in Government schools have responded that 17% of these schools provide educational facilities to the students, 8% of these schools do it occasionally, 3% of the schools have never done this and 23% of the schools this is not applicable.

Thus a larger percentage of respondents say that the provision is not applicable to the Government schools.

Table 59 *Aided minority schools where Educational facilities are provided to Students with Disability*

Response from Schools				Response from Parents or Guardian			
Always	Occasionally	Never	NA*	Always	Occasionally	Never	NA*
14	4	2	0	12	5	3	0

*NA – Not Applicable **Source:** Primary Data

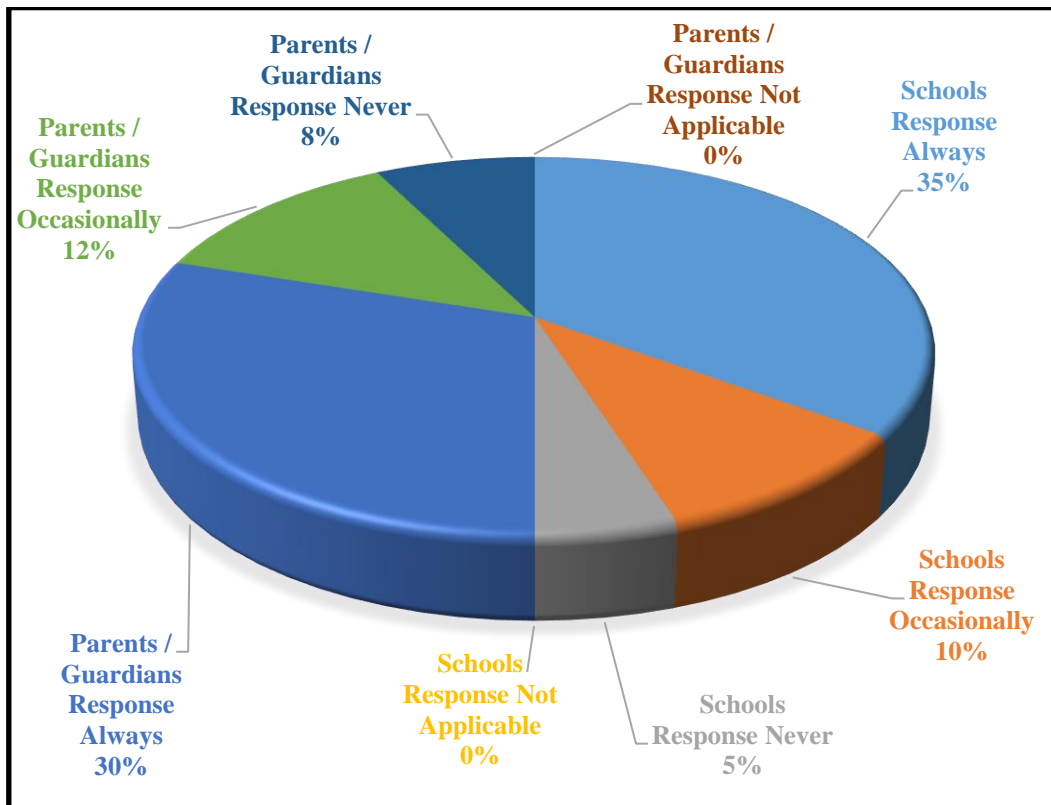


Figure 51 *Aided minority schools where Educational facilities are provided to Students with Disability - comparative response*

It can be seen from the Aided minority school’s response as projected in Table 59 and Figure 51 that, 35% of these schools provide educational facilities to the students with disability, 10% do it occasionally and 5% of the schools have admitted that this is never done. Whereas, as per the response of Parents or guardian 30% affirm the same, 12% say that this is occasionally done, 8% say that this is never done.

Thus a larger percentage of respondents say that the provision of educational facilities is implemented in these educational institutions.

Table 60 *No. of Aided Non-minority schools where Educational facilities are provided to the Students with Disability*

Response from Schools				Response from Parents or Guardian			
Always	Occasionally	Never	NA*	Always	Occasionally	Never	NA*
17	1	2	0	14	4	2	0

*NA – Not Applicable **Source:** Primary Data

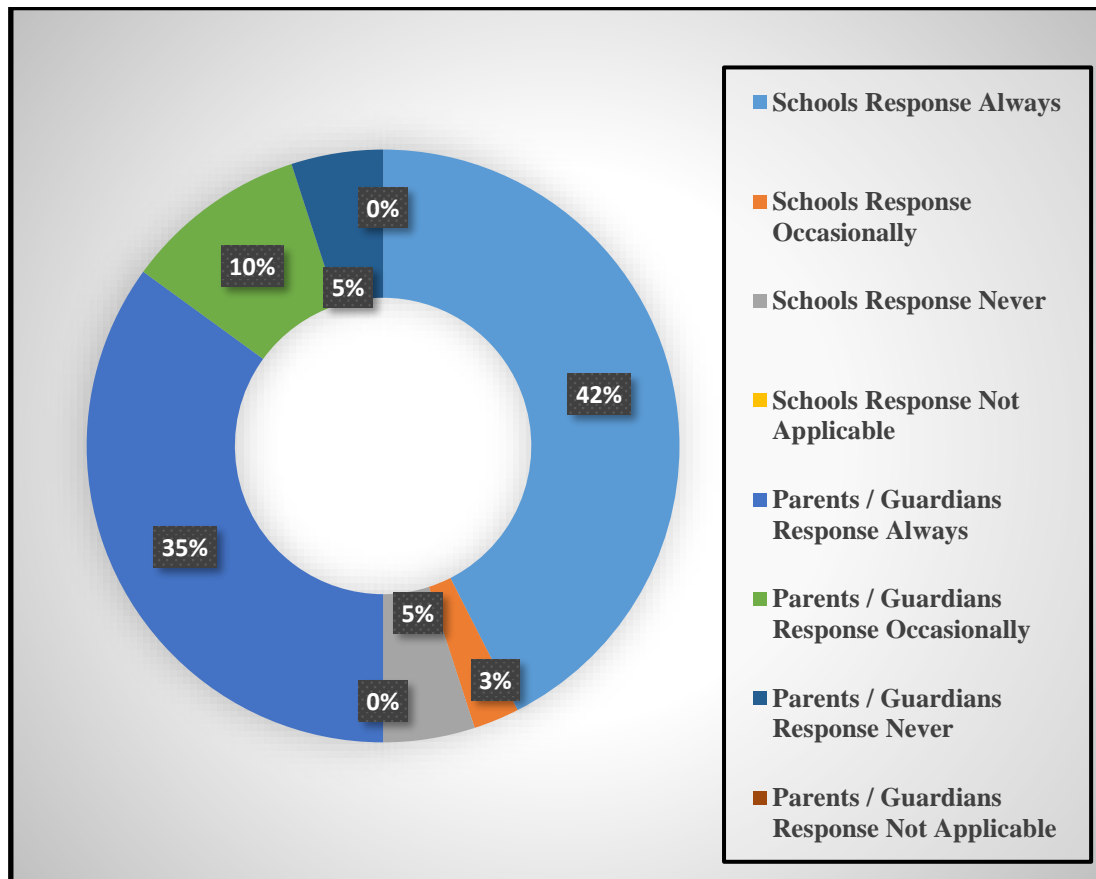


Figure 52 *Aided Non-minority schools where Educational facilities are provided to the Students with Disability - comparative response*

Table 60 and Figure 52 depicts that, 42% of the Aided Non-minority schools provide educational facilities to the students with disability, 3% of these schools provide it occasionally and 5% of the schools have never provided such facilities. Whereas, as per the response given by the Parents or guardian 35% of these schools arrange for the educational facilities to the respective students, 10% of the schools do it occasionally, 5% never provide such facilities. Thus a larger percentage of respondents say that the provision of educational facilities is enforced in Aided Non-minority schools.

Table 61 *No. of Unaided minority schools where Educational facilities are provided to Students with Disability*

Response from Schools				Response from Parents or Guardian			
Always	Occasionally	Never	NA*	Always	Occasionally	Never	NA*
2	2	0	16	4	3	0	13

*NA – Not Applicable **Source:** Primary Data

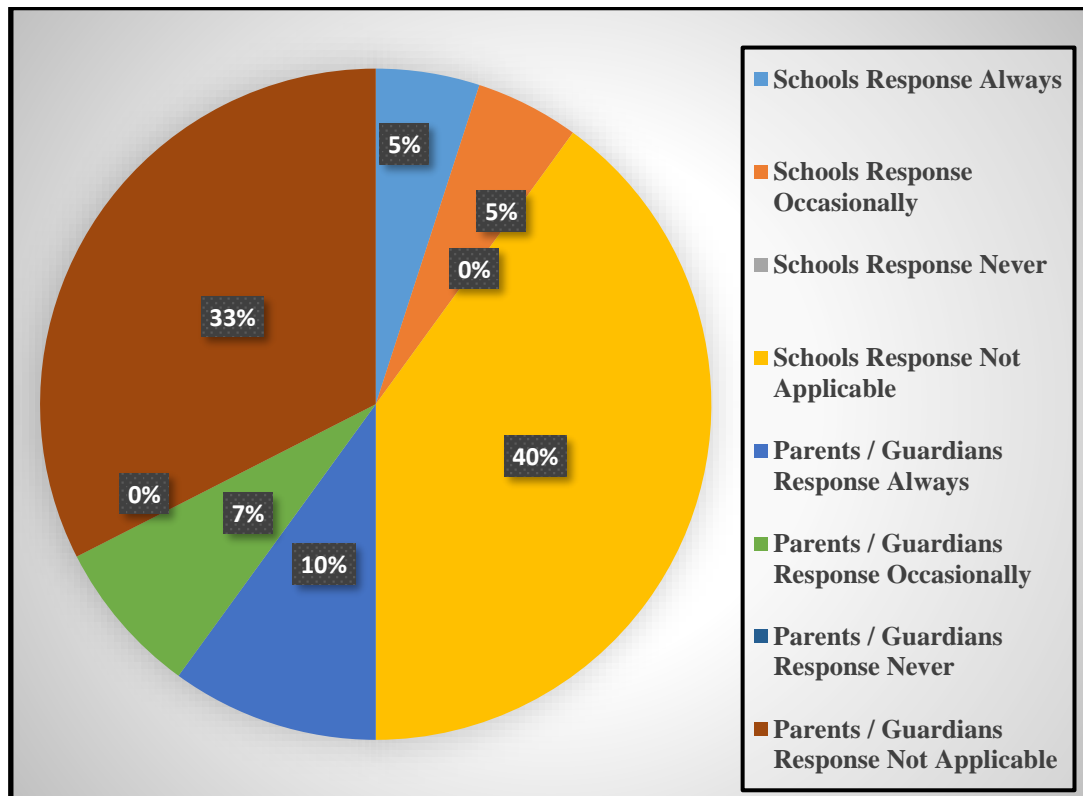


Figure 53 *Unaided minority schools where Educational facilities are provided to Students with Disability*

It can be seen from the Unaided minority school’s response that 5% have affirmed that they provide educational facilities to the children with disability, 5% say that this is occasionally done and 40% say that the provision is not applicable to the educational institutions. The said response reflects in Table 61 and Figure 53. Whereas, in the case of the response given by the Parents or guardian 10% of these schools provide the same, 8% occasionally provide, 33% have responded that the provision is not applicable to the schools. Thus a larger percentage of respondents say that the provision of educational facilities is not applicable to the educational institutions.

Table 62 *Unaided Non-minority schools where Educational facilities are provided to Students with Disability*

Response from Schools				Response from Parents or Guardian			
Always	Occasionally	Never	NA*	Always	Occasionally	Never	NA*
2	2	0	16	2	1	2	15

*NA – Not Applicable **Source:** Primary Data

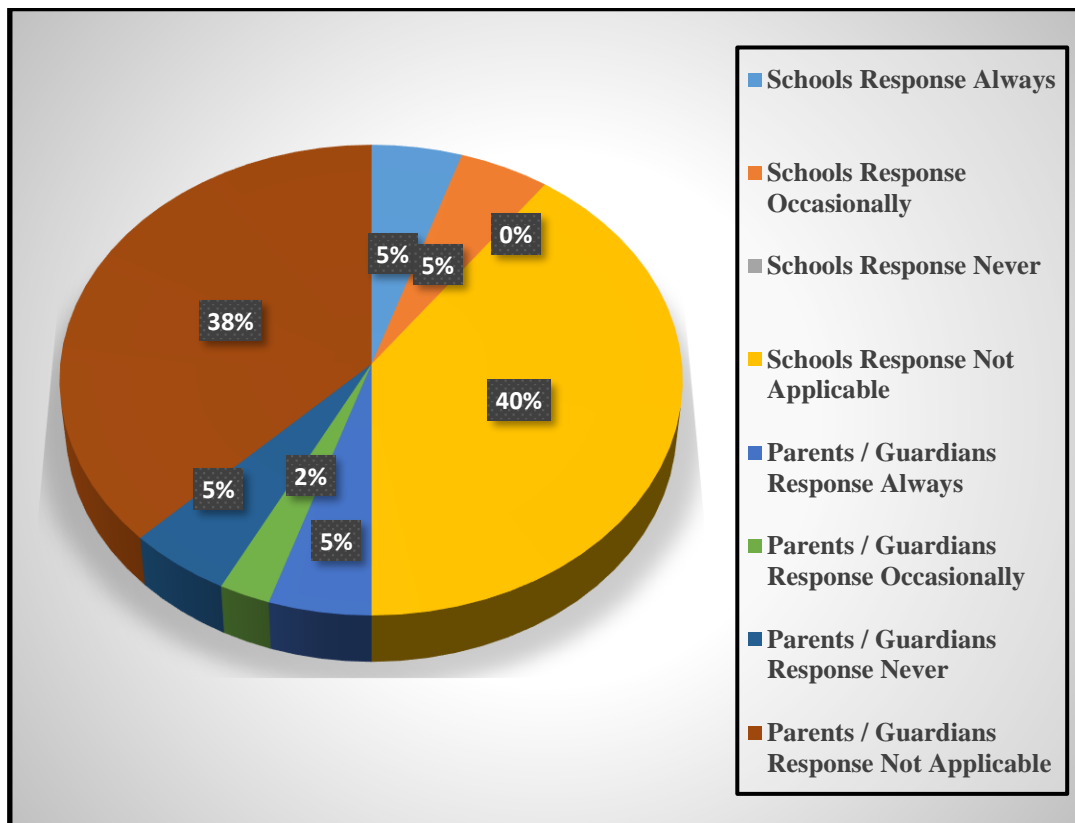


Figure 54 *Unaided Non-minority schools where Educational facilities are provided to Students with Disability*

It is depicted from Table 62 and Figure 54 that; 40% of the Unaided Non-minority schools have said that the provision is not applicable to their schools, 5% of these schools have answered that it is always done and 5% say that it is occasionally provided. As per the response from Parents or guardian 5% affirm that Unaided Non-minority schools provide educational facilities to the students with disability, 2% say that this is occasionally done, 5% say that it is never done and 38% say that the provision is not applicable. Thus a larger percentage of respondents say that the provision of educational facilities is not applicable to the Unaided Non-minority schools.

Table 63 *Specified Category Schools where Educational facilities are provided to Students with Disability*

Response from Schools				Response from Parents or Guardian			
Always	Occasionally	Never	NA*	Always	Occasionally	Never	NA*
3	0	0	0	2	0	0	1

*NA – Not Applicable **Source:** Primary Data

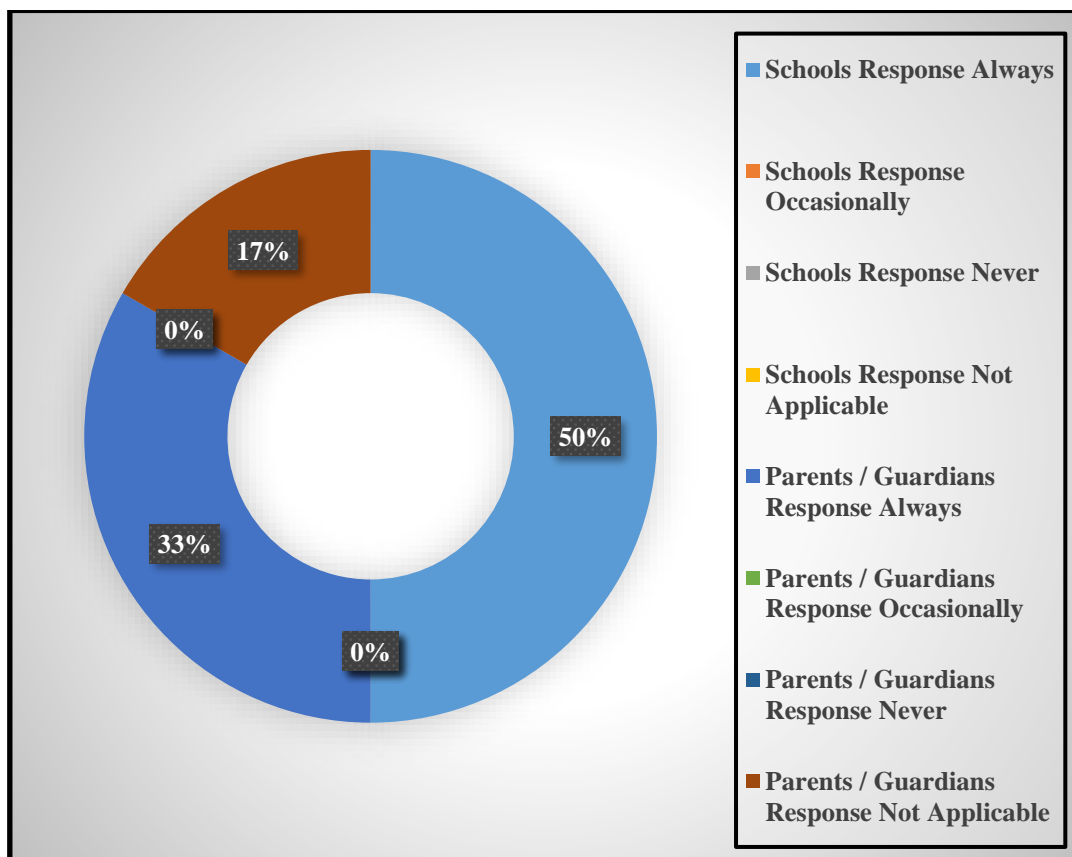


Figure 55 *Specified Category Schools where Educational facilities are provided to Students with Disability*

The responses gathered from Specified Category schools and the Parents or Guardian of the children pursuing education in these schools reflect in Table 63 and Figure 55. As per the response from these schools all provide educational facilities to the children with disability. Whereas, the Parents or guardian have responded that 33% of these schools provide the facilities and 17% say that the provision is not applicable. Thus a larger percentage of respondents say that the provision of educational facilities is implemented in these schools.

Table 64 No. of Schools providing Entitlements to the Students

Response from School and Parents / Guardian										
Response	GS		AM		ANM		UM		UNM	
	S	P/G	S	P/G	S	P/G	S	P/G	S	P/G
Always	18	15	15	13	14	12	0	0	0	0
Occasionally	0	3	2	5	3	5	0	0	0	0
Never	2	2	3	2	3	3	20	20	20	20

GS - Government School AM - Aided minority ANM - Aided Non-minority
 UM - Unaided minority UNM - Unaided Non-minority S - School
 P/G – Parents / Guardian **Source:** Primary Data

Table 65 Schools in percent providing Entitlements to the Students

Response from School and Parents / Guardian										
Response	GS		AM		ANM		UM		UNM	
	S	P/G	S	P/G	S	P/G	S	P/G	S	P/G
Always	90	75	75	65	70	60	0	0	0	0
Occasionally	0	15	10	25	15	25	0	0	0	0
Never	10	10	15	10	15	15	100	100	100	100

GS - Government School AM - Aided minority ANM - Aided Non-minority
 UM - Unaided minority UNM - Unaided Non-minority S - School
 P/G – Parents / Guardian **Source:** Primary Data

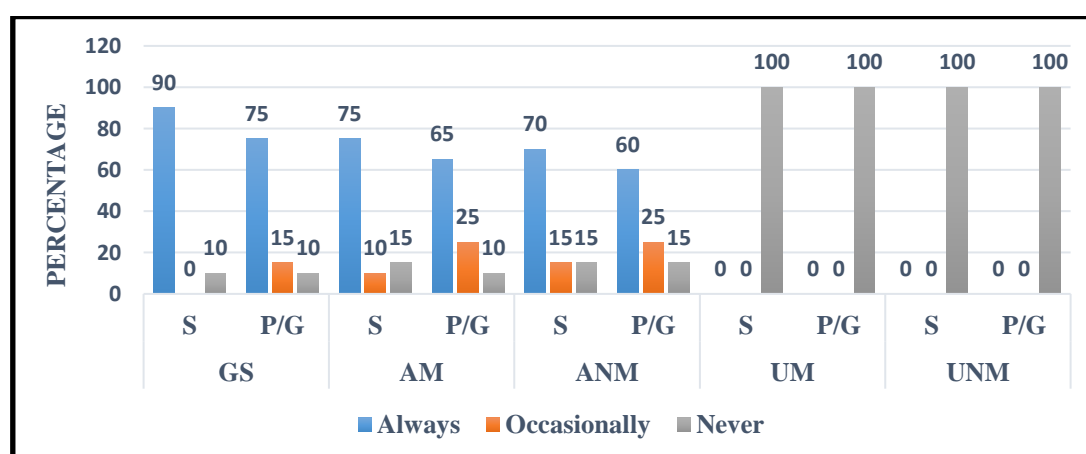


Figure 56 Schools providing Entitlements to the Students

GS - Government School AM - Aided minority ANM - Aided Non-minority
 UM - Unaided minority UNM - Unaided Non-minority SC - Specified Category
 S - School P/G – Parents / Guardian

Responses from Schools on one hand and Parents/guardian on the other hand has been tabulated to provide a comparative analysis as to whether or not entitlements are genuinely provided to the children enrolled in different schools. As per the School's response, it can be seen that 90% of the Government schools, 75% of the Aided minority schools, 70% of the Aided Non-minority schools always provide entitlements to the children. As per the Parents or guardians response, it can be seen that 75% of the Government schools, 65% of the Aided minority schools, 60% of the Aided Non-minority schools provide entitlements to the children.

There are also schools that never provide entitlements to the children. As per the response provided by the Schools, 10% of the Government schools, 15% of the Aided minority, 15% of the Aided Non-minority, Unaided schools never provide such entitlements. Further, as per the Parents or guardians response, it can be seen that 10% of the Government schools, 10% of the Aided minority schools, 15% of the Aided Non-minority schools and all Unaided schools never provide entitlements to the children.

Thus as per the response from the respondents Unaided schools never provide entitlements to the children enrolled in their educational institutions.

Table 66 *Schools devoid of Equipped Library*

Schools	Response from Schools		Response from Parents or Guardian	
	Schools Without Infrastructure	Schools lacking equipped Library	Schools Without Infrastructure	Schools lacking equipped Library
Government	12	2	13	2
Aided minority	9	1	9	1
Aided Non-minority	7	1	8	1
Unaided minority	10	0	11	0
Unaided Non-minority	8	1	7	0
Specified Category	3	0	3	0

Source: Primary Data

Table 67 Schools in percent devoid of Equipped Library

Schools	Response from Schools	Response from Parents or Guardian
Government	10	10
Aided minority	5	5
Aided Non-minority	5	5
Unaided minority	0	0
Unaided Non-minority	5	0
Specified Category	0	0

Source: Primary Data

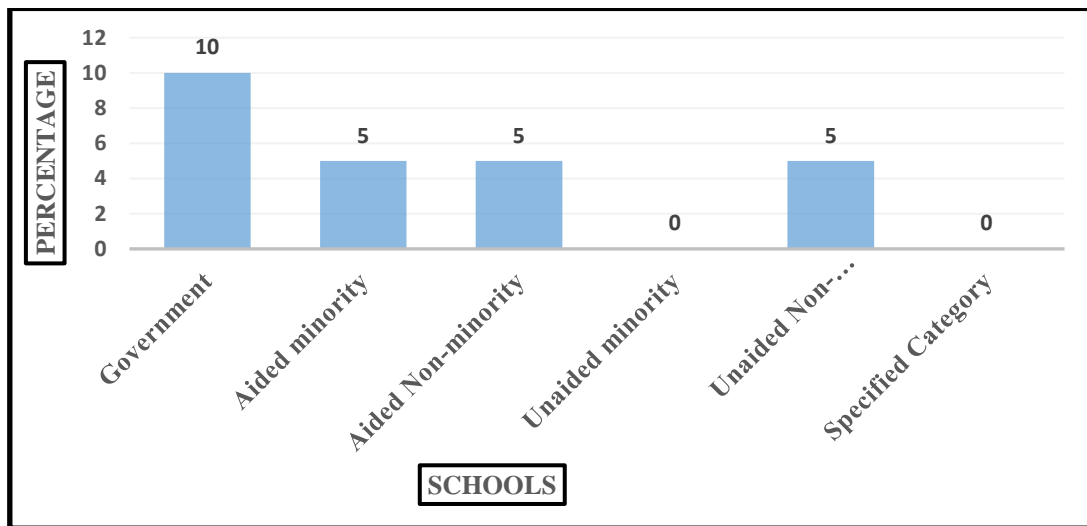


Figure 57 Schools devoid of Equipped Library - as per response from schools

The number of different categories of Schools lacking the norms and standards as to infrastructural requirement is projected in Tables 24, 25, 26 and 27. The count of Government Schools with inadequate library facilities also reflects in Table 33. Table 66, Table 67 and Figure 57 depicts all schools with insufficient library facilities.

As per the response provided by schools, 10% of the Government Schools, 5% of the Aided minority schools, 5% of the Aided Non-minority schools, 5% Unaided Non-minority schools lack equipped library. However, Unaided minority and Specified Category schools have responded that their educational institutions are equipped with good Library.

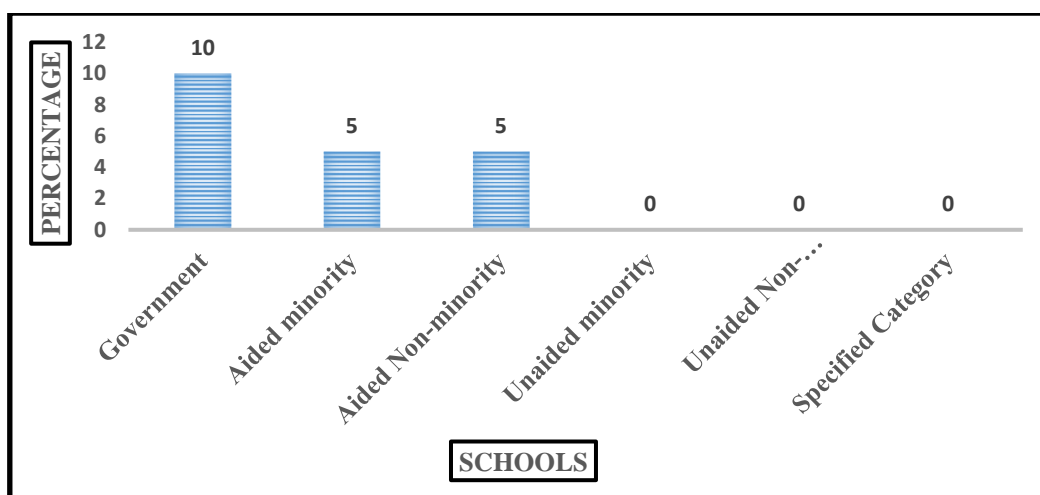


Figure 58 Schools devoid of Equipped Library - as per response from Parents / Guardian

Schools lacking infrastructural requirement is projected in Tables 24, 25, 26 and 27. The number of Government Schools with insufficient library facilities reflect in Table 33. Table 66, Table 67 and Figure 57 depicts all schools with inadequate library facilities.

As per the response from Parents or Guardian it can be seen that 10% of the Government schools, 5% of the Aided minority schools and 5% of the Aided Non-minority schools are devoid of equipped library. It is clear from the response of the respondents that Unaided and Specified Category schools have equipped library. Thus comparative analysis of Figure 57 with Figure 58 reveal that except Unaided minority and Specified Category schools, negligible number of educational institutions lack the library facility.

Table 68 Schools with Teaching Learning Equipment's class wise

Schools	Response from Schools		Response from Parents or Guardian	
	Yes	No	Yes	No
Aided Minority	17	03	15	05
Aided Non-minority	18	02	16	04
Unaided Minority	19	01	18	02
Unaided Non-minority	19	01	19	01
Specified Category	20	0	20	0

Source: Primary Data

Table 69 Schools in percent with Teaching Learning Equipment's class wise

Schools	Response from Schools		Response from Parents or Guardian	
	Yes	No	Yes	No
Aided Minority	85	15	75	25
Aided Non-minority	90	10	80	20
Unaided Minority	95	05	90	10
Unaided Non-minority	95	05	95	05
Specified Category	100	0	100	0

Source: Primary Data

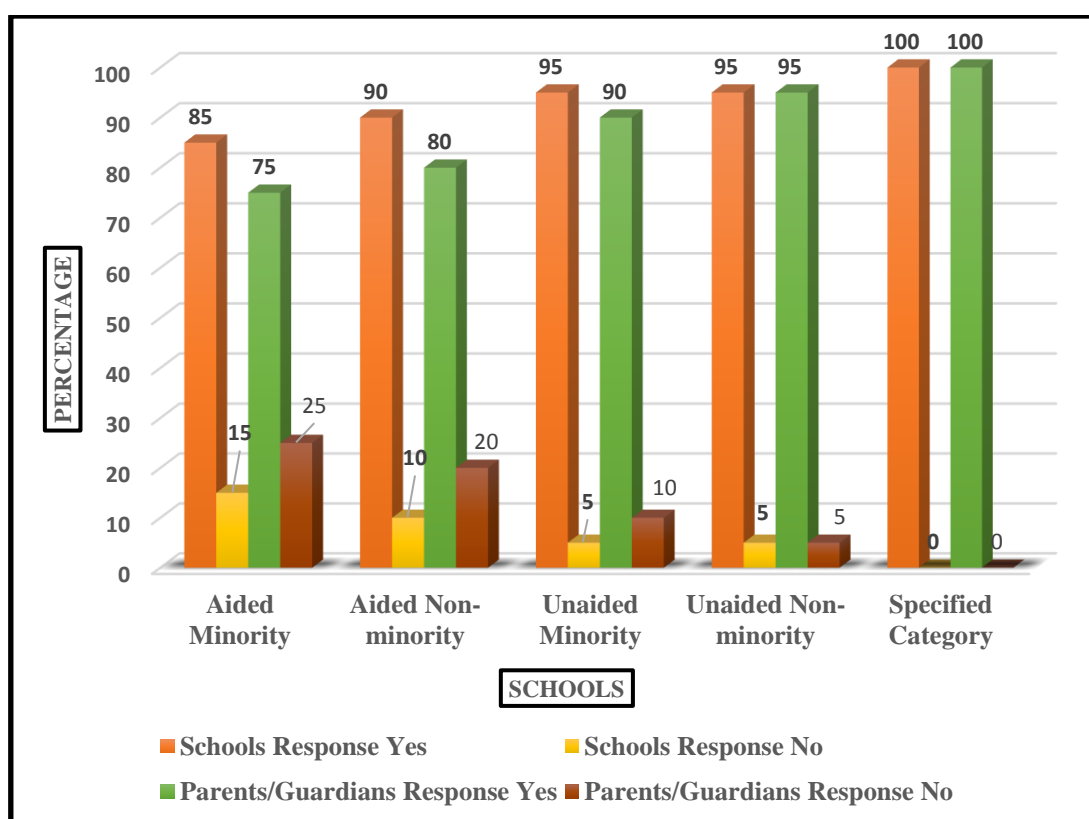


Figure 59 Schools with Teaching Learning Equipment's class wise - comparative response

As RTE legislation also focusses on imparting quality education, respondents that included Schools as well as Parents or guardian of children pursuing school education,

were asked whether the schools possessed specific teaching learning equipment's class wise. This included Blackboard or Whiteboard, Chalk or Marker, Duster, Computer with internet access, Information & Communication Technology mechanism. The response gathered has been tabulated in Tables 68 and 69 and further represented in Figure 59.

Teaching learning equipment's class wise in Government schools is projected in Table 35, 36 and Figure 30, hence this data has been excluded in Tables 68, 69 and Figure 59. As per the Schools response, 85% of the Aided minority schools, 90% of the Aided Non-minority schools, 95% Unaided schools and 100% of the specified category schools have the teaching aids. Similarly, as per the Parents or Guardians response, 75% of the Aided minority schools, 80% of the Aided Non-minority schools, 90% Unaided minority schools, 95% of the Unaided Non-minority schools and 100% of the Specified Category schools have sufficient teaching aids. Thus, majority schools have sufficient teaching aids in their respective schools.

Table 70 *Schools with insufficient Sport facility class wise*

Schools	Response from Schools		Response from Parents or Guardian	
	Schools Without Infrastructure	Schools lacking sport facilities	Schools Without Infrastructure	Schools lacking sport facilities
Aided Minority	9	2	9	4
Aided Non-minority	7	3	8	3

Source: Primary Data

Table 71 *Schools in percent with insufficient Sport facility class wise*

Schools	Response from Schools	Response from Parents or Guardian
Aided Minority	10	20
Aided Non-minority	15	15

Source: Primary Data

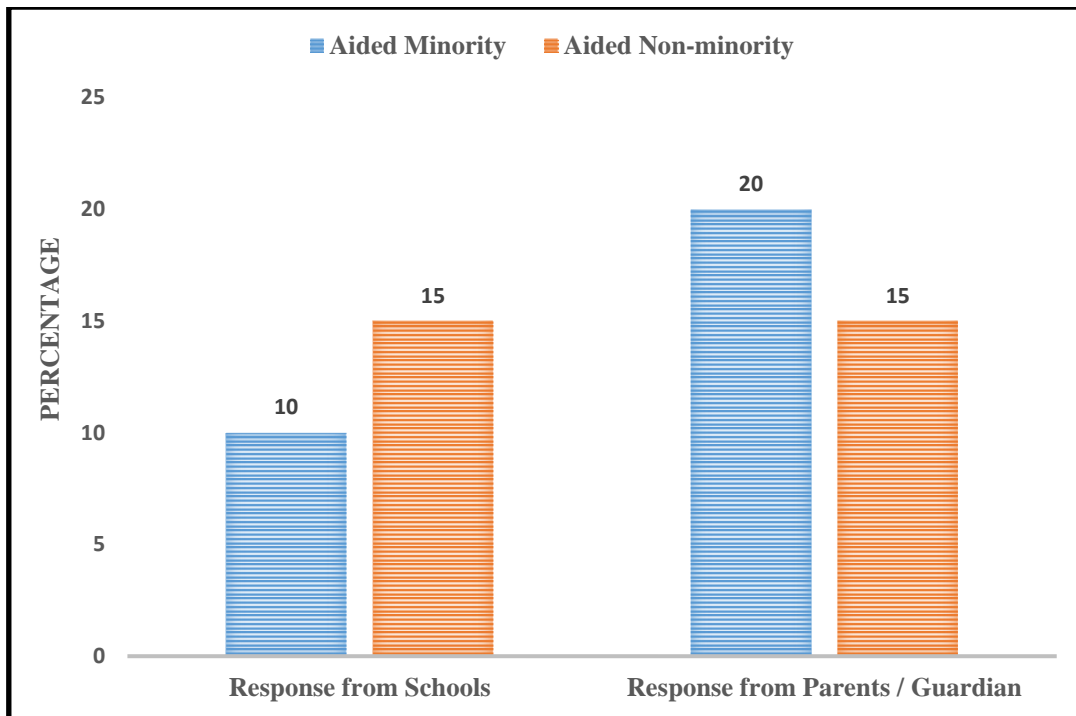


Figure 60 Schools devoid of class wise Sport facility - comparative response

The schools that lack infrastructure are projected in Tables 25 and 27. Further Table 70 and 71 reflect this data and also the count of schools that have insufficient sport facility. Figure 60 depicts the responses from Schools and Parents or guardian.

It can be seen as per Schools response that, 10% of the Aided minority schools and 15% of the Aided Non-minority schools have inadequate sport facility. Further, as per the response from Parents or guardian 20% of the Aided minority schools and 15% of the Aided Non-minority schools lack sport facility. Unaided schools, Specified Category Schools and Government Schools are excluded from Tables 70, 71 and Figure 60 as these schools are represented exclusively in Table 31, Table 30, Figure 25, 24, 27 and 28.

5.8.1 Inspection of Schools

Legitimate functioning of the schools is ensured through timely inspection. Even recognition granted to schools warrants schools inspection.⁹⁴⁵ The data pertaining to

⁹⁴⁵ *Supra* note 932.

school inspection has been tabulated and the same has been represented in the form of column chart.

Table 72 *No. of times Schools inspected by (A.D.E.I)*

As per response from Schools					
Schools	Once in a Year	Twice in a Year	Thrice in a Year	< 3 times a Year	Occasionally
Aided Minority	13	0	0	0	7
Aided Non-minority	14	1	1	1	4
Unaided Minority	0	0	0	0	20
Unaided Non- minority	0	0	0	0	20
Specified Category	0	0	0	0	03

Source: Primary Data

Table 73 *No. of times Schools inspected by the (A.D.E.I) - in percent*

As per response from Schools					
Schools	Once in a Year	Twice in a Year	Thrice in a Year	< 3 times a Year	Occasionally
Aided Minority	65	0	0	0	35
Aided Non-minority	70	05	05	05	15
Unaided Minority	0	0	0	0	100
Unaided Non- minority	0	0	0	0	100
Specified Category	0	0	0	0	100

Source: Primary Data

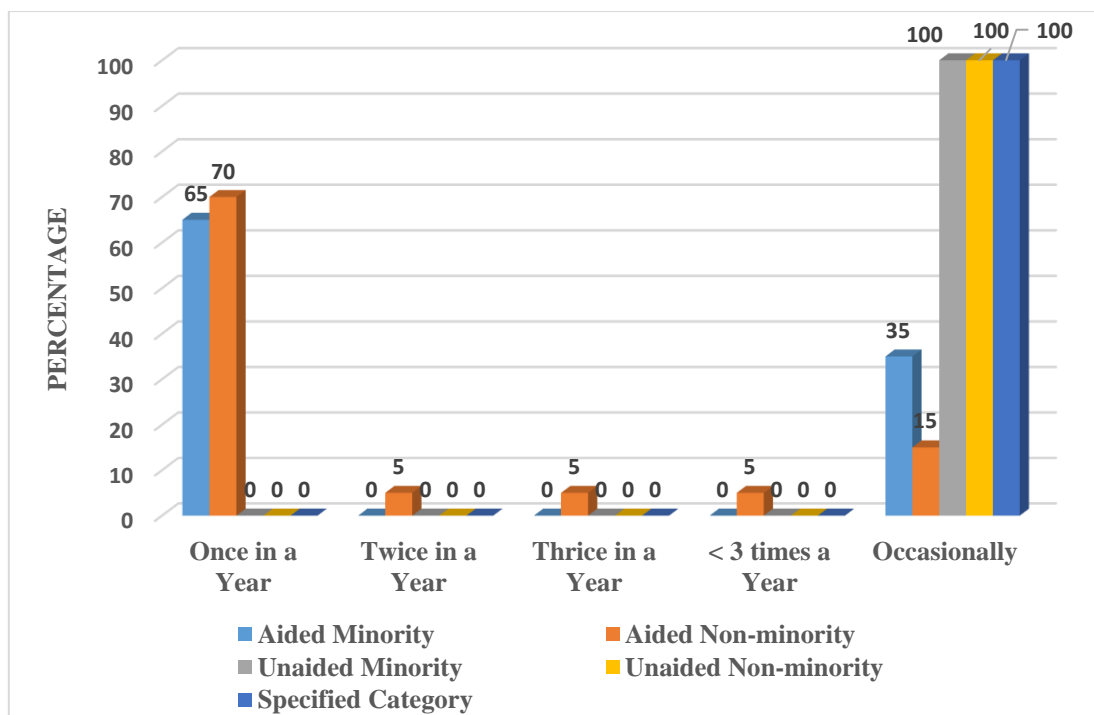


Figure 61 No. of times Schools inspected by (A.D.E.I)

As per the response gathered from schools, it can be seen that A.D.E.I. inspects 65% of the Aided minority schools once a year, 35% of these schools occasionally. 70% of the Aided Non-minority schools are inspected once a year; 5% of these schools are inspected twice in a year, 5% thrice in a year and the remaining 5% even more than three times in a year; 15% of these schools are inspected occasionally. All Unaided schools and Specified Category schools are inspected occasionally.

5.9 Empirical study on duties of Local Authority

Local Authority⁹⁴⁶ is one of the functionary under the RTE Act that has administrative control over the schools. However, the school education in the State of Goa is being administered by the Directorate of Education established at Porvorim.⁹⁴⁷ The State rules framed under the RTE law provide that a small part of elected members of Local Authority as decided by them are part of the composition of every School Management Committee.⁹⁴⁸ This committee has vivid duties to perform as per the central legislation.

⁹⁴⁶ *Supra* note 707.

⁹⁴⁷ For details See, sub-chapter 5.1.

⁹⁴⁸ For details See, sub-chapter 4.5.7.1.

Hence, it was imperative to investigate the role and participation of Local Authority⁹⁴⁹ as this impacts the implementation of the legislation in the State of Goa.

Table 74 *Awareness as to functions of School Management Committee*

Response from elected members of Local Authority	
Yes	No
7	13

Source: Primary Data

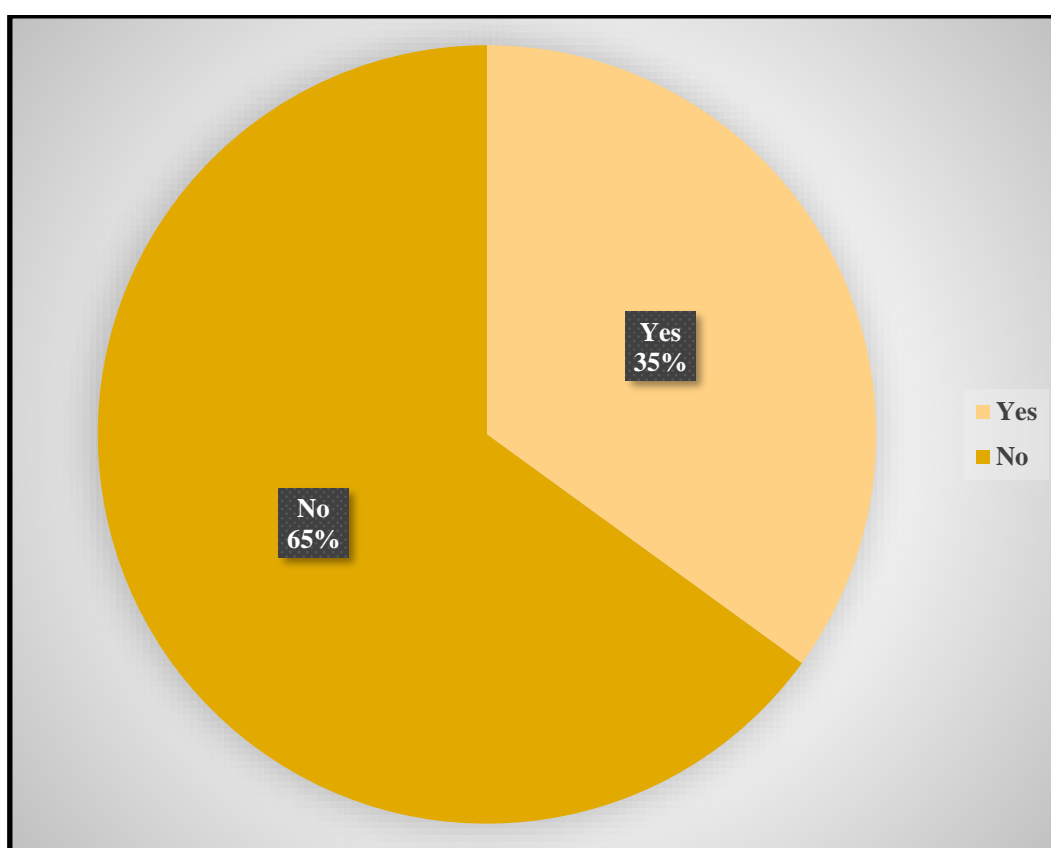


Figure 62 *Awareness as to functions of School Management Committee*

It can be seen from Table 74 and Figure 62 that, 65% of the Local Authority members do not know the functions of the School Management Committee as per the statute. Only 35% of the respondents have affirmed that they have knowledge of the committee functioning.

⁹⁴⁹ *Supra* note 707.

Table 75 *Participation in the School Management Committee functioning and attendance at the monthly School meetings*

Responses	0 – 10%	11 – 50%	51 – 90%	91 – 100%
Participation in the School Committee functioning	20	0	0	0
Attendance at the monthly School meetings	20	0	0	0

Source: Primary Data

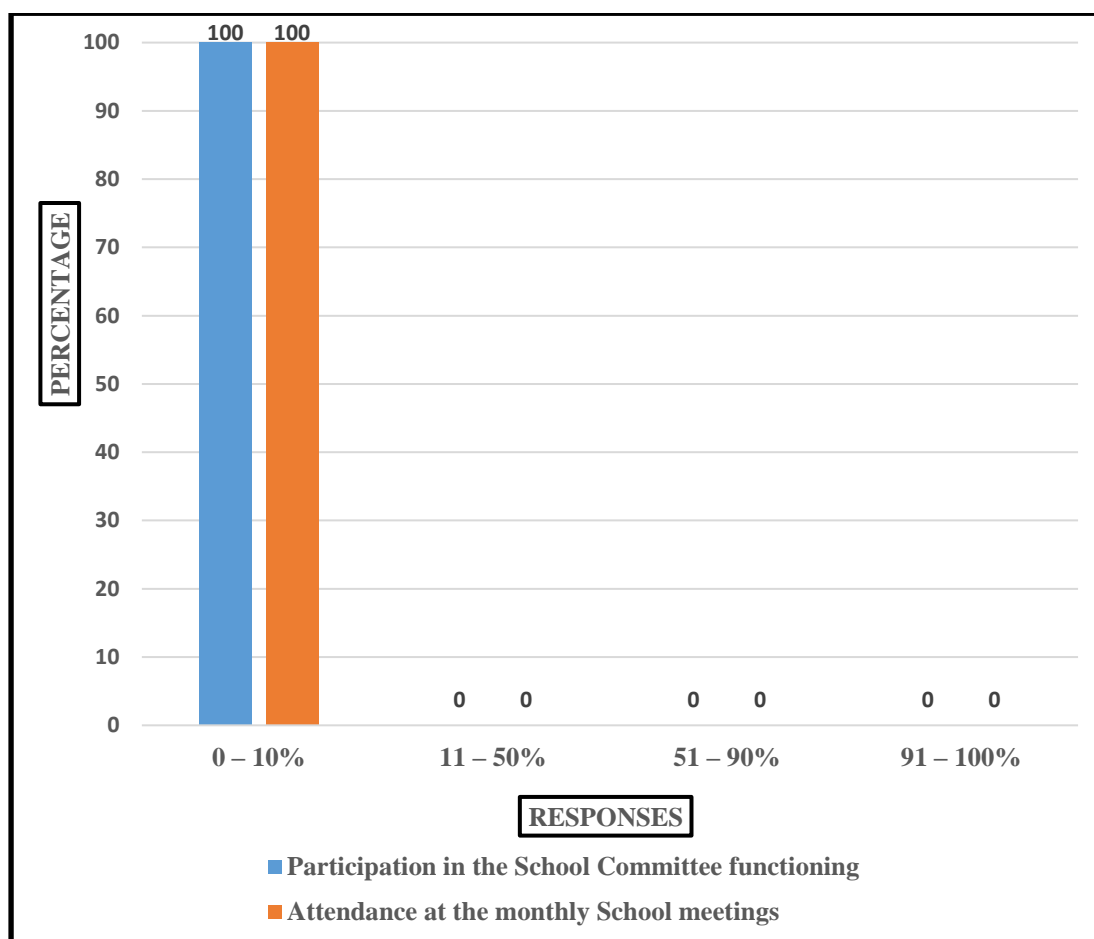


Figure 63 *Participation at the School Management Committee functioning and attendance at the monthly School meetings*

Table 75 and Figure 63 show that, the participation of the Local Authority members is less than 10% when it comes to School Management Committee functioning and attending the monthly school meetings.

Table 76 Reason behind evading the duties of the School Management Committee

Responses	(a)	(b)	(c)	(d)	(a) & (b)	(b) & (c)	(a) & (c)	(a) , (b) & (c)
a) Engaged with the duty as Local Authority member	0	0	0	0	0	0	0	5
b) Exclusion by the school in carrying out the functions	0	0	0	0	0	15	0	
c) Lack of training	0	0	0	0	0	0	0	

Source: Primary Data

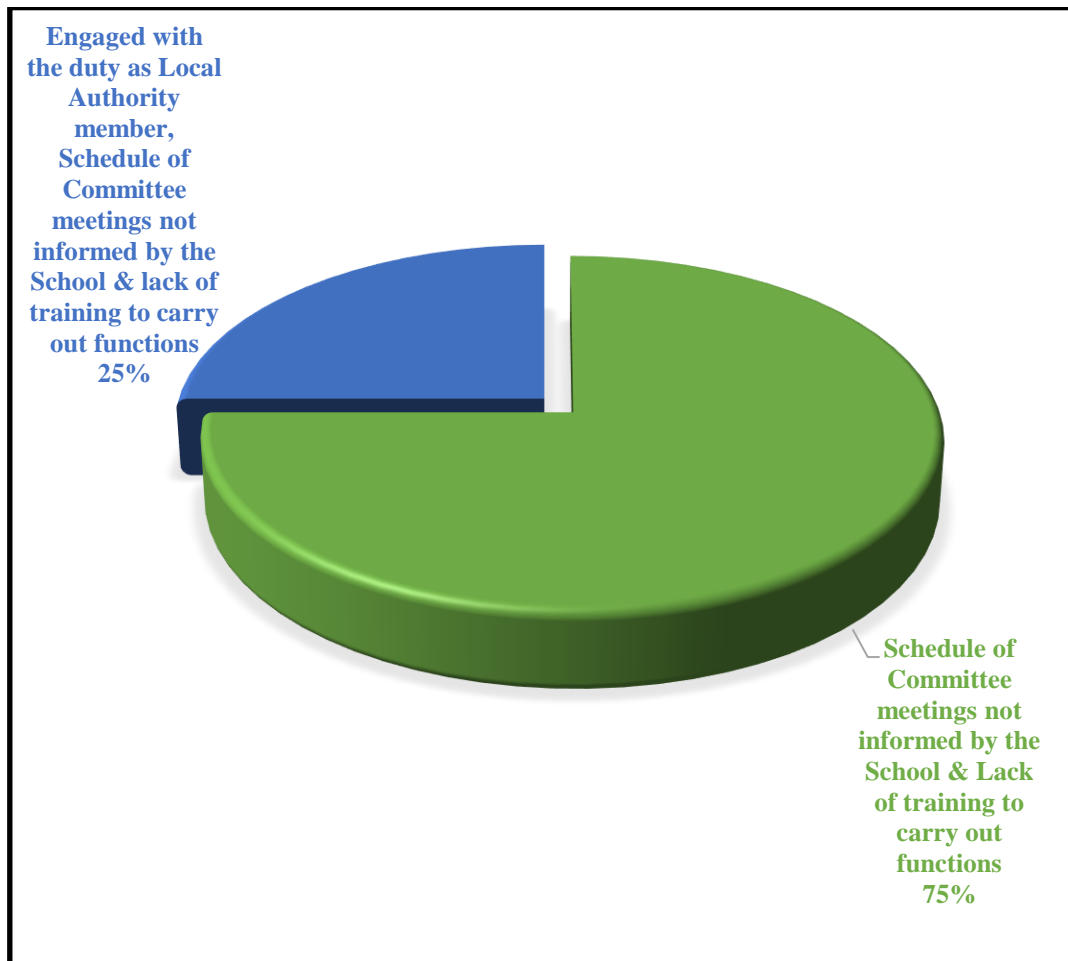


Figure 64 Reason behind evading the duties of the School Management Committee

It can be deciphered from Table 76 and Figure 64 that; 75% of the Local Authority members are not informed about the Committee meetings and they are neither trained

to carry out the functions as required under the Act. These are the major reasons expressed by the members for evading the duties of the School Management Committee. However, 25% of the respondents besides these reasons have also added that being a Local Authority elected member they also have their primary duties to do hence they cannot manage doing the duties of the School Committee.

5.9.1 Empirical study on role and functioning of Officials from Directorate of Education and its branches at zonal level

School education in State of Goa is regulated by the Directorate of Education which is an authority having administrative control over the schools established in the State.⁹⁵⁰ Thus this body falls within the definition of Local Authority under the RTE Act.⁹⁵¹ For the purpose of proper school administration, Goa is fragmented into divisions where offices at the zonal level are established.⁹⁵²

This authority has its defined duties that are indicated in the RTE Act and the Goa State rules framed under.⁹⁵³ The prominent duties of the authority focus on the aspect of administering that schools providing free education to the children without demanding capitation fee; reimburse the expenses of those schools enrolling students under twenty-five percent reservation; monitor that schools maintain their standard with proper infrastructure, and further inspect, supervise and control the functioning of the schools as mandated by RTE legislation.⁹⁵⁴

Table 77 *Whether Unaided Non-minority schools claim reimbursement of the expenses incurred for enrolling children under reserved seats*

Response from Officials		
Yes	No	Never claimed since implementation of RTE law
0	0	6

Source: Primary Data

⁹⁵⁰ For details See, sub-chapter 4.4 and 5.1.

⁹⁵¹ For details See, sub-chapter 4.5.7.2.

⁹⁵² *Ibid.*

⁹⁵³ *Supra* note 951.

⁹⁵⁴ *Ibid.*

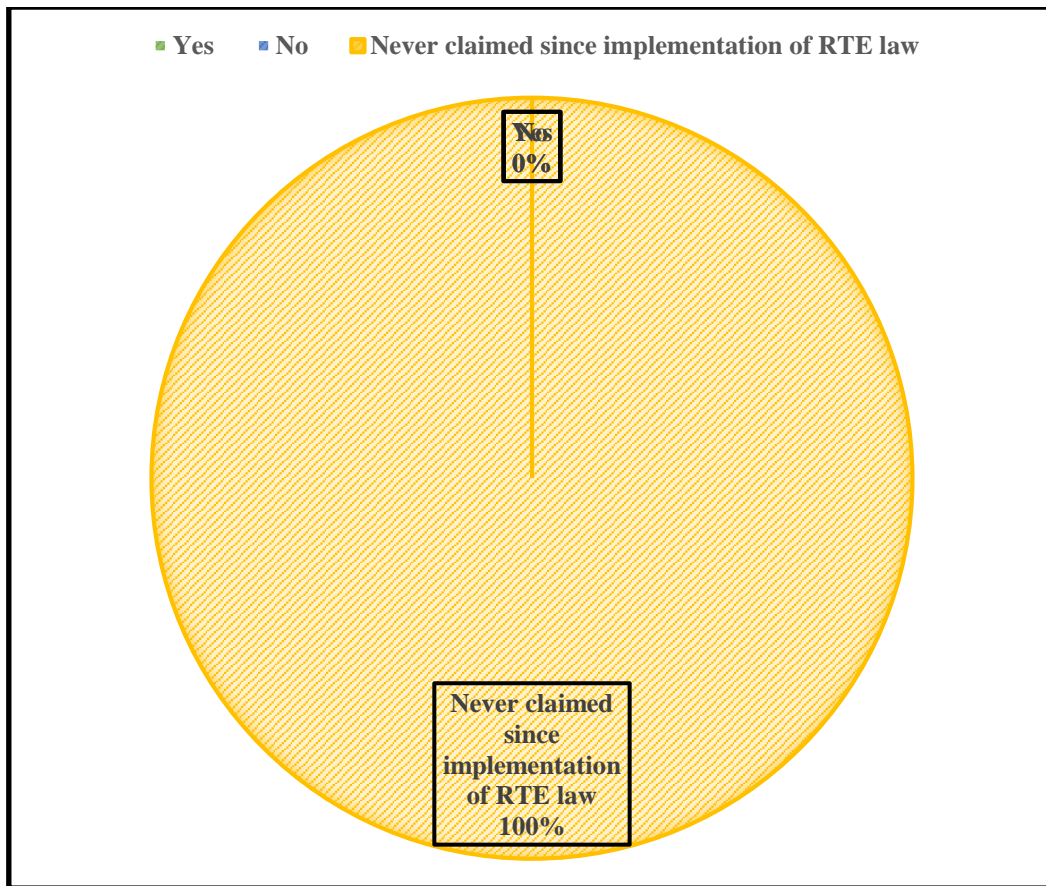


Figure 65 Whether Unaided Non-minority schools claim reimbursement of the expenses incurred under twenty-five percent reservation

It can be deciphered from Table 77 and Figure 65 from the response given by the Officials that Unaided Non-minority schools have never claimed reimbursement of the expenses incurred for enrolling children under twenty – five percent reservation seats as provided under the RTE law.

Table 78 Whether Officials have received any complaint about Unaided schools demanding capitation fee and whether legal action is taken

Response as to complaint received against Unaided schools for demanding capitation fee		Response as to legal action initiated against Unaided schools for demanding capitation fee	
Yes	No	Yes	No
6	0	0	6

Source: Primary Data

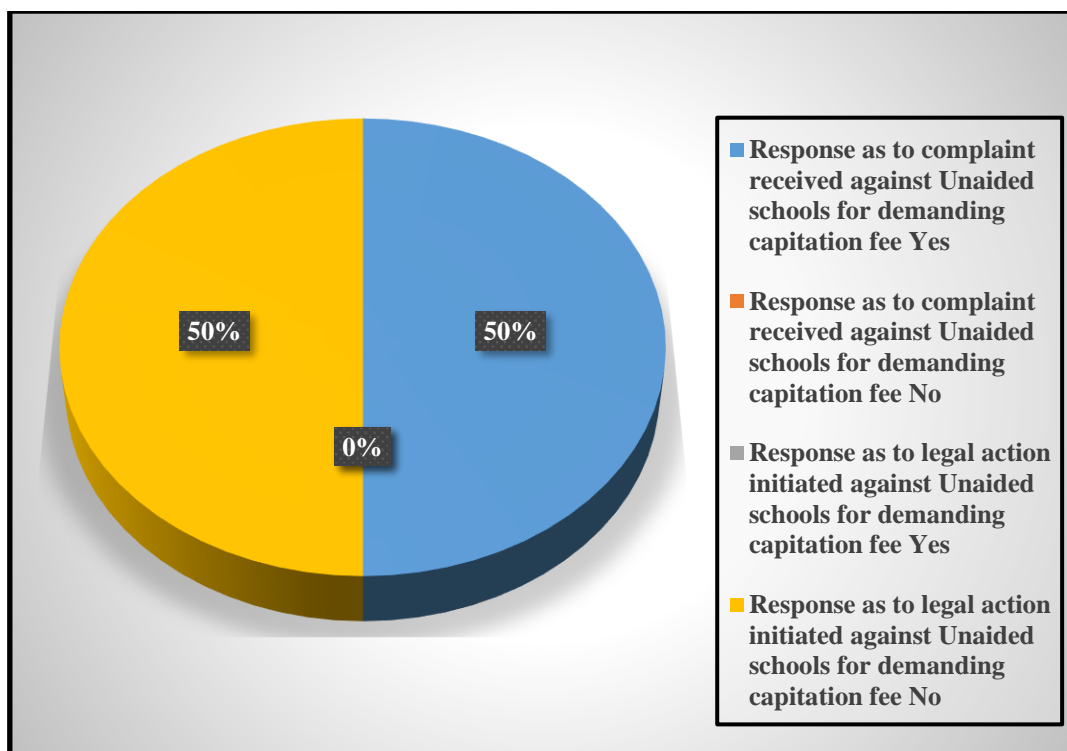


Figure 66 Whether Officials have received any complaint about Unaided schools demanding capitation fee and whether legal action is taken

Table 78 and Figure 66 project that the Officials have received complaints about the demand of capitation fee made by Unaided schools but no legal action is taken against these schools. The reasons for not initiating the legal course is expressed in Table 79 and represented in Figure 67.

Table 79 Reason for not taking action against Unaided schools for demanding capitation fee

Response from Officials	(a)	(b)	(c)	(d)	(a), (b) & (c)
a) Reluctance on part of the complainant to proceed against School	0	0	0	0	6
b) No written complaint filed	0	0	0	0	
c) Written complaints are either anonymous or are filed in fictitious names	0	0	0	0	
d) Any other ground	0	0	0	0	

Source: Primary Data

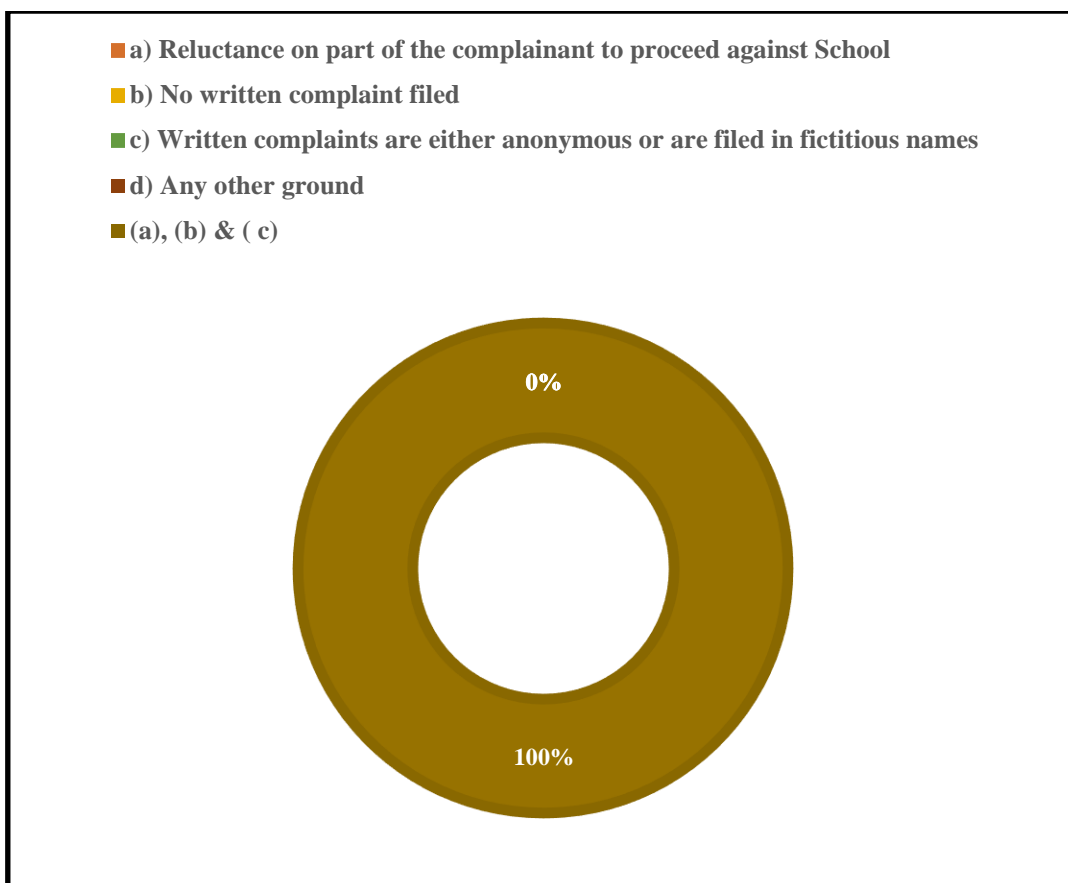


Figure 67 Reason for not taking action against Unaided schools for demanding capitation fee

The Officials have responded that they do not initiate legal action against the Unaided schools for demanding capitation fee because complainant expresses reluctance to proceed against the concerned school. Secondly, written complaints are not filed and even if filed they are either anonymous or are filed in fictitious names. This is depicted in Table 79 and in Figure 67.

Table 80 Action taken as per RTE law against the Government schools for not adhering to the infrastructural norms

Response on Action taken by Officials	(a)	(b)	(c)	(b) & (c)
a) Cancellation of School Recognition	0	0	0	-
b) School continue to be functional	0	0	0	6
c) Necessary steps taken to configure the school in terms of infrastructural norms	0	0	0	

Source: Primary Data

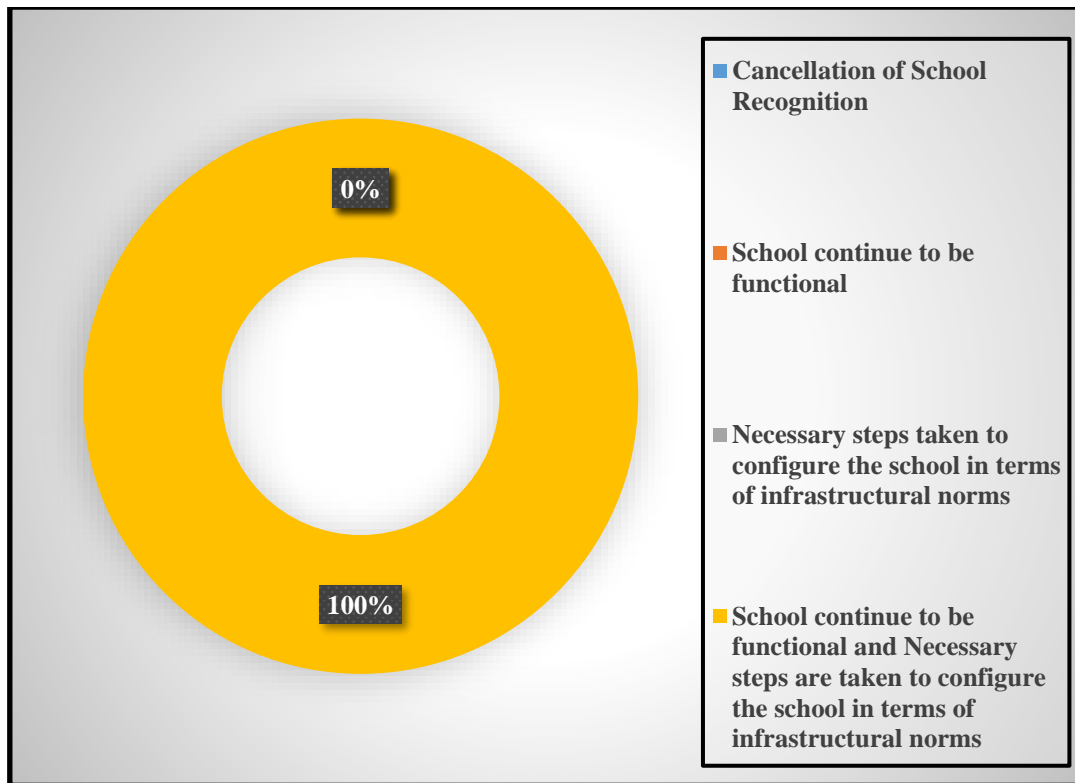


Figure 68 Action taken as per RTE law against the Government schools for not adhering to the infrastructural norms

All the Officials have responded that Government schools continue to function, even if these educational institutions violate the infrastructural norms. Table 80 and Figure 68 project that the Officials prefer to take necessary steps to configure these schools rather than cancel their school recognition.

Table 81 Reason for not taking action as per RTE law against the Government schools for violating the infrastructural norms

Response from Officials	(a)	(b)	(c)	(d)	(e)	(a), (b), (c) & (d)
a) Cannot take stringent action of closure being a Government school, unless the case is extreme	0	0	0	0	0	6
b) Hardships involved post closure e.g. enrollment of students, regular teachers need to be adjusted	0	0	0	0	0	

c) No complaints filed on violation of infrastructural norms	0	0	0	0	0	
d) Adequacy of Government & Aided schools for school education	0	0	0	0	0	
e) Can't say	0	0	0	0	0	0

Source: Primary Data

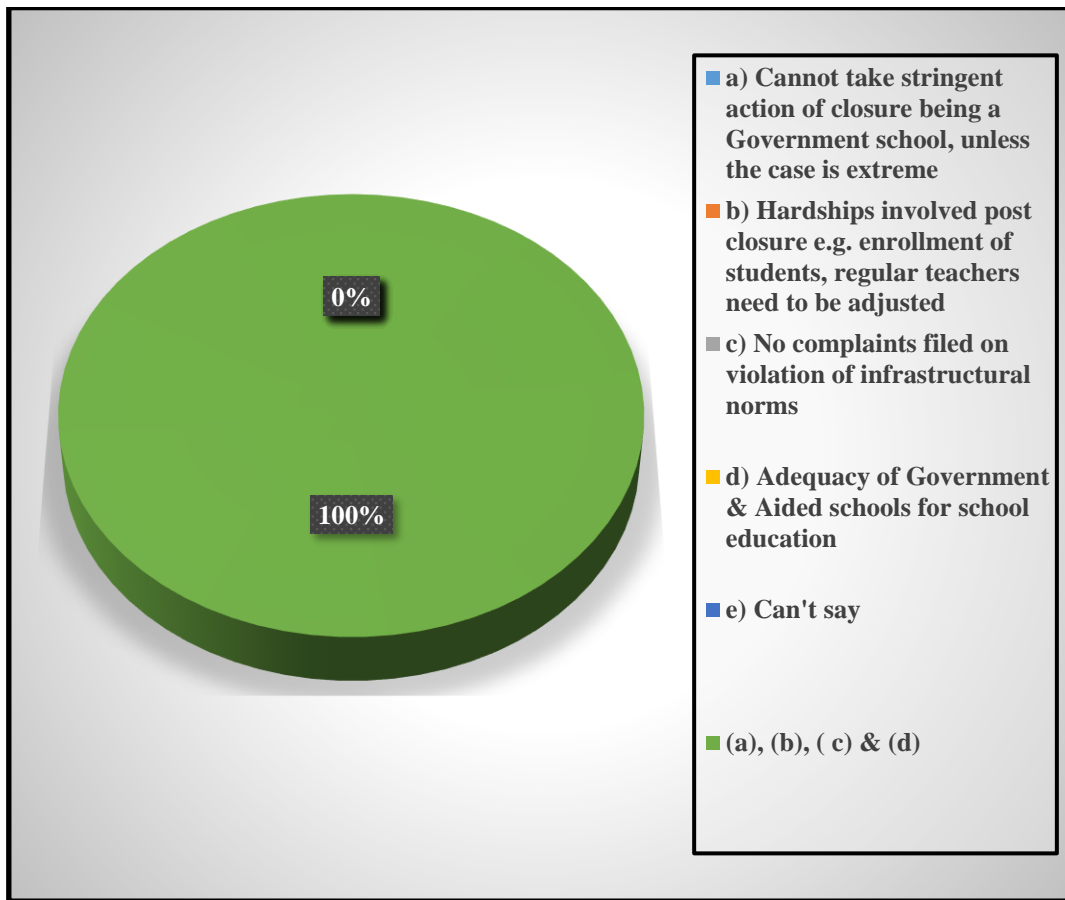


Figure 69 Reason for not taking action as per RTE law against the Government schools for violating the infrastructural norms

Table 81 and Figure 69 depict the grounds for not initiating action against the Government schools for violating the infrastructural norms. The Officials have agreed in their responses that they cannot take any action against these institutions unless in the case is extreme. Officials are also restrained because, there are lot of difficulties post closure of the schools; Further there are no complaints filed before them as to infraction of infrastructural norms by the schools and there is no dearth of Government and Aided schools for education of children in the State.

Table 82 Reason behind Infrastructural paucity in Government schools

Response from Officials	(a)	(b)	(c)	(d)	(a), (b) & (c)
a) Delay in submission & processing of the School Development Plan	0	0	0	0	6
b) Difficulty to conduct timely inspection of infrastructural norms due to lack of manpower	0	0	0	0	
c) Arduous to keep a minute check on schools as per the provisions of Goa School Education Act & the RTE law	0	0	0	0	
d) Can't say	0	0	0	0	0

Source: Primary Data

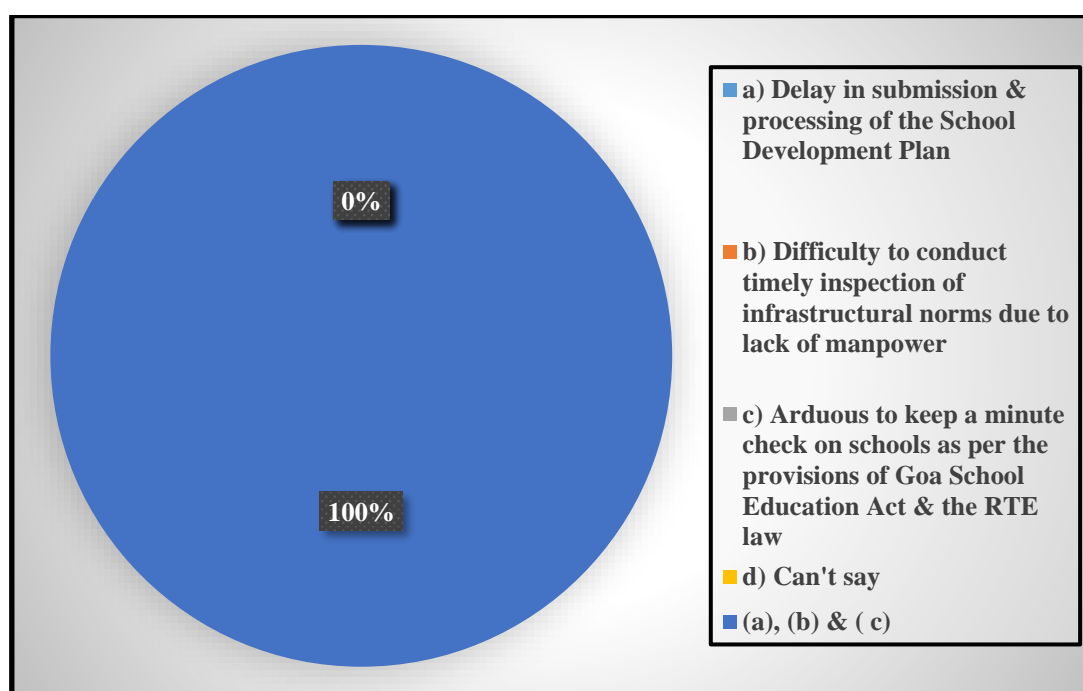


Figure 70 Reason behind Infrastructural paucity in Government schools

When the Officials were questioned on the reason behind scarcity of infrastructure in Government Schools, they responded that there is delay in submission as well as processing of the School Development Plan. Another reason was they face difficulty to inspect the schools as to adequacy of infrastructure due to lack of manpower and it is also difficult to keep a check on these schools with regard to whether they abide by the State and the Central law in force. The responses are represented in Table 82 and Figure 70.

Table 83 *Extent of interference of the Officials acceptable to Unaided and Specified Category Schools as far as School functioning is concerned*

	0 – 10%	11 – 50%	51 – 90%	91 – 100%
Response	6	0	0	0

Source: Primary Data

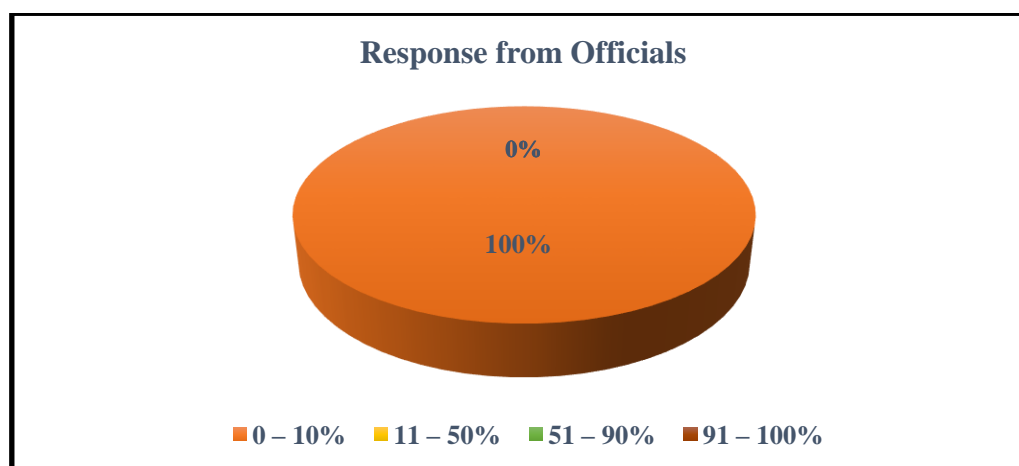


Figure 71 *Extent of interference of the Officials acceptable to Unaided and Specified Category Schools as far as School functioning is concerned*

Table 83 and Figure 71 show that there is less than 10% interference of the Officials as far as functioning of Unaided and Specified Category schools are concerned. It can be inferred that these schools do not accept the intervention of the Officials in their functioning.

Table 84 *Reason behind reluctance of the Officials to supervise and thereby manage inspection and functioning of Unaided schools*

Response from Officials	(a)	(b)	(c)	(d)	(a), (b), (c) & (d)
a) No dependency of the school for aid from the Government	0	0	0	0	
b) Schools delay in submissions directed by the Officials despite consistent reminders	0	0	0	0	

c) Defiance expressed by the school being aware that its approach before the Officials is only for approval of annual fee structure	0	0	0	0	6
d) Difficulty by Officials to supervise and manage functioning of the school due to lack of manpower	0	0	0	0	

Source: Primary Data

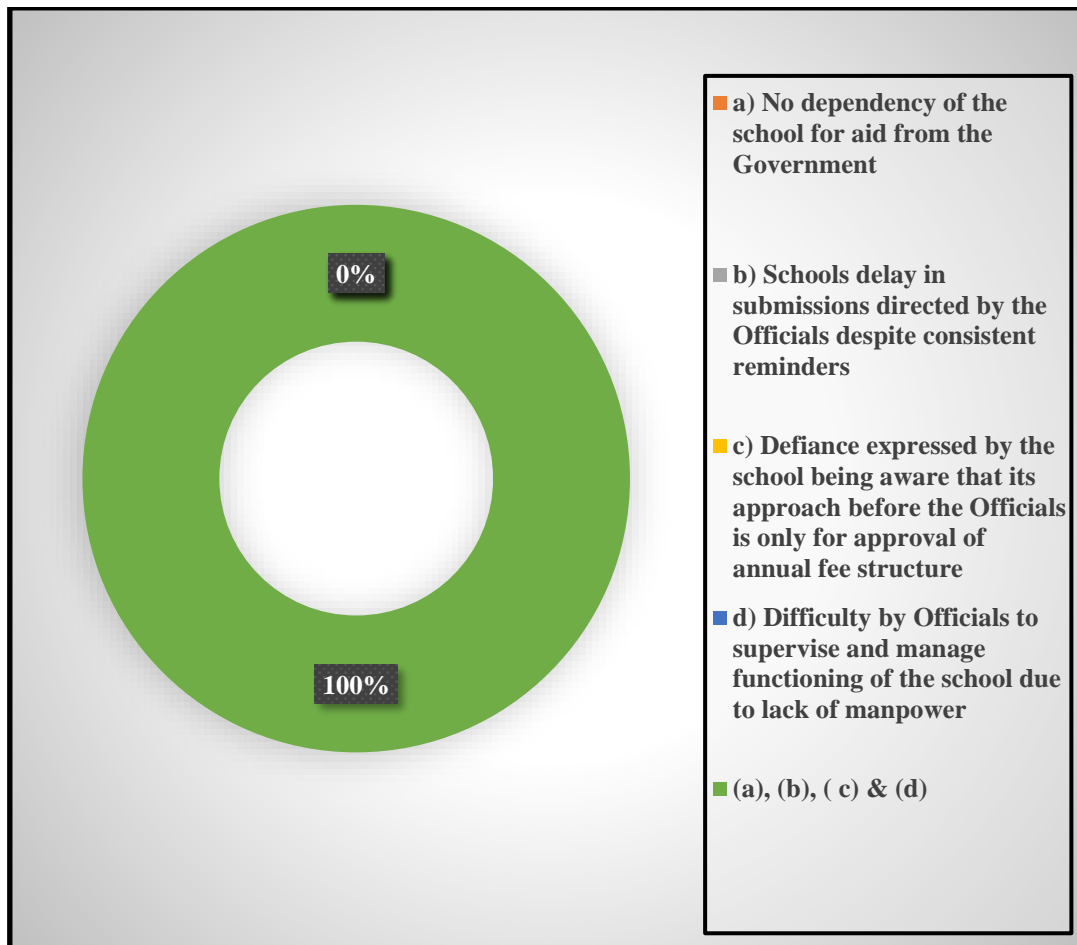


Figure 72 Reason behind reluctance of the Officials to supervise and thereby manage inspection and functioning of Unaided Schools

It can be deciphered from Table 84 and Figure 72 that the Officials face reluctance to supervise and manage the functioning of the Unaided schools mainly because these educational institutions are independent as far as finance is concerned and do not depend for aid from the State. Further any submissions asked from these schools are delayed despite repeated reminders. Schools also do not wish to cooperate mainly because they are aware that their approach before the Officials is only during the

approval of the authorized fee. Lastly it is also problematic for the Officials to supervise the functioning of these schools due to shortage of manpower.

Table 85 Reason for reluctance of Officials to supervise and thereby manage inspection and functioning of Specified Category schools

Response from Officials	(a)	(b)	(c)	(d)	(a), (b), (c) & (d)
a) No dependency of the school for aid from the State Government	0	0	0	0	6
b) Schools delay in submissions directed by the Officials despite consistent reminders	0	0	0	0	
c) Non – cooperation by the school being aware that it is administered by the Central Government	0	0	0	0	
d) Difficulty by Officials to supervise and manage functioning of the school due to lack of manpower	0	0	0	0	

Source: Primary Data

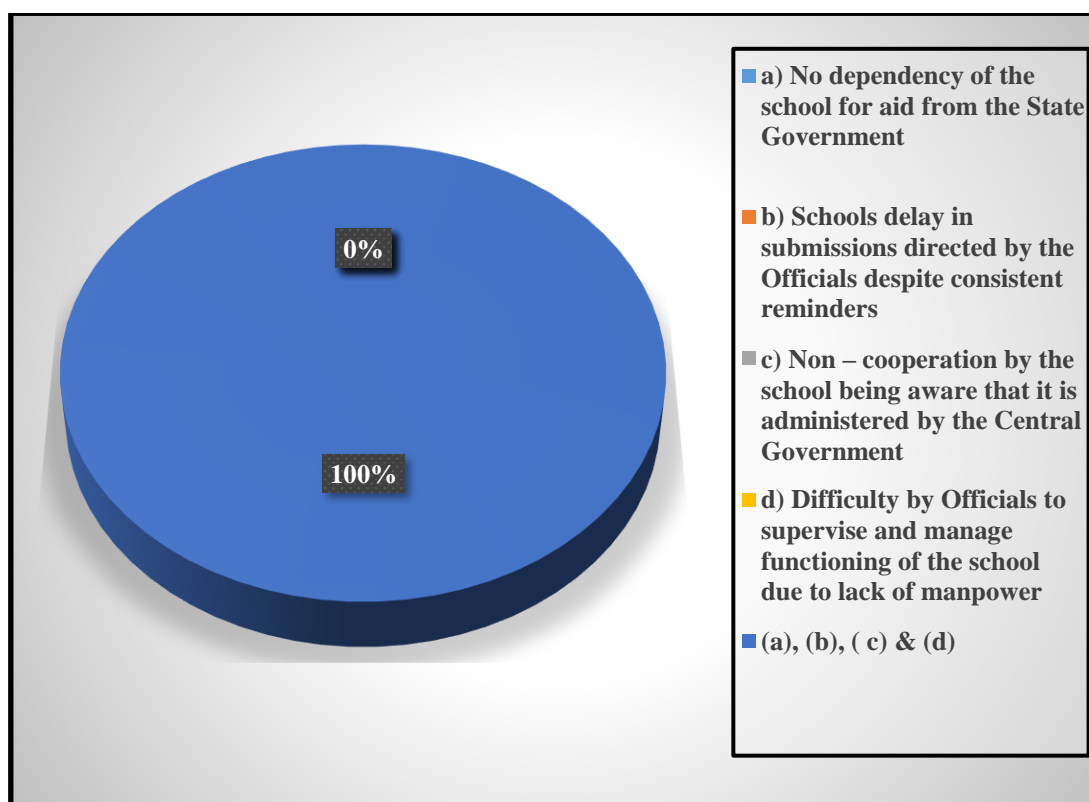


Figure 73 Reason for reluctance of Officials to supervise and thereby manage inspection and functioning of Specified Category schools

It can be seen from Table 85 and Figure 73 that the Officials have expressed the reason behind their reluctance to supervise and manage the functioning of the Specified Category schools. Firstly, these educational institutions do not depend for aid from the State. Further any submissions asked from these schools are delayed despite constant reminders. Thirdly, these schools also do not wish to cooperate because they are administered by the Central Government. Lastly it is also difficult for the Officials to supervise the functioning of these schools due to shortage of manpower.

5.10 Analysis of Hypothesis

The Research study is based on implementation of RTE Act and is restricted to State of Goa. The Act was brought into force on 1st April 2010 and the Researcher has tracked a period of ten years from 2010 to 2020 to investigate and analyze the effectiveness of legislation in the State. The hypothesis of the research is limited to specific provisions of the central legislation. This relates to reservation for certain group of children kept in Unaided Non-minority schools; the aspect of capitation fee demanded by the Unaided schools; the compliance by Government schools of the infrastructural norms and the duties of the functionaries under the legislation.

Statute on school education was already enacted in Goa and was brought in force on 14 November 1986, when it was part of Union territory of Goa, Daman and Diu. Aftermath of RTE legislation saw the light of Goa State rules that were framed in 2012. These rules make a mention of the Goa School Education Act and the rules thereunder in certain cases. For analysis of hypothesis few of the relevant provisions of Goa School Education Act have also been referred and relied for the purpose of accuracy.

5.10.1 Noncompliance of the twenty-five percent reservation provision by the Unaided schools has violated the children's right to equality

The Unaided schools are not funded by the State Government and these schools have their independent fee structure. Once the school fee is approved by the Director of Education, it is sanctioned fee. The education standard maintained by the Unaided school is directly proportional to its fee design. The provision of twenty-five percent reservation under the RTE Act is an attempt to create a homogenous atmosphere in Unaided schools where equality in all its forms would prevail. The objective of

reservation clause, was to make the weaker and disadvantaged children who are unable to afford the fee of these schools to avail of the benefit of reservation where the education for this section would be cost free, and on the other hand expense behind every such child admitted in Class I would be borne by the State Government and reimbursement to a specific limit would be given to Unaided schools.⁹⁵⁵ Thus reimbursement would lower the financial burden of Unaided schools and admission of weaker and disadvantaged children under the reservation quota would cater the principles of equality as enshrined in the Constitutional Law of India.

In course of time the Supreme Court of India through its judgment⁹⁵⁶ excluded all Minority schools from the ambit of the RTE Act to the extent it violates Minority rights under the Constitution of India. Therefore, applicability of the reservation provision centers around Unaided Non-minority schools only.

It is crystal clear from Tables 12, 13, 14 and 15 that students from weaker and disadvantaged sections of the society do enroll themselves in Class I of the Government, Aided and Unaided Schools. However, as per Figure 11, there is no enrollment under the reservation quota of this section of society in Unaided Non-minority schools. It is equally clear from Figure 56 that Unaided schools never provide entitlements to the children. As per the Goa RTE rules 2012, the entitlements are to be provided to the children under reservation quota. Unaided minority schools are excluded from the applicability of the twenty-five percent reservation provision. However, Unaided Non-minority schools do not comply with the reservation norm, hence the question of providing entitlements to the children under the reservation norm does not arise. Also as per Figure 65, as per the information received from the Officials of the Directorate of Education, none of the Unaided Non-minority schools have claimed reimbursement behind per child expenditure for enrolling under twenty – five percent reservation in class I of these schools, since the implementation of the RTE statute. Therefore, it can be inferred that weaker and disadvantaged sections of children do not seek admission under the reservation quota in Class I of the Unaided Non-minority schools.

⁹⁵⁵ For details See, sub-chapter 4.5.1 and 4.5.6.

⁹⁵⁶ *Supra* note 730.

It was further studied whether, there is sufficient awareness amongst the open category and other categories of the provision of twenty-five percent reservation. It can be inferred from Figure 12, that the weaker and disadvantaged section of society doesn't know about the privilege of reservation. Further, it clearly reflects from Figure 13, that majority of the respondents belonging to other category have expressed that they would have admitted their child in Unaided non-minority schools if they were aware of the reservation provision.

Added to this, School Management Committees constituted in schools as per the RTE Act are obligated to create an awareness on the rights of the child and the duties of the School. However, RTE law exempts Unaided Schools from constituting School Management Committee. It is clear from Figure 40 and Figure 41 that, there are no such committees constituted in Unaided Non-minority schools.

Study also revealed that 10% of the reserved seats in Class I continue to fall vacant and 35% of the seats are merged with the general seats. Further 55% of the Unaided non-minority schools have replied that the provision of twenty-five percent reservation is not applicable to them. This reflects in Figure 14. Thus it can be inferred that Unaided Non-minority schools are free riders in this case when it comes to enrolling the children under reservation quota.

Also, there is no communication of this privilege to the weaker and disadvantaged section of society for which no child belonging to this section seek admission under twenty-five percent reservation. Further Unaided schools are free to take their stand on the aspect of reserved seats without any substantial control from the State Government. Therefore, there is non-compliance of the norm of reservation by these schools thereby violating rule of equality of these children, hence, the hypothesis stands proved.

5.10.2 Demand for contribution or donation by the Unaided schools falls within the ambit of capitation fee.

RTE Act prohibits any kind of demand made by schools except the authorized fee of the school. Such a demand falls within the ambit of capitation fee and this violates the provision of the legislation which may attract penalty.

Figure 15 reveals that 15% of the Unaided Non-minority schools have always asked and 17% have occasionally asked for contribution or donation. Added to this, Parents and Guardian of the children admitted in such schools have answered that 10% of these schools have always asked and 20% have occasionally made such a demand. Figure 16 reflects that 28% of the Unaided minority schools have occasionally asked for the contribution or donation. On the other side, Parents and Guardians of the children admitted in Unaided minority schools have answered that 5% of these schools have always asked and 22% have occasionally made such a demand.

Study further reveals from Figure 17 and 19 as answered by majority of the Parents or guardian that Unaided schools do not issue receipts for any payment or donation or contribution demanded and accepted by them. A complete contradictory response is given by the schools which is elicited in Figure 18 and 20. As per these Figures all unaided schools have responded that receipts are given to the Parents or guardian for any voluntary or involuntary demand made and accepted by the schools.

Even though unaided schools completely agree about the receipts issued by them to Parents or guardian towards the demand made, Table 57 reflects that 75% of the Unaided minority schools and 80% of the Unaided Non-minority schools do not prepare the annual account of the receipts and expenditure and also do not make it available to the office of the Director of Education.

Thus it can be inferred that the Unaided schools are either not issuing the receipts for the demand made and accepted by them or these schools are concealing these receipts from being produced before the office of the Director.

This is further supported by the reasons expressed by the Officials of the Directorate of Education as per Figure 72. The Officials are also reluctant to supervise and manage the functioning of the Unaided Schools for being not funded by the State Government, the schools delay in submissions even though repeatedly asked by the Officials, schools do not cooperate as they are fully aware that their approach towards the Officials is only for the purpose of approving the fee and finally with all this the Officials due to lack of manpower lack supervising and managing the functioning of these schools.

Added to this Figure 66 makes it clear from the response of the Officials that they too have received complaints about the capitation fee demanded by the Unaided schools but their hands are tied to initiate legal action against the schools. The reasons for the same are expressed in Figure 67 where the complainants are reluctant to proceed against such schools. Then anonymous complaints are filed or complaints are made in fictitious names. Added to this, Table 57 and Figure 49 mentions about the functions of the School Committee. It is revealed that there is no communication by the Unaided Schools to the surrounding population about the rights of the child and the duties of the Local Authority, Parents and guardian as per the RTE law. Hence it can be inferred that the people are not made aware of the provisions under the RTE legislation. And the absence of this communication is because there is no constitution of the School Management Committee in Unaided schools and this can be deciphered from Figure 40 and Figure 41. These schools are devoid of the Committee as they are exempted from constituting the Committee as per the RTE law.

Hence it is clear that capitation fee is demanded by the Unaided schools from the Parents or guardian of the children, therefore hypothesis is proved.

5.10.3 Government schools do not have to adhere to the norms and standards and the same has diluted the mandates of infrastructure under the RTE Act.

The Government schools are established by the Government therefore these schools are deemed to be recognized from their very existence. However, it can be seen from Table 25 that 60% of the Government schools are without infrastructure. Further, it can be seen from Table 27 that 65% of the Government schools are without infrastructure as per the response received from Parents or guardian. The study reveals that Specified Category Schools and Unaided Schools do not comply with the infrastructural norms and this is projected in Figure 24 and Figure 25 respectively. Due to the said result it was necessary to investigate further as to which of the norms and standards are violated by these schools under RTE Act.

The infrastructural mandates are divided into thirteen individual heads and unfortunately there is maximum noncompliance of these requirements by the Government schools, and same is not the case with Specified Category Schools nor

with Unaided Schools. This reflects in Figure 27, which gives a clear representation of norms lacking in Government Schools as per the response from Schools and in Figure 28 that reproduces Government Schools that are devoid of norms as per the response from Parents or guardian.

A step further revealed that Government schools lack the tech savvy mechanism required in current world which aids in providing mechanized quality education. This relates to class wise teaching learning equipment's. This is more expressed in Figure 30 where the schools as well as the Parents or guardian have confirmed that 100% of the Government schools are devoid of computer with internet access in classrooms and Information Technology Mechanism.

Further, 60% of the Government schools and 55% of the Parents or guardian partially agree about the school toilets being accessible and hygienic. In fact, 20% of the Parents or guardian disagree with this too. This reflects in Figure 31 and 32. Added to this is, 50% of the Parents or guardian partially agree and 20% disagree on the fact of drinking water being safe and adequate. However, there is a lot of disparity which raises a doubt in the response given by the Government schools on this issue, where 55% of these schools agree that drinking water is safe and adequate. However, there is no total agreement on the drinking water being safe and adequate in schools. Figure 33 and 34 reflect the same.

As per Figure 35, Government schools have answered that they lack only sport equipment and games class wise to the extent of 10% each. Whereas, Parents or guardian have responded that these schools lack sport facility class wise which includes play material, sport equipment and games and the same can be seen in Figure 36. Further, Table 66, Table 67, Figure 57 and Figure 58 depict that 10% of the Government Schools are not equipped with Library facility.

Therefore, as far as Government Schools are concerned it can be inferred that there is maximum noncompliance of the norms and standards by these educational institutions and this weakens the expected infrastructural mandates. It is also revealed during the course of study that, in Specified Category Schools and Unaided Schools, there is no implementation of mid-day meals. As per Figure 24, from the response of Parents or

guardian Specified Category Schools totally lack class wise sport facility and 33% of these schools have not implemented Disaster Management Guidelines on School Safety Policy 2016. Rest of the indicators are followed by these schools and this clearly reflects in Figure 24, Figure 57, Figure 58 and Figure 59. Failure of implementing the provision of Mid-day meals in Unaided schools reflects in Figure 25. To a minimal extent the schools also lack the Sport facility and the implementation of the Disaster Management Guidelines on School Safety Policy 2016. Further, a small percentage of schools do not have class wise teaching learning equipment's and that reflects in Figure 59, whereas as per Figure 58 only 5% of the Unaided Non-minority schools are devoid of equipped library facility.

Table 57 and Figure 49 elicits the functions of the School Committee. It reveals that 65% of the Government School Management Committee do not communicate to the surrounding population the rights of the child and the duties of the Local Authority, Parents and guardian as per the RTE law. Hence it can be inferred that the people are not made aware of the provisions under the RTE law.

Study reveals that 60% of A.D.E.I. visits government school once a year only and 20% of A.D.E.I. visits these schools occasionally. Even to assess the quality of mid-day meal, 90% of the officers pay visit to the Government schools occasionally. Figure 38 and 37 reflects the same respectively. This is further supported by the fact that 65% of the Government schools do not prepare and recommend the three-year School Development Plan; 60% of these schools do not submit the plan to the Director before the end of the financial year. The fact is this plan is the basis to upgrade the infrastructural requirements of the school which itself is conveniently avoided by the schools and these details can be seen in Table 57.

Further, the reasons behind the lack of infrastructure in Government schools is elicited in Table 82 and Figure 70. The Officials state that, there is delay in submission of the School Development Plan and its processing also is further delayed. Secondly, it is difficult to conduct timely inspection of the infrastructural norms of the schools due to shortage of manpower and it is equally difficult to keep a minute check on schools as per the provisions of the State legislation on school education and the central law in force. Table 81 and Figure 69 further adds the reasons why the Officials cannot take

action against the Government schools despite these educational institutions being devoid of infrastructure. It is expressed by the Officials that; they cannot take stringent action of closure as the educational institution is State established unless the case is extreme. Further, the institution being an educational institution, there are hardships involved post closure e.g. the regular teachers have to be accommodated and the children also have to be enrolled in another school. Officials also agreed that there are no complaints filed against the schools for violation of infrastructural norms.

Hence there is no question of taking any action against these schools and lastly there is no insufficiency of Government and Aided schools pertaining to children's education.

It can be elicited from Table 83 and Figure 71 that, there is less than 10% interference of the Officials as far as the functioning of Unaided and Specified Category Schools are concerned. The Officials have affirmed the reasons behind reluctance to supervise and manage inspection and functioning of schools and the same are expressed in Tables 84 and 85 and represented in Figures 72 and 73.

Considering the non-compliance by Government schools of maximum indicators under the norms and standards of the RTE legislation, it can be inferred that Government schools are more privileged as compared to other schools when it comes to non-adherence of the infrastructural mandates. Thus this hypothesis stands proved.

5.10.4 Dereliction of duties on part of the School Management Committee and Local Authority has proportionally affected Children's fundamental Right to Education.

School Management Committee constituted is accountable to perform major functions as per the provisions of RTE Act in schools. However, the legislation excludes the Unaided schools from constituting these committees and these schools have not constituted the School Management Committee which can be inferred from Figure 40 and 41. But, the provisions of Goa Daman and Diu School Education Act directs all schools in Goa to constitute Managing Committee which is also a school committee. Thus it is clear from Figure 40 and 41 that Government and Aided schools have constituted either School Management Committee or Managing Committees or both

these committees in schools. Unaided schools have constituted Managing Committee as per the State Act. However, Specified Category schools have only constituted School Management Committee as per the Central law.

5.10.4.1 Extent of performance of duties by School Management Committees

School Management Committee is required to conduct monthly meetings and declare its decisions to the public. This makes the school education process transparent and more systematic. Government schools and Aided Non-minority schools have affirmed this duty and this can be deciphered on basis of the comparative responses gathered from these schools and also the Parents or guardian, which reflects in Figure 42 and Figure 44 respectively.

On the other hand, substantial difference can be seen in the responses of the Aided minority schools and the Parents or guardian of the children who pursue their education in these schools, and the same is reproduced in Figure 43. In this case, the Aided minority schools have confirmed the performance of the duty whereas the Parents or guardian have contradicted the same. This raises uncertainty on the response of the Aided Minority Schools as the School Management Committee constituted in all Minority and Government Aided schools are only advisory in nature, and that justifies its weightage. Further the Managing Committee constituted under Goa Daman and Diu School Education Act does not impose this duty on the Committee.

As per Figure 45 disparity is also projected in the responses of Unaided minority schools and the Parents or guardian of the children who pursue their education in these schools. Majority of respondent schools have affirmed that their Committee conducts monthly meetings and makes its decision public, whereas the Parents or guardian have given a contradictory response. It is clear from Figure 40 and 41 that Unaided schools have not constituted School Management Committee. Added to this Goa Daman and Diu School Education Act does not obligate the Managing committee to conduct monthly meetings and declare its decisions in public. Therefore, the response given by the Unaided minority schools is contradictory.

On the other hand, Figure 46 reflects that Unaided Non-minority schools do not conduct monthly meetings, hence the question of making the decision of meetings public does

not arise. Though Specified Category schools have constituted School Management Committee, these schools do not conduct monthly meetings, and also do not make its decision public. This can be inferred from Figure 47 which elicits affirmation on the point that these educational institutions do not conduct monthly meetings.

Therefore, it can be inferred that Government and Aided Non-minority schools have constituted School Management Committee and the committee performs its duty of conducting monthly meetings and declaring its decision to the public. Unaided Non-minority schools have not constituted School Management Committee. Specified Category schools blatantly violate the State RTE rules. There is a substantial contradiction in the responses given as far as minority schools are concerned. Unaided minority schools have not constituted School Management Committee, hence the question of conducting school meetings does not arise. On the other hand, the School Management Committee constituted in Aided minority schools are only advisory in nature. Hence the response raises uncertainty.

It is clear from Figure 48 that all School Committees evade their duties. However, the extent of dereliction on part of Aided Non-minority school Committees is minimal. This is more specifically represented in detail in Table 57. There are nine duties expressed in the table. To a major extent these duties are violated by the Unaided schools, for instance; non-submission of School Development Plan to the Director before the end of the financial year; non communication of the rights of the children and the duties of the Local Authority, Parents and guardian to the people nearby to the school; not monitoring the identification, enrollment & facilities for the education of children with disability; non implementation of the mid-day meal provision; not preparing the annual account of receipts & expenditure of the school and neither making it available to the Director. Specified Category school committees completely avoid the following duties that includes, preparation & recommendation of the three-year School Development Plan; Submission of the Plan to the Director before financial year ends; implementation of mid-day meals and to prepare an annual account of receipts & expenditure of the school and make it available to the Director. When it comes to Government schools, the following functions to a majority extent are evaded by the committee, that includes, to prepare & recommend three-year School Development Plan; Submission of the Plan to the Director before the end of the financial year; to

monitor identification, enrollment & facilities for the education of children with disability. Comparatively Aided school committee also avoid the duties but to a minimal extent.

As far as Aided minority schools are concerned, majority of the school committee avoid communicating the rights of the children and the duties of the Local Authority, Parent and guardian to the neighbouring population. On the other hand, dereliction of the duties by the committees of the Aided Non-minority schools are minimal.

It can be elicited from Table 57 as per the response given by the Government School Committees that they monitor the utilization of the grants. This response is contradictory as far as it relates to complying with the norms related to the school infrastructure is concerned. It can be seen from Figure 21 that 60% of the Government schools are without infrastructure. Further, it can be seen from Figure 22 that 65% of the Government schools are without infrastructure as per the response received from Parents or guardian.

A step further reveals that Government schools lack the tech savvy aids that supplements quality education. This relates to class wise teaching learning equipment's. This is more expressed in Figure 30 where the schools as well as the Parents or guardian have confirmed that 100% of the Government schools are devoid of computer with internet access in classrooms and Information Technology Mechanism. Further, 60% of the Government schools and 55% of the Parents or guardian partially agree about the school toilets being accessible and hygienic. In fact, 20% of the Parents or guardian disagree with this too. This reflects in Figure 31 and 32. Added to this is, 50% of the Parents or guardian partially agree and 20% disagree on the fact of drinking water being safe and adequate. However, there is a lot of disparity in the response given by the Government schools on this issue, where 55% of these schools agree that drinking water is safe and adequate. However, there is no total agreement on the drinking water being safe and adequate in schools. Figure 33 and 34 reflect the same. As per Figure 35, Government schools have answered that they lack only sport equipment and games class wise, to the extent of 10% each. Whereas, Parents or guardian have responded that these schools lack sport facility class wise which includes play material, sport

equipment and games and the same can be seen in Figure 36. Further, Figure 57 and Figure 58 depict that 10% of the Government Schools are not equipped with Library facility. Table 33 depicts that 9 schools do not implement the Disaster Management Guidelines, whereas as per Parents or guardians response 7 schools fail to implement these guidelines. Hence the response given by the Government School Committees as to monitoring the implementation of measures as per the Disaster Management Guidelines projected in Table 57 is contradictory. Therefore, it can be inferred that grants received for school infrastructure is not monitored by the school committees.

Added to this, on basis of Table 57 it can be inferred that, 65% of the Government schools do not prepare and recommend the three-year School Development Plan and 60% of these schools do not submit the plan to the Director before the end of the financial year. This Plan is the basis to receive the grants to the school as per the RTE legislation and the preparation and the submission of the Plan itself is conveniently avoided by the School Committee. There is no doubt that, budget on Government schools is sanctioned by the State Government but the actual expenditure on infrastructure by these schools is minimal and the same reflects in Table 44 and Figure 39. Further, one of the reason supporting infrastructural scarcity in Government schools is expressed by the Officials and the same is represented in Figure 70, and the reason is delay in submission of the School Development Plan, furthered by delay in processing of the Plan. Hence it can be concluded that, there is no proper utilization of the school grants as far as it relates to school infrastructure. Added to this, the response given by these school committees as projected in Table 57 that they monitor implementation of the school infrastructure is also contradictory.

Further, it can be deciphered from Figure 50 that the provision of providing educational facilities to children with disability is not applicable to the Government schools. Added to this, Tables 12, 13 and Figures 7, 8 reveal that children with disability are not even enrolled in regular Class I of the Government schools. This is supported by the response given by 55% of these School Committees that, they do not monitor the identification, enrollment and facilities for the education of the children with disability. Also, 65% of these committees do not communicate the rights and duties enshrined by the RTE law to the neighbouring people. This reflects in Table 57. Therefore, majority of the functions are not performed by the Government School Committees.

Table 57 and Figure 49 depicts that 100% of the Unaided schools do not submit School Development Plan to the Office of the Director before the end of the financial year. Failure of implementing the provision of Mid-day meals in Unaided schools reflects in Figure 25. This is further supported by the response given by these school committees that they do not monitor the implementation of the mid-day meals and this reflects in Figure 49. Also, they do not prepare the annual account of the receipts and expenditure and the same is not made available to the office of the Director. This is supported by Figures 15 and 16 which elicit that the Unaided schools demand capitation fee from the Parents or guardian.

Majority of the Parents or guardian have responded that Unaided schools do not issue receipts for any payment or donation or contribution demanded and accepted by them and the same is revealed in Figures 17 and 19. A complete contradictory response is given by the schools which is elicited in Figures 18 and 20. Even though Unaided schools completely agree about the receipts issued by them to Parents or guardian towards the voluntary or involuntary demand made, Table 57 reflects that 75% of the Unaided minority schools and 80% of the Unaided Non-minority schools do not prepare the annual account of the receipts and expenditure and also do not make it available to the office of the Director.

It can be elicited from Figure 71 that, there is less than 10% interference of the Officials as far as the functioning of Unaided Schools are concerned. As per Figure 61, A.D.E.I inspects these schools occasionally. The Officials have affirmed the reasons behind reluctance to supervise and manage inspection and functioning of schools and is represented in Figure 72. The reasons are, Unaided Schools are not funded by the State Government, the schools delay in submissions even though repeatedly asked by the Officials, schools do not cooperate as they are fully aware that their approach towards the Officials is only for the purpose of approving the fee and finally with all this the Officials due to lack of manpower lack supervising and managing inspection and functioning of these schools.

As per Table 57, majority of the Unaided schools do not monitor the identification, enrollment and the facilities for the education of the children with disability. Such children fall under the twenty-five reservation kept in Class I of the Unaided schools in

terms of RTE law. As per Figure 11, there is no enrollment under the reservation quota of this section of society in Unaided Non-minority schools. Unaided minority schools are excluded from the applicability of the twenty-five percent reservation provision. Also as per Figure 65, as per the information received from the Officials of the Directorate of Education, none of the Unaided Non-minority schools have claimed reimbursement behind per child expenditure for enrolling under twenty – five percent reservation in class I of these schools, since the implementation of the RTE statute. Added to this, Tables 12, 15 and Figures 7, 10 reveal that children with disability are not even enrolled in regular Class I of the Unaided schools. Moreover, Figures 53 and 54 depicts that the clause pertaining to provision of educational facilities to be provided to children with disability is not applicable to these schools.

Finally, all these functions are performed by the School Management Committee. But these Committees are not constituted in Unaided schools and this can be deciphered from Figure 40 and 41. In fact these schools are excluded from constituting these Committees as per the RTE law. Hence, there is also no communication of the rights and duties enshrined under the RTE law to the people in the surrounding area of the schools. As the School Management Committees are not constituted in Unaided schools, question of dereliction of duties does not arise.

In case of Specified Category Schools, the Committee does not prepare and recommend the three-year School Development Plan, nor this Plan is submitted before the Director. This data is projected in Table 57. Further, as per Figure 24, there is no implementation of mid-day meals in these schools. This is supported by the response given by the school committee in Table 57 that there is no monitoring of the implementation of the mid-day meals. The committee further has responded that they monitor the utilization of the school grants and also implementation of the school infrastructure, but this contradicts the response given by Parents or guardian in Figure 24 where it is elicited that these schools totally lack class wise sport facility.

As per table 57, these schools also do not prepare an annual account of the receipts and expenditure of the school and do not submit it in the Office of the Director. It can be elicited from Figure 71 that, there is less than 10% interference of the Officials as far as the functioning of the Specified Category Schools are concerned. As per Figure 61,

there is occasional inspection of these schools by A.D.E.I. The Officials have affirmed the reasons behind reluctance to supervise and manage inspection and functioning of schools and the same is represented in Figure 73. These include, no dependency of the school for aid from the State Government, delay by the schools to make submissions despite constant reminders, non-cooperation by the school being aware that they are administered by the Central Government and the Officials also find it difficult to supervise and manage the functioning of these schools due to lack of manpower.

The Specified Category school committees have however responded in Table 57 that they do perform their duty of creating awareness on the rights and duties mentioned under RTE law. However, they monitor the identification, enrollment and facilities for the education of the children with disability. As per Figure 55, these schools do provide educational facilities for children with disability. Further, there is also monitoring of the implementation of the Disaster Management Guidelines by these Committees and this is affirmed by the majority of the respondents in Figure 24.

Therefore, it can be inferred that there is part dereliction of the duties by the Committees of the Specified Category Schools.

Except monitoring implementation of the Mid-day meals and implementation of the Disaster Management guidelines there is dereliction of duties by the Aided minority school committees. Similarly, except monitoring the implementation of the Mid-day meals, rest of the duties are avoided by the Aided Non-minority school committees but comparatively to a minimal extent. This reflects in Table 57. The School Management Committees in Aided Minority schools are advisory in nature as per the RTE law in force. Table 57 depicts that, 55% of these committees have responded that there is no communication of the rights of the children and the duties of the functionaries under the Act to the people in the vicinity of the school. There is also a contradiction on the point of school meetings conducted by these committees and making their decisions public, as the parents or guardian have given their response in negative as reflecting in Figure 43. Aided Schools do have adequate infrastructure and that reflects in Figure 21 and 22. However, 5% of the schools are devoid of equipped library as projected in Figure 57 and 58. Further, as per Figure 59, majority of the schools have class wise

teaching learning aids. Also, negligible percent of schools are devoid of sport facility as projected in Figure 60.

Figure 51 and 52 elicits that Aided schools do provide educational facilities for the children with disability. As per Figure 9, it can be deciphered that children with disability do enroll in Class I of the Aided schools. Further as per Figure 61, Aided schools are inspected by the A.D.E.I. As reflecting in Table 57, barring 15% of the schools, Aided school committees have also affirmed that they prepare the annual account of the receipts and expenditure and submit it to the Office of the Director.

Therefore, it can be inferred that there is minimal dereliction of duties by the School Management Committees of the Aided Non-minority Schools. Therefore, it can be inferred that there is dereliction of duties on part of School Management Committees of Aided schools too but comparatively to a smaller percent.

Hence, it can be inferred that there is dereliction of duties by the School Management Committees constituted in Schools and the hypothesis stands proved.

5.10.4.2 Non-performance of the duties by the Local Authority

The composition of School Management Committee consists of elected members of the Local Authority. The School Committee has defined duties in terms of RTE legislation. However as Figure 62 depicts, it was expressed by 65% of the Local Authority members that they do not know the functions of the School Committee. These elected members further mentioned that their participation at the School Committee functioning and attendance at the monthly School meetings is less than 10%. This reflects in Figure 63. Added to this, 75% of the respondents have stated the reason behind evading the duties of the School Committee and the same is due to exclusion by the schools in carrying out the functions and also lack of training to execute the duties. However, 25% of the respondents besides these reasons have also added that they are engaged with their primary duty as a Local Authority member. The reasons are projected in Figure 64.

The organization, development and supervision of the school education is with the Directorate of Education in State of Goa. Therefore, as an administrative body having

control over the schools it falls within the ambit of Local Authority. The Office of the Directorate of Education maintains the annual elementary level enrollment of students in Schools and the same reflects in Figure 5. Annual statistical data is also maintained on the enrollment of children belonging to weaker section and disadvantaged groups that includes SC, ST, OBC and children with disability. This is projected in Figures 7, 8, 9, 10. However, the annual data of children enrolled in Specified Category Schools is not completely available with the Office of the Directorate. During the course of the study it was revealed that Government, Unaided and Specified Category Schools fail to comply with the norms and standards set under the Central law. This is clear from Figures 21 and 22. There is non-compliance of the norms even by the Aided schools but in comparison with other schools it is to a smaller percent. Even to assess the quality of mid-day meals served in Government Schools, authorized officers pay visit occasionally, as indicated in Figure 37. In addition to this few of the other schools totally do not comply with the indicators under the norms relating to school infrastructure. For instance, mid-day meal provision is not implemented in Unaided and Specified Category schools and the same reflects in Figure 25 and Figure 24 respectively. There is inadequate sport facility in Specified Category schools as expressed by the Parents and guardian as respondents and the same reflects in Figure 24. Tech savvy aids for teaching and learning are lacking in Government Schools and the same reflects in Figure 30. The Unaided and Specified Category schools also do not submit the School Development Plan to the Office of the Directorate of Education as indicated in Table 57. As per Figure 68, despite infrastructural scarcity in Government schools the Officials do not step forward to take legal action against the schools and the schools continue to be functional. Reasons for not taking action as expressed in Figure 69 include, the schools are owned by them; then there are hardships involved to accommodate the regular staff and the students if school goes defunct; no complaints on violation of infrastructural norms by Government schools are filed and finally there are adequate Government and Aided schools for school education. Inspections in Government schools and Aided schools are carried out once in a year as indicated in Figure 38 and Figure 61. As far as the inspection of Unaided and Specified Category schools are involved, the inspection takes place occasionally and the same reflects in Figure 61.

As per figure 56, Unaided schools never provide entitlements to students. Infact these entitlements are to be given to the children enrolled under twenty-five percent reservation in these schools. Further, as per figures 53 and 54, Unaided schools have expressed that provision of educational facilities to children with disability is not applicable to their educational institutions. The twenty-five percent reservation is applicable to Unaided Non-minority schools and the children with disability can enroll in this quota. But there is no enrollment of children in this quota and this is elicited in Figure 11 and 65. However, in the course of academic year the reserved seats are merged with general seats by the Unaided schools and few of the respondents have even responded that reservation provision is not applicable to their schools and this reflects in Figure 14.

Then, the annual accounts of the receipts and expenditure of the Unaided and Specified Category Schools are not submitted to the Office of the Director. This is projected in Table 57. The Officials have also received complaints about the Unaided Schools demanding capitation fee and that reflects in Figure 66. Reasons expressed by the Officials for not taking action against the Unaided schools is that, no written complaints are filed against such schools and that written complaints filed are either anonymous or are in fictitious names. This reflects in Figure 67. It is projected in Figure 71 that there is less than 10% interference as far as functioning of Unaided schools and Specified Category schools are concerned. Officials have also expressed their reluctance in supervising and managing the inspection and functioning of these schools and the reasons are projected in Figures 72 and 73.

There it can be inferred that there is dereliction of duties by the Local Authority and the hypothesis stands proved.

5.10.5 Final Observation

The objective of the RTE legislation is holistic development of a child, hence every aspect that caters to education at the elementary stage of a child matter. There are specific areas which the researcher encountered and observed during the course of research, which are listed under the topic. Firstly, the Unaided Non-minority schools do not comply with the norm of twenty-five percent reservation kept for children in

Class I of these schools. Thereby the children's right to equality to pursue education at the elementary level is affected and hence violated.

During the course of study, it was observed that, there is no awareness created amongst the Parents or Guardian of the children of the privilege of reservation. The School Management Committee has a major role to play as per the RTE law. To create awareness on the rights of the child and the duties of the functionaries is on this Committee. However, the RTE law excludes the constitution of these committees by Unaided schools. Added to this there is no attempt made by the Unaided Non-minority schools to enroll the children under this category.

Secondly, Unaided schools are also involved in demanding capitation fee voluntarily or involuntarily from the Parents or Guardian of the children. However, there are no complaints filed against the schools on this issue by the Parents. Hence Officials at the Directorate of Education are also refrained from taking legal action against these schools.

Thirdly, all schools whether Government, Aided, Unaided and Specified Category do not follow the norms and standards as required under the RTE law. Government schools do not comply with maximum number of the indicators but these schools continue functioning with recognition. As per the statistical data there are more number of Government Schools in the State of Goa. But the highest enrollment since last ten years from 2010 – 2020 is in Aided schools. It is also observed that Aided schools comparatively follow the norms and standards as laid down by the Central legislation. Further, the Government of Goa has implemented a Scheme for Children with Special Needs (2018) and the objective is to build a good educational environment for such children and provide financial grants to special and regular schools so that they elevate their educational facilities for such students.⁹⁵⁷ This scheme was in effect since 2005, further was revised in 2008 and replaced in 2018 to meet the exigencies of RTE Act

⁹⁵⁷ Notification 3/96/AE/DE/2012-13, SERIES I No. 39, Official Gazette-Govt. of Goa, 27th December, 2018.

and the policy of inclusive education.⁹⁵⁸ So far only Aided Schools are enhancing their educational amenities to avail of this scheme for an inclusive education.

Lastly, all schools except Unaided schools are required to constitute School Management Committee. This committee has been assigned duties under the Central legislation in terms of preparing the School Development Plan; creating the awareness on the rights of the children and duties of Local Authority, Schools and others; monitoring the implementation of the school infrastructure; and submission of the annual audit before the Office of the Director. These duties are indispensable in terms of effective implementation of the RTE Act. However, there is dereliction of duties by School Management Committees. It was observed that Unaided schools excuse their institutions from performing these duties due to non-constitution of School Management Committees. There are few Specified Category Schools in the State of Goa but there seem to be a disconnect between these schools and the Local Authority of the State of Goa. Local Authority also fail to perform its duty. This affects the smooth operation of the RTE legislation in the State.

⁹⁵⁸ *Ibid.*

CHAPTER – VI

CONCLUSION

AND

SUGGESTIONS

6. Conclusion

Education provides a platform for optimum development of a child. As realization dawned upon this aspect, and that the goal expressed in Article 45 of the Constitution of India of providing free and compulsory education was unattainable even after 50 long years of adoption of the provision; the Right to Education was articulated as fundamental right under Article 21A of the Constitution. It was the State that was given the responsibility of executing this right by enacting a law in that direction. Aftermath of adoption of Article 21A saw the implementation of RTE Act where the Right to Education was pronounced as a statutory right.

The Act seeks to achieve the objective of making education accessible to all and cost free. The statutory provisions are designed to attain this goal. However, it has been revealed during the course of research that, the implementation of legislation in the State of Goa belies its vision.

6.1 Right to Education at the International Level

There was not much recognition given to education during the period of world wars. It was the post-world war period that made the world governments in partnership with UN agencies and other organizations think about structuring the path of education for the progress of the Nations. The third world countries were adversely affected by the world wars and that shackled the economy of these countries. Elevation of a country is solely based on the growth of its people and education would be the apt platform to ignite this. Hence, it was a global move to educate every child who would be the future pillar of the Nation and in turn would extend its hand for development of the Nation.

The fundamental document that expressed about the right to education was UDHR and majority of the international agreements are framed in conformity with the provisions of UDHR. This document mentions about education at the elementary level that would be free and compulsory. This led a vision to develop in the eyes of the world governments to take an initiative of providing education that would be compulsory and

also free at the initial stages. It started with the primary and then the secondary stage of education but subject to the economic condition of the individual country.⁹⁵⁹

The third world countries took intense initiatives to elevate the scale of education at the elementary level. Countries in the region of Asia endeavoured to enhance the school facilities that included recruitment of qualified teachers, organizing teacher training programmes, maintaining pupil teacher ratio, teaching aids in schools, appropriate school buildings, and drawing financial plan for estimating the education expenditure that increased the enrollment at the primary level.⁹⁶⁰ Before that a survey was conducted in countries to oversee the problems pertaining to lack of educational facilities.⁹⁶¹ However, the major cause behind the educational limitation was poverty that had to be addressed.

African region witnessed the creation of the educational institutions from scuff. Education was focused from the quantitative as well as qualitative angle and there were short term and long term targets set.⁹⁶² Besides the development of the schools, emphasizing on girl education, teacher training, aid was sought from the organizations at the regional and international level and monitoring bodies were constituted that increased the rate of enrollment.⁹⁶³

The Latin American Countries tried to analyse the problems encountered at the primary level of education by holding seminars, and its suggestions were enforced in the course of time for growth of education.⁹⁶⁴ Focus was laid on imparting quality education that included teacher training, rise in education budget, establishment of educational centres and the definition of education was oriented in building up an individual.⁹⁶⁵

Subsequently, the third world countries extended their hand in supporting the goal of achieving the universal education. This began with the EFA movement where the

⁹⁵⁹ For more details See, sub chapter 2.3.

⁹⁶⁰ For more details See, sub chapter 2.4.1.

⁹⁶¹ *Ibid.*

⁹⁶² For more details See, sub chapter 2.4.2.

⁹⁶³ *Ibid.*

⁹⁶⁴ For more details See, sub chapter 2.4.3.

⁹⁶⁵ *Ibid.*

governments at the global level, world bank, UN bodies were committed to achieve the goal.⁹⁶⁶ This commitment further led to setting up of MDGs, then SDGs and the Incheon Declaration for Education.⁹⁶⁷ Each of these steps have set a target to achieve quality, quantity, equity, accessibility and availability in the field of education.⁹⁶⁸

6.2 Education at National Level

Imparting of the education during the Ancient period was solely based on age related rituals.⁹⁶⁹ Individual attention was given to every student by the teacher and discipline was part of study.⁹⁷⁰ There were no educational institutions; education at the primary followed by secondary level was for specific number of years, and environment friendly material were used as teaching and learning aids in class.⁹⁷¹ Education in specific areas then determined the progress of professions and classifications of castes. For instance, Brahmanas were more linked with the professional education whereas the Kshatriyas were associated with the military education.⁹⁷² There was gender bias practiced in education and females could not pursue study due to specific restrictions. Therefore, they resorted to self-employment. However, royal families did not impose similar restrictions on their girls.⁹⁷³

Fee was not considered as a criterion for education, however students who were mentally weak were devoid from pursuing education.⁹⁷⁴ There was no fixed class hour as students learnt to undertake even the household responsibilities, which in a way was a great help to the tutor.⁹⁷⁵ Eventually religious institutions or monasteries or capitals of the kingdom were recognised as educational centres and there were provisions made for scholarships, boarding for students and remuneration for teachers, but there was lot

⁹⁶⁶ For more details See, sub chapter 2.5.1.

⁹⁶⁷ For more details See, sub chapter 2.5.2, 2.5.3, 2.5.4.

⁹⁶⁸ Supra note 966, Ibid.

⁹⁶⁹ For more details See, sub chapter 3.1.

⁹⁷⁰ For more details See, sub chapter 3.1.1.

⁹⁷¹ *Ibid*, For more details See, sub chapter 3.1.2. 3.1.3.

⁹⁷² For more details See, sub chapter 3.1.4.

⁹⁷³ For more details See, sub chapter 3.1.5.

⁹⁷⁴ For more details See, sub chapter 3.1.6.

⁹⁷⁵ *Ibid*.

of variance.⁹⁷⁶ Eventually, libraries were established and educational expenditure was taken care by kings and royal families along with society.⁹⁷⁷

Barring a few exceptions, imparting of the education was purely based on the ruler during the reign of Muslims.⁹⁷⁸ Along with the private institutions, there were also State owned institutions.⁹⁷⁹ Learned men were invited to impart education, and skill education in other fields was promoted for the purpose of acquiring knowledge.⁹⁸⁰ Few of the rulers even thought of educating the poor sections of the society by giving them monetary aid.⁹⁸¹

British period saw the presence of educational institutions belong to the trading company, and vernacular schools along with schools established during the Muslim rule.⁹⁸² Education was imparted at all levels with special emphasis on elementary schooling to increase the literacy rate.⁹⁸³ There was proliferation of even higher education and seeking employment was the main aim behind pursuing education.⁹⁸⁴

Considering the objective of gaining freedom from the British rule, people had to be literate. More emphasis was given on the education at the elementary level that would be compulsory and also free, devoid of gender inequality and would implement Mid-day meals.⁹⁸⁵ Eventually education at higher levels were also looked into.⁹⁸⁶ The Government then came up with the Policies and Programmes on education with a vision of increasing the literacy rate.⁹⁸⁷ SSA is one such flagship programme that runs parallel with RTE legislation.⁹⁸⁸ The NEP 2020 is the current policy that comprehensively

⁹⁷⁶ *Ibid.*

⁹⁷⁷ *Ibid.*

⁹⁷⁸ For more details See, sub chapter 3.2.1.

⁹⁷⁹ *Ibid.*

⁹⁸⁰ *Ibid.*

⁹⁸¹ *Ibid.*

⁹⁸² For more details See, sub chapter 3.3.

⁹⁸³ *Ibid.*

⁹⁸⁴ For more details See, sub chapter 3.3.3.

⁹⁸⁵ For more details See, sub chapter 3.3.4, 3.3.6.

⁹⁸⁶ For more details See, sub chapter 3.5.

⁹⁸⁷ For more details See, sub chapter 3.5.1 to 3.5.6.

⁹⁸⁸ For more details See, sub chapter 3.6.2.

covers all stages of education encompassing equality, equity, accessibility, quality and quantity.⁹⁸⁹

6.3 Judicial approach and Legislative framework

Judiciary has equally contributed in highlighting the Right to Education and linking it to the aspect of dignity that falls within the concept of right to life under Article 21 of the Constitution of India.⁹⁹⁰ However, the Court went a step further to state that this right under Part III of the Constitution should be read with the DPSP under Part IV, hence the free availability of this right is restrictive to age of fourteen years.⁹⁹¹ Then it is for the State to decide based on its economic condition to make the availability of education free of cost to the citizens.⁹⁹²

Judiciary was instrumental in bringing into reality the vision expressed at the time of promulgation of the Constitution, of having a public education system that would be compulsory and free.⁹⁹³ The introduction of Right to Education as a fundamental right increased the State responsibility to enact the RTE statute that has given a comprehensive look to the education system in the country.

The legislation is fine-tuned that has taken into consideration the principles of equity and equality, accessibility and availability, quality and quantity, expressed in terms of rights of children and duties of monitoring bodies, Government, schools and also the Parents or the guardian. The legislation categorizes schools as belonging to Government, Aided, Unaided and Specified Category. The schools established by minority are also brought within the purview of the legislation, without violating their minority rights enshrined by the Constitution.

Education in Government schools shall be free of cost but children enrolled in other schools are required to pay the school fee and not the capitation fee, is what the Act specifies. Imparting of the education as per the school curriculum and overall

⁹⁸⁹ For more details See, sub chapter 3.5.7.

⁹⁹⁰ For more details See, sub chapter 3.6.

⁹⁹¹ *Ibid.*

⁹⁹² *Ibid.*

⁹⁹³ For more details See, sub chapter 3.6.

development of the child is the responsibility of the schools and the duties of the teachers. At the same time education at the elementary level also demands from the schools a good infrastructure that builds a quality learning atmosphere. The Preamble of the Constitution vouches for principles of equality and social justice, and the provision of twenty-five reservation for children in Unaided schools upholds these principles. As a monitoring body School Management Committee performs the duties of supervision in terms of school infrastructure, financial accounting and auditing, implementation of Mid-day meals and others. Finally, the Government and the Local Authority has the responsibility of maintaining a record of all children and fulfilling the objective of providing free education that would be achieved and attained by all irrespective of distinction or discrimination or bias.

However, State of Goa witnesses the implementation of a State legislation on education, the Central RTE law and the Goa rules framed under the Central Act.

6.4 Findings derived from empirical study

The empirical study comprised period of ten years from 2010 to 2020. It was on 1st April 2010 the RTE Act was brought into force. Hence the study includes the implementation year of the Act. The response from school authorities, Local Authority members, Parents or guardian and school committee members is tabulated and analyzed to derive the findings.

6.4.1 Status of compliance of the twenty-five percent reservation norm by the Unaided Schools

The Unaided Non-minority schools do not comply with the reservation norm kept for children belonging to the weaker section and the disadvantaged group. Though students belonging to this section of society have enrolled in these schools but there is no enrollment under the reservation category since the implementation of the RTE Act. It was found that the Parents or guardian of the children are not aware of this provision and further the School Management Committee which is obligated to create this awareness is not constituted in these schools. Neither these schools take the onus of informing the Parents of the children of this provision in schools. Further, these Schools

have also not claimed reimbursement of the expenses behind the child enrolled under the reserved quota of the schools. Added to this the seats either fall vacant or are merged with the general seats or the Schools claim that the provision is not applicable to their educational institutions.

6.4.2 Demand of capitation fee made by Unaided Schools

Voluntary or involuntary demands are made by the Unaided schools from the Parents or guardian of the children, and no receipts are issued by the schools to these Parents. Though these Schools have responded that they issue receipts but as per the RTE law the annual expenses have to be submitted by the schools to the Director and this is the duty of the School Management Committee. Further, it is contradictory that the Committee monitors the utilization of the funds but the annual accounts are not submitted to the Director. The Committees are not constituted in these educational institutions and further the expenses are also not submitted to the Director by the Schools. Also, the Officials of the Directorate of Education have expressed their reluctance to supervise and manage inspection and functioning of these Schools. Added to this there is least interference of the Directorate of Education and its Branch offices as far as the functioning of the Unaided schools are concerned. Complaints against Unaided schools are either oral or are anonymous or fictitious, hence the Officials cannot proceed to initiate legal action against these schools.

6.4.3 Non adherence by the Government schools of the norms and standards has diluted the infrastructural mandates

As far as the Government Schools are concerned, majority of these Schools do not follow the expected norms and standards pertaining to the school infrastructure. However, the Government schools still continue to function and are not derecognized. The Officials also have expressed their reluctance to cancel the school recognition despite being aware of the inadequacy of the infrastructure in Government Schools. It was also found that Unaided Schools and the Specified Category Schools do not implement the provision of providing mid-day meals to their students. Also the Specified Category Schools lack Sport facility class wise. Just like the Unaided Schools the Directorate of Education, have expressed their reluctance to supervise and manage

the inspection of the Specified Category Schools. There is least interference of the Officials as far as the functioning of the Specified Category Schools are concerned. However, comparatively the Aided Schools also lack the infrastructural norms but not like the Government Schools. Further, Aided Schools also do not completely lack any specific indicator of the norms just like Unaided Schools and Specified Category Schools.

6.4.4 Dereliction of duties by the School Management Committee and the Local Authority

School Management Committee has diverse and specific functions under the RTE Act. Not all Schools have constituted these committees, and as far as the Unaided Schools are concerned these Schools have not constituted the Committees as the RTE Act and the legislation excludes the Schools from constituting the Committees. The Specified Category Schools have constituted these Committees but they do not perform the functions as mandated by the Central Legislation. Government School Committees also lack in performing their functions. This includes non-preparation and non-recommendation of the School Development Plan, then not submitting this plan to the Director which affects the school infrastructural requirements. From this it is assumed that these schools also do not adhere to the Disaster Management Guidelines on School Safety Policy. The rights of the children and the duties of the Authorities, Schools and Parents are not communicated to the people in the neighbouring areas. The children with Disability are also not identified and they do not enroll in the Government Schools and provision of facilities for these students are not implemented appropriately.

The Unaided Schools also do not implement the provision of providing facilities to the children with disability nor provide entitlements to the children. This is supported by no enrollment of these children in schools under the reservation quota. Specified Category schools also do not prepare the annual accounts of the expenses and submit it to the Director. There is least interference and reluctance of the Officials in functioning and supervision of the Unaided and Specified Category Schools.

The members of Local Authority are not active participants of the School Management Committee and the consequence is evasion of duties that has gone unnoticed. Therefore,

it can be concluded that the RTE Act is not effectively implemented in the State of Goa and this proportionally affects the Right to Education of children at the elementary level in schools.

6.5 Suggestions

Taking into consideration the findings of the empirical study, the Researcher has recommended legislative measures to the Government and suggestions to the Directorate of Education, Local Authority and other bodies.

A) Government

The RTE Act requires amendment, notifications, circulars and guidelines on following aspects:

- 1) Inclusion of third gender in the definition of child⁹⁹⁴. Supreme Court in National Legal Service Authority case⁹⁹⁵ has recognised third gender and stated that their rights under Part III of the Indian Constitution and the territorial laws in force needs to be safeguarded.
- 2) Imposition of penalty of 50,000 Rupees in the form of pecuniary burden on Unaided Non-minority Schools, if after inquiry, these educational institutions are found to have violated the twenty-five percent reservation norm. Fine should be levied during the academic year and for every subsequent contravention, an additional amount of minimum 25,000 Rupees should be levied.
- 3) Proportionate representation should be given to the Parents or guardian of the children belonging to the weaker section and disadvantaged group to be part of the School Management Committee, so that there is awareness on the twenty-five reservation norm kept in Unaided Non-minority schools. Goa RTE rules needs to be amended to include the aforesaid aspect.

⁹⁹⁴ *Supra* note 689.

⁹⁹⁵ National Legal Services Authority v. Union of India and Ors. (2014) 3 M.L.J. 595 (S.C) (India).

3) Goa Government must notify inclusion of transgender children within the ambit of disadvantaged group child, so that they can avail of the provision of twenty-five percent reservation in Class I of the Unaided schools and other schools. This would lead to adherence of, Apex Court directives issued to the Central and the State Governments in terms of treating these children as socially and educationally backward classes of citizens, so that they would be eligible for reservations in educational institutions.⁹⁹⁶

4) Just like the regular schools, Unaided Schools must constitute School Management Committee. In the composition of School Committee, minimum one official from the Zonal branch of the Directorate of Education must be included. The presence of the Official at the monthly school committee meeting must be made mandatory or in the alternative record of the decisions of the meeting must be documented and submitted to the Official for reference and perusal.

5) A part of budget must be reserved for the conduct of the awareness programmes by Schools on RTE law in the State of Goa.

6) Inspection of schools to check the compliance of norms and standards must be made mandatory. This inspection must be conducted minimum once at the beginning of the academic year. Any defects and / or deficiencies should be noted and the school should be directed to rectify the defect within three months or within an additional period of two months. In case the defect or deficiency cannot be rectified explanation for the same should be provided by the school in the period of maximum five months as stated above. The school recognition must be kept in abeyance till appropriate steps are taken by the school.

7) The State Government mandatorily should organize training sessions on monthly basis for the Local Authority members that include the Panch members or the Municipal

⁹⁹⁶ National Legal Services Authority v. Union of India and Ors. (2014) 3 M.L.J. 595 (S.C) (India).
As per 2011 census the transgender population in State of Goa is estimated to be 398 out of which 38 are children belonging to age group of zero to six years of age. Census 2011, Transgender in India, <https://www.census2011.co.in/transgender.php> (last visited Sep. 25, 2021).
The Union Territory of Delhi have included by notification transgender children within the meaning of child belonging to disadvantaged group. Directorate of Education, Notification No. F.DE.23 (42)/DE/RTE/2013-14/1305-1314, N.C.T.D. No. 113, Delhi, 9th October, 2014, (Aug., 11, 2019, 7.46 PM), http://edudel.nic.in/upload_2013_14/delhigazette_dt_13112014.pdf.

Council members or other members and they have to be sensitized of their defined role under Goa State RTE Rules 2012. The resource persons invited for engaging these sessions must be well conversant with the provisions of RTE. For this Officials from the SSA or practicing Advocate or Directorate of Education Official can be requested to engage the sessions.

8) Notification must be issued to involve the Panchayat and Municipal Council members in the capacity as Local Authority, from the rural and urban areas for the implementation of the Disaster Management Guidelines on School Safety Policy. This body must collaborate with the Directorate of Education and the State Disaster Management Authority for organizing sessions and orientation programmes for the School Management Committee. The schedule of these programmes should be shared on the website of these bodies and programmes should be conducted on quarterly basis. The division of work would create better results in terms of its effective implementation.

9) School Management Committee constituted in Aided and Minority schools should not be assigned just the advisory role. Considering its elicited functions under RTE legislation, the committee should not be only suggestive in nature but should also have the powers to implement. The Committee constituted in these schools should be empowered to prepare and recommend School Development Plan, so that the schools follow the norms and standards as mandated by the RTE law.

10) State Government should seek directives from the Central Government on the aspect of implementation of Mid-day meals in Specified Category Schools. Considering the provision of twenty-five percent reservation in these school's Mid-day meals should be implemented. School Management Committee is responsible to monitor implementation of Mid-day meals in these schools. In the alternative the students in these schools should be given uncooked food, such as grains, milk, cereals and the like rather than cooked food. This would suffice the objective of the RTE legislation.

11) A notification must be issued to involve the elected Local Authority members to reach to the community specially the migrant, transgender and HIV affected children about the enrollment under twenty-five reservations in schools and also on rights of the children under RTE law.

12) Central Government must lay down guidelines to manage the inspection and functioning of the Specified Category Schools by the State through Directorate of Education. In the alternative, it is important for the State Government to seek directives on this matter from the Centre, to achieve the objective of the RTE law.

B) Directorate of Education

1) The Directorate of Education, Government of Goa must promote the Unaided Schools to elevate their infrastructure for the purpose of creating an environment for an all-inclusive education. This would be of aid for the Children with Special Needs who will get an opportunity to enroll in Unaided schools. The Scheme for Children with Special Needs (2018) implemented by the Government of Goa can be availed by all regular schools.⁹⁹⁷ However, the schools need to enhance their educational facilities for the education of these children to procure the benefit of the Scheme.

2) The Officials at the zonal level under the supervision of Directorate of Education has to keep a vigil over the unfilled reserved seats of the Unaided Non-minority schools. This is to avoid the merger of vacant seats with the general seats of the concerned school. Either the admission records of Class I can be called for perusal from these schools or Officials at the Zonal level can inspect these schools in the middle of the academic year to keep a check on violation if any. The unfilled reserved seats should not be merged with the general seats.

3) The Zonal office must give directions to the School Management Committee on the programmes to be conducted so as to create awareness on the rights of the children and the duties of the Government and other bodies, schools, parents or guardian in terms of RTE Act. Such awareness programmes must be conducted at the school level on

⁹⁹⁷ *Supra* note 957.

quarterly basis by engaging sessions or workshops. Participation of the public in the vicinity of the school must be allowed and should be voluntary. Such awareness programmes of the schools must be listed on public domain, preferably on the school website or website of the Directorate of Education and school notice board at the beginning of the academic year. Public in the vicinity of the school should be intimated through distribution of brochures or leaflets or electronic or print media. The resource person at the programme must be well conversant with the RTE statute and the rules thereunder. This would make the parents or guardian vigilant of the rights of their children in cases of infraction and seek timely action.

4) School Management Committee in consultation of A.D.E.I. must prepare School Development Plan for the Government Schools. The Directorate of Education must take an initiative to upgrade the Government schools on the basis of annual budget sanctioned for these schools.

5) The Directorate of Education has to liaison with the State Disaster Management Authority to plan and frame policies for implementing The National Disaster Management Guidelines on School Safety Policy 2016 in the interest of safety of children at the school level. At the school level, this safety agenda can be carried forward by the School Management Committee with the involvement of the community. The Directorate of Education should sensitize the School Management Committees through orientation programmes which should be conducted on quarterly basis on implementation of these guidelines. The schedule of such programmes should be posted on the website of the Directorate of Education. Then the School Management Committees are required to identify the possible risks in terms of safety of children and inadequacy in the school infrastructure and improvements should be proposed through the School Development Plan.

6) Direction through circular should be given to the schools to draw the annual plan of the school at the end of the academic year, the plan which would be levied for the successive year. The agenda of the plan would include the list of programs to be conducted by the School Management Committee in the interest of the children and the school in terms of RTE law. This plan shall be drawn by the School Management

Committee after deliberations during monthly meetings and the minutes and decision taken at the meeting shall be recorded for future reference.

7) Audit of all the schools has to be inspected. The Directorate must make an annual planner so that all schools are covered without any hassle. The Zonal Level Officials must be involved to conduct the auditing in schools within their jurisdiction.

8) The Directorate of Education must come up with centralized admission of the students at the elementary level. Through this method, the twenty-five percent reservation quota in Class I of the Unaided Non-minority schools can be filled. The Directorate of Education must declare the details of enrollment procedure through print and electronic media. The procedure must also be updated on their website. This must be done in advance at the beginning of the academic year. However, it will be the choice of the Parents or guardian to avail admission under this quota.

9) The online grievance mechanism must be activated for the Parents or guardian to file complaints in cases of violation of the rights of their children. The processing of the complaints becomes simpler and the matter can be expedited for speedy decision.

10) Schools adhering to the norms and standards as per the RTE law should be graded at the State level and this information should be listed as Best Practices followed at the school level. This can be brought on the public domain through the website of the Directorate of Education. This would encourage compliance of the RTE mandates by the schools.

C) Local Authority

1) For the effective implementation of the Disaster Management Guidelines on School Safety Policy, the Panchayats and Municipal Councils or other Local Authority members should be involved. The Directorate of Education through collaboration should proceed to involve the School Management Committee in implementing these guidelines.

2) The elected Local Authority members must collaborate with Non-Governmental Organizations, GSACs and such other bodies to create awareness of the rights of children under the RTE law. As the community at the grass root level is involved with the Local Authority specially the Panchayats, Municipal Council and other such bodies, creating awareness becomes easy. Community at large can be sensitized through sessions, or rights of the children under RTE law can be listed in vernacular language and also in English and can be updated on the website of the Local Authority. However, this should be done much before the commencement of the academic year of the schools with the aid of media, so that awareness is created among the people.

D) Other Bodies

1) Children living with or affected by HIV are notified as disadvantaged group child by the Goa Government.⁹⁹⁸ No seats under twenty five percent reservation are filled in Unaided Schools, since the implementation of RTE statute. Hence it is presumed that these children are also not enrolled under the reservation quota of the Unaided Schools. At the State level, the record of such children is maintained by Goa State AIDS Control Society (GSACS). It is suggested that this body must collaborate with the Directorate of Education, Government of Goa for procuring their admission, attendance and completion of their school education.

⁹⁹⁸ *Supra* note 697.

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ANNEXURES

QUESTIONNAIRE I

(RESPONDENTS: HEADMASTER / HEADMISTRESS / HEAD TEACHER
OF SCHOOL)

Please tick mark the appropriate options

Name of the School:

.....

Name of the Headmistress /Headmaster:

.....

Taluka: Is School Recognised (Y/N):... School Recognition Year:

.....

1) Indicate the type of School

Government

Aided (Minority / Non-minority)

Specified Category

Unaided/Private (Minority / Non-minority)

2) Which are the elementary stages of the School

Primary (I to IV)

Upper Primary (V to VIII)

3) Whether School has following Infrastructure provision

Sr. No	Item	Yes	No
1.	Whether school building is in habitable condition		
2.	Whether school Building has a boundary wall / fencing		
3.	Whether school has barrier free access		
4.	Whether there are separate class rooms to engage a class		
5.	Whether there is separate room for head teacher		
6.	Whether school has Library equipped with newspapers, magazines, subject books & story books		
7.	Whether there are separate toilets for girls and boys		
8.	Whether there is a facility of safe Drinking water for children		
9.	Whether there is Playground facility		
10.	Whether school has implemented measures as per National Disaster Management Guidelines on School Safety Policy 2016 e.g. in case of Natural calamity / fire etc.		

4) Whether school has the following Teaching equipment's in each class

Blackboard/White Board Chalk/Marker Duster
Computer facility with internet access
Information & Communication Technology equipped

5) Do you opine that the School has adequate teaching learning equipment's in each class

Yes No

6) Are there following facilities for each class of the school

Play material Sports equipment Games

7) The Mid-day meal served to the students is

Prepared in the School Kitchen Ordered from Self Help groups NA

8) Visits by the officer from Directorate of Education to assess the quality of the mid-day meal served in schools

Always Occasionally Never

9) Whether school inspection is carried out by officer from Directorate of Education

Once in a Year Twice in a Year Thrice in a Year
More than 3 times a Year Occasionally Never

10) Whether the school provides free entitlements e.g. text books, writing materials and uniforms to the children

Always Occasionally Never

11) Whether school provides educational facilities to the student with disability

Always Occasionally Never NA

12) Do you opine that the School has adequate accessible hygienic toilets for boys and girls

Agree Partially Agree Totally Agree
Disagree

13) Do you opine that the School has adequate drinking water facility for its students

Agree Partially Agree Totally Agree
Disagree

14) Type of Committee constituted by the school

School Management Committee (SMC) as per RTE 2009
 Managing Committee (MC) as per Goa School Education Rules 1986

15) Whether SMC / MC of the school conducts monthly meetings and makes its decision public

Yes No

QUESTIONNAIRE II

**(RESPONDENTS: HEADMASTER / HEADMISTRESS / HEAD TEACHER
OF UNAIDED SCHOOL)**

Please tick mark the appropriate options

Name of the School:

.....

Name of the Headmistress /Headmaster:

.....

Taluka: Is School Recognised (Y/N):..... School Recognition Year:

Indicate the type of School:

Unaided / private minority

Unaided / private non-minority

1) Which are the elementary stages of the School

Primary (I to IV)

Upper Primary (V to VIII)

**2) Have Students from Weaker section & Disadvantaged group sought admission
in Class I of the school**

Yes

No

NA

**3) Children from Weaker section and Disadvantaged Group admitted in Class I
of the school belong to which category**

Scheduled Caste

Scheduled Tribe

Socially & Educationally Backward Caste

Child with disability

Differently abled child

Others

Child whose parents' annual income is less than 1 lakh

**4) If there is no admission under 25% reservation in class I of the school for the
academic year, what is the status of such vacancies**

Seats continue to remain vacant

Seats are merged with general ones

NA

5) Does the Directorate of Education reimburse the school of the expenses incurred on child from weaker section and disadvantaged group during the academic year

Yes Partially Yes Not Always No

NA

6) Does the school issue a detailed receipt of the amount charged to the Parent / Guardian

Always Occasionally Never

7) Has the school asked for any contribution / donation / payment voluntarily or involuntarily from Parent / Guardian / Children

Always Occasionally Never

QUESTIONNAIRE III

(RESPONDENT: PARENT / GUARDIAN)

Please tick mark the appropriate options

Name:

.....

Name of the School where child is studying:

Taluka where school is based: Class Std. of the Child:

Whether a member of any School Management Committee / Managing Committee

Yes

No

1) Indicate the type of School where child pursues education

Government

Aided (Minority / Non-minority)

Specified Category

Unaided/Private (Minority / Non-minority

)

2) Category to which the child belongs

Open/General

Scheduled Caste

Scheduled Tribe

Child with disability

Socially & Educationally Backward Caste

Any other category

Differently abled child

Child whose parents' annual income is less than 1 lakh

3) Are you aware of the RTE 2009 Act.

Yes

No

4) Are you aware of the 25% reservation kept for weaker & disadvantaged children in unaided schools under RTE 2009

Yes

No

Not Aware

5) If Yes, would you have tried to seek admission of your child under the 25% reservation provided under the Act

Admitted

Not have Admitted

6) Does the school issue to you a detailed receipt in its own name of the amount charged by it

Always

Occasionally

Never

7) Has the unaided school any time asked for any contribution / donation / payment voluntarily or involuntarily from you or your child

Always

Occasionally

Never

8) Whether School Management Committee / Managing Committee of the school conducts monthly meetings and makes its decision public

Yes

No

Not Aware

9) Whether School has following Infrastructure provision

Sr. No	Item	Yes	No
1.	Whether school building is in habitable condition		
2.	Whether school Building has a boundary wall / fencing		
3.	Whether school has barrier free access		
4.	Whether there are separate class rooms to engage a class		
5.	Whether there is separate room for head teacher		
6.	Whether school has Library equipped with newspapers, magazines, subject books & story books		
7.	Whether there are separate toilets for girls and boys		
8.	Whether there is a facility of safe Drinking water for children		
9.	Whether there is Playground facility		
10.	Whether school has implemented measures as per National Disaster Management Guidelines on School Safety Policy 2016 e.g. in case of Natural calamity / fire etc.		

10) Whether school has the following Teaching equipment's in each class

Blackboard/White Board Chalk/Marker Duster
Computer facility with internet access
Equipped with Information & Communication Technology

11) Do you opine that the School has adequate teaching learning equipment's in each class

Yes No

12) Do you opine that the School has adequate accessible hygienic toilets for boys and girls

Agree Partially Agree Totally Agree
Disagree

13) Do you opine that the School has adequate drinking water facility for its students

Agree Partially Agree Totally Agree
Disagree

14) Do you opine that the School Library is sufficiently equipped with updated newspapers/ magazines, subject books & story books

Agree Partially Agree Totally Agree
Disagree

15) Are there following facilities for each class of the school

Play material Sports equipment Games

16) Do you opine that the school has sufficient Play materials, sports equipment & games for each class

Agree Partially Agree Totally Agree
Disagree

17) The Mid-day meal served to the students is

Prepared in the School Kitchen Ordered from Self Help groups NA

18) Whether the school provides free entitlements e.g. text books, writing materials and uniforms to the children

Always Occasionally Never

19) Whether school provides educational facilities to the student with disability

Always Occasionally Never NA

QUESTIONNAIRE IV

**(RESPONDENT: MEMBER OF SCHOOL MANAGEMENT COMMITTEE /
MANAGING COMMITTEE EXCEPT HEADMASTER / HEADMISTRESS)**

Please tick mark the appropriate options

Name:

.....

Name of the School of which respondent is a committee member:

Taluka where school is based:

Whether the school is Recognised: Year of School Recognition:

1) Indicate the type of School

Government

Aided (Minority / Non-minority)

Specified Category

Unaided/Private (Minority / Non-minority)

2) Elementary stages of the School

Primary (I to IV)

Upper Primary (V to VIII)

3) Type of Committee constituted in the school

School Management Committee (SMC) as per RTE 2009

Managing Committee (MC) as per Goa School Education Rules 1986

4) Whether the SMC / MC constituted performs the following functions?

Sr. No.	Functions	Yes	No
1.	To Prepare & Recommend the 3 Year School Development Plan (SDP).		
2.	If Yes, Whether SDP is submitted to the Director before the end of the financial year.		
3.	To monitor the utilization of grants / funds received by the school.		
4.	Communicate the rights of the child and duties of Local Authority, School & Parents.		

5.	To monitor implementation of school infrastructure, equipped library, teaching aids & sports material.		
6.	To monitor the identification, enrollment and facilities for education of children with disability.		
7.	To monitor the implementation of Mid – Day meal in schools		
8.	To prepare an annual account of receipts and expenditure of the school and make it available to the Director within a month of its preparation		
9.	To monitor the implementation of measures as per National Disaster Management Guidelines on School Safety Policy 2016 e.g. in case of Natural calamity / fire etc.		

INTERVIEW SCHEDULE

(RESPONDENT: ELECTED LOCAL AUTHORITY MEMBERS)

Name:.....

Member of which Authority:.....

Designation:.....

Taluka:.....

Member of School Management Committee:

Yes

No

1) Whether the member is aware of the functions of School Management Committee.

Yes

No

2) Percentage of participation in the functioning of the School Management Committee.

a) 0 – 10%

b) 11 – 50%

a) 51 – 90%

a) 91 – 100%

3) Percentage of attendance at the monthly school meetings.

a) 0 – 10%

b) 11 – 50%

a) 51 – 90%

a) 91 – 100%

4) Reason behind evading the duties of the School Management Committee

a) Engaged with the duty as Local Authority Member

b) Exclusion by the school in carrying out the functions

c) Lack of training

i) (a) & (b)

ii) (b) & (c)

iii) (a) & (c)

iv) (a), (b) & (c)

5) Action taken as per RTE law against the Government schools for not adhering to the infrastructural norms.

- a) Cancellation of School Recognition
- b) School continue to be functional
- c) Necessary steps taken to configure the school in terms of infrastructural norms
- i) (b) & (c)

6) Reason behind not taking action as per the RTE law against the Government schools for violating the infrastructural norms.

- a) Cannot take stringent action of closure being a Government school, unless the case is extreme
- b) Hardships involved post closure e.g. enrollment of students, regular teachers need to be adjusted
- c) No complaints filed on violation of infrastructural norms
- d) Adequacy of Government & Aided schools for school education
- e) Can't say
- i) (a), (b), (c) & (d)

7) Reason behind infrastructural paucity in Government schools.

- a) Delay in submission & processing of the School Development Plan
- b) Difficulty to conduct timely inspection of infrastructural norms due to lack of manpower
- c) Arduous to keep a minute check on schools as per the provisions of Goa School Education Act & RTE law
- d) Can't say
- i) (a), (b) & (c)

8) Percentage of interference of the Officials acceptable to Unaided and Specified Category Schools as far as School functioning is concerned.

- a) 0 – 10%
- b) 11 – 50%
- a) 51 – 90%
- a) 91 – 100%

9) Reason behind reluctance of the Officials to supervise and manage inspection and functioning of Unaided schools.

- a) No dependency of the school for aid from the Government
- b) Schools delay in submission directed by the Officials despite consistent reminders
- c) Defiance expressed by the school being aware that its approach before the Officials is only for approval of annual fee structure
- d) Difficulty by Officials to supervise and manage functioning of the school due to lack of manpower
- i) (a), (b), (c) & (d)

10) Reason behind reluctance of the Officials to supervise and manage inspection and functioning of Specified Category schools.

- a) No dependency of the school for aid from the State Government
- b) Schools delay in submission directed by the Officials despite consistent reminders
- c) Non-cooperation by the school being aware that it is administered by the Central Government
- d) Difficulty by Officials to supervise and manage functioning of the school due to lack of manpower
- i) (a), (b), (c) & (d)