

Chapter I
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1.1 Introduction

The Right of Children to Free and Compulsory Education Act, 2009 was enacted by the Parliament in August 2009, which came into force on 1 April 2010. The Act provides for right of every child of the age of six to fourteen years to free and compulsory education till the completion of his or her elementary education from first class to eighth class.

The concept of free and compulsory education is not new in India. The right to education was discussed extensively during the drafting of the Constitution. The Constituent Sub-Committee on Fundamental Rights included the right to primary education as a fundamental right: "*Clause 23- Every citizen is entitled as of right to free primary education and it shall be the duty of the State to provide within a period of ten years from the commencement of this Constitution for free and compulsory primary education for all children until they complete the age of fourteen years.*" However, the Advisory Committee of the Constituent Assembly placed it in the category of Directive Principles of State Policy under Article 45 of the Constitution.

In 1992, India became signatory to the UN Convention on Rights of the child. Article 28 of this Convention asks the States to "make primary education compulsory and available free to all". In 1993, Supreme Court of India, in *Unnikrishnan and others Vs State of Andhra Pradesh and others*, held that the citizens of the country have a fundamental right to education and this right flows from Article 21 of the Constitution. Further, one of the Millennium Development Goals, which originated from the Millennium Declaration adopted by the General Assembly of the United Nations in September 2000, was to achieve universal primary education.

The Constitution (Eighty-sixth Amendment) Act, 2002 inserted Article 21A in Chapter III of the Constitution, which conferred a fundamental right to education on all children in the age group six to 14 years and read as:

"21A. 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."

Provisions for early childhood care and education to children below the age of six years have been made through the 86th Constitutional Amendment Act, which substituted Article 45 with the new Article, that read as:

"45. The State shall endeavour to provide early childhood care and education to all children until they complete the age of six years".

The Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) represents the consequential legislation envisaged under Article 21-A and Article 45 in the Constitution of India. The salient features of the RTE Act are:

- The appropriate Government/local authority should ensure compulsory admission, attendance and completion of elementary education by every child of the age of six to 14 years in neighbourhood school;
- Where a child above six years of age has not been admitted in any school or though admitted, could not complete elementary education, then, the child is to be admitted in a class appropriate to his/her age and in order to be at par with others, has the right to receive special training as may be prescribed;
- It provides for admission of children belonging to weaker section and disadvantaged group in a private unaided school to the extent of at least 25 *per cent* of the strength of class 1 of the school;
- The Act lays down the norms and standards relating *inter alia* to qualification for appointment of teachers, pupil teacher ratios (PTRs), buildings and infrastructure of school, school working days and working hours;
- It prohibits - (a) physical punishment and mental harassment, (b) screening procedure for admission of children, (c) capitation fee, (d) private tuition by teachers, and (e) running of school without recognition; and,
- The Act provides for protection and monitoring of the child's right to free and compulsory education and redressal of grievances by the National and State Commissions for Protection of Child Rights;

In exercise of powers conferred under the RTE Act, the Government of Madhya Pradesh (GoMP) notified Right of Children to Free and Compulsory Education Rules, 2011 (MP RTE Rules), which came into force in March 2011. The MP RTE Rules *inter alia* provides for the following:

- duties of State government and local authority relating to identification of children. Special training for out of school children for a minimum period of three months and maximum period of not exceeding two years.
- areas or limit of neighbourhood school and procedure for recognition of private schools.
- procedures for formation and functioning of school management committee, preparation of school development plan and grievances redressal of teacher.
- It prohibits segregation of children belonging to weaker section and disadvantaged group admitted in private unaided school from other children in the classroom and discrimination from rest of children in any manner relating to entitlement and facilities such as text book, uniform, library and extra-curricular activities.

As on March 2016, there were 83,838 schools running by School Education Department/local bodies, 30,417 schools by Tribal Welfare Department, 928 private aided schools, 25,518 private unaided schools, 164 central government schools and 1716 other management schools in the State for elementary education. *Sarva Shiksha Abhiyan* (SSA), which is a Centrally Sponsored Scheme, acts as the programmatic vehicle for the delivery of the RTE Act.

The framework for implementation of SSA was revised in March 2011 to align with the provisions of the RTE Act.

1.1.1 Organizational set-up

The Additional Chief Secretary, School Education Department is responsible for overall implementation of the RTE Act in the State. The State Advisory Council advises the Government on implementation of the RTE Act. Under MP RTE Rules, Commissioner, *Rajya Shiksha Kendra* (RSK), who is the Mission Director of SSA, is responsible for management of elementary education at State level. Commissioner, Directorate of Public Instructions (DPI) controls the establishment matter of schools, i.e., recruitment of teachers and payment of their salary and providing grants-in-aid to Government aided schools. Commissioner Tribal Development is responsible for schools managed by Tribal Welfare Department. District Institute of Education and Training (DIET) provides training of teachers.

State Commission for Protection of Child Rights (SCPCR), functioning under M.P. Commission for Protection of Child Rights Rules, 2007, is responsible for monitoring of child's right to education and inquire into complaints relating to child's right to free and compulsory education.

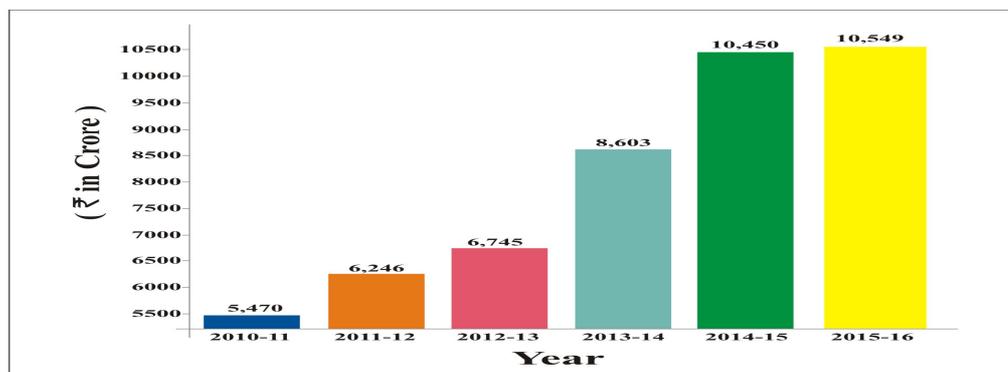
At district level, District Education Officer (DEO) is responsible for management of elementary education. Besides, the Block Resource Centre Coordinator (BRCC), who is declared as the Block Elementary Education Officer (BEEO) under MP RTE Rules, is responsible for implementing programmes for elementary education at block level. School Management Committee (SMC) monitors the working of school.

For implementation of SSA at district level, District Collector is the District Mission Director and Chief Executive Officer (CEO), *Zila Panchayat* is the District Project Director. The District Project Co-ordinator (DPC) of *Zila Shiksha Kendra* executes the activities of SSA. The *Janshikshak* co-ordinates academic activities in a cluster of schools. The organogram for elementary education in the State is shown in *Appendix- 1.1*.

1.1.2 Expenditure on Elementary Education

During 2010-16, expenditure of ₹ 48,063.85 crore was incurred on elementary education in the State, which included expenditure on Centrally Sponsored Schemes, as depicted in **Chart 1.1**.

Chart 1.1: Expenditure on elementary education



(Source: Finance Accounts Volume-II)

1.2 Audit Objectives

The performance audit of implementation of the RTE Act was carried out to assess whether:

- the RTE Act was implemented and monitored in a planned manner to achieve its objectives to make elementary education as fundamental right for all children between age of six to fourteen years; and
- the funds allocated were being utilized in an economic and effective manner.

1.3 Scope and coverage of Audit

The performance audit of implementation of the RTE Act was conducted between March and August 2016 covering the period 2010-11 to 2015-16. At the State level, records were test checked and information collected from the offices of Commissioners, RSK, DPI, Tribal Development, Integrated Child Development Services; and Chairpersons, State Advisory Council and SCPCR.

Out of 51 districts in the State, 13 districts¹ were selected by Probability Proportionate Sampling Without Replacement method (PPSWOR) and 48 blocks out of 80 blocks in these sampled districts and 390 schools (30 schools from each sampled districts) were sampled on the basis of Simple Random Sampling Without Replacement Method (SRSWOR). The details of sampled districts, blocks and schools are given in *Appendix 1.2* and *Appendix 1.3*. Collection of information and test check of records was done in selected districts in the offices of *Zila Shiksha Kendra*; DEO; DIET; CEO, *Zila Panchayat*; Commissioner, Municipal Corporations/ Municipalities; Assistant Commissioner, Tribal Development (ACTD) and District Collectors.

The school level inspection was carried out by visiting Government and private aided schools. The required information related to Private unaided schools were collected from appropriate government offices. Audit also conducted joint beneficiary survey of 1,274 students and 1,007 parents alongwith department officials in selected schools.

1.4 Audit Methodology

An Entry Conference was held on 11 March 2016 with Commissioner, RSK and other functionaries to discuss the audit objectives, scope and criteria. The draft report was issued to School Education Department on 31 August 2016. Exit Conference was held on 9 November 2016 with Secretary, School Education Department. The views/replies of Department have been incorporated suitably in the report.

1.5 Audit Criteria

Audit findings were benchmarked against the following criteria:

- Right of Children to Free and Compulsory Education Act, 2009;

¹ Balaghat, Bhopal, Burhanpur, Chhindwara, Datia, Dhar, Indore, Jhabua, Morena, Panna, Ratlam, Shahdol and Singrauli.

- Right of Children to Free and Compulsory Education Rules, 2011 framed by State Government;
- Annual Work Plan and Budget (AWP&B) of RSK and DPCs;
- Minutes of Project Approval Board, Ministry of Human Resource Development (MoHRD), Government of India (GoI);
- SSA manual on Financial Management and Procurement, 2010;
- Rules regulating the appointment, terms and conditions of services of teachers;
- Data available on Unified District Information System for Education (U-DISE) and Education Portal of School Education Department;
- Financial Rules of GoI/State Government; and,
- Various guidelines, orders, notifications, circulars, instructions issued by GoI/State Government for implementation of Act.

1.6 Structure of Audit Report

The layout of the Report is as under:

- Chapter II- Financial Management;
- Chapter III - Free and Compulsory Elementary Education;
- Chapter IV - Teachers;
- Chapter V - Quality of Education in State Government Schools;
- Chapter VI - Implementation of the RTE Act in other than State Government Schools;
- Chapter VII - Monitoring and Grievance Redressal;
- Chapter VIII - Conclusion

1.7 Acknowledgement

We acknowledge the cooperation extended by State Government for conducting the performance Audit.

