

Chapter VI
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RTE Act in other than
State Government
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Section 18 of the RTE Act states that for imparting elementary education, no school other than a school established, owned or controlled by the appropriate government and local authority shall after the commencement of the Act be established or function without obtaining a certificate of recognition from competent authority. The recognition shall be granted to a school, which fulfils the norms and standards for a school specified under the RTE Act. On violation of conditions of recognition, the recognition shall be withdrawn by an order in writing and the children studying in these schools shall be admitted in neighbourhood schools. In Madhya Pradesh, DEO is the designated authority to issue certificate of recognition to the schools under the RTE Act.

Any person running the schools without getting certificate of recognition or continuing after withdrawal of recognition was liable to a fine of ₹ one lakh. Section 19 of the RTE Act states that where a school established before commencement of the Act does not fulfil the norms, it shall take steps to fulfil the norms within three years from the date of commencement of the Act. If schools fail to fulfil the norms, the recognition shall be withdrawn and the school shall cease to function.

6.1 Recognition of private sector schools

MP RTE Rule 11 provides that private schools established before or after the commencement of this Act shall make an application to DEO, within a period of four months after the publication of the rules, i.e., 26 March 2011. The application addressed to the DEO shall be submitted through the BEEO. The BEEO will verify the information submitted by the school in application form and send the application form in original along with his report to DEO within fifteen days of receipt of application. If the school fulfils the norms and standards as prescribed under the RTE Act, the DEO may inspect or may cause to inspect the school. The DEO on being satisfied shall issue the recognition certificate in prescribed form within 45 days from the date of making application for recognition subject to conditions prescribed in this rule. The validity period of recognition is three years.

The schools have to apply for renewal of recognition at least 45 days before the expiry of period of recognition. If a school established before the commencement of the Act does not fulfil the norms and standards as prescribed, the DEO shall issue provisional recognition in the prescribed format for three years from the date of commencement of Act, i.e. up to March 2013. If the school, fails to claim further recognition within the period specified, it shall cease to be a recognised school. If the school contravenes the conditions of recognition, the DEO may pass order for withdrawal of recognition with prior approval of School Education Department.

The following observations were noticed during scrutiny of records and analysis of available information on education portal of Department:

6.1.1 Maintenance of records of private sector schools

Audit scrutiny revealed that there was no mechanism to track the opening, running and closing of private schools. As a result, Department could not assess the number of schools running without recognition, unless self-declaration were made by the school or applications for allotment of U-DISE number were received. The year wise data relating to number of private schools provided recognition, provisional recognition and schools running without recognition were not available at RSK level.

The State had adopted online procedure from the year 2010-11 for recognition of private sector schools through Education Portal. The portal contains data for current period of recognition, but the details of previous years regarding the number of schools provided provisional recognition were not available. The information pertaining to submission of proposal by schools and further submission by BEEO to DEO and date of providing recognition by DEO after implementation of the RTE Act was neither available on portal nor with DEO. Since the portal data was being updated from time to time, maintenance of these records was essential to avoid any future ambiguity and for effective monitoring of recognition.

There was no mechanism to track opening, running and closing of private sector schools. The records of recognition were not maintained by DEOs and BEEOs.

Audit scrutiny revealed that DEOs did not maintain year wise data of schools provided provisional recognition, permanent recognition, rejected applications for recognition or school due for recognition. However, some partial information was furnished by DEOs, Chhindwara, Datia, Dhar, Morena, Panna, Ratlam and Singrauli. In three test-checked districts, Bhopal, Datia and Indore, the proposals of school along with the original application forms were not available in the office of DEOs due to failure of BEEOs to submit these documents. Further scrutiny revealed that BEEOs/BRCCs had also not maintained any records of recognised schools and records of recognition cases forwarded by them to DEOs.

As per information available in Education Portal, the applications of 1,705 schools were rejected in 13 test-checked districts during 2010-16. However, the information about functioning or closure of these rejected schools were not available with DEOs. The information regarding rejection of the proposals for recognition of schools by DEOs, was not in the notice of the BEEOs, who initially verified the status of schools.

Further scrutiny revealed that 350 schools in test-checked districts, except district Shahdol, were granted recognition during 2010-13. However, the period of recognition of these schools was shown in the portal as January 1, 1900 to January 1, 1900. The DEOs could not clarify the period of recognition for which recognition certificate was actually issued.

There was no convergence between the authorities responsible for providing recognition (DEO) and allotment of U-DISE code (DPC). In test-checked districts except Datia, Department allotted U-DISE code to 7,613 schools, but the Education Portal showed the number of recognised schools in these districts as 8,599. The number of recognised schools in eight districts, Balaghat, Bhopal, Dhar, Jhabua, Morena, Ratlam, Shahdol and Singrauli was more than the schools allotted U-DISE code up to 2015-16. In three districts,

Burhanpur, Chhindwara and Indore, the number of schools allotted U-DISE code were more than the numbers of recognised schools.

During exit conference (November 2016), Department stated that records of recognition were available in the portal. However, instructions would be issued to DEOs and BRCCs for maintaining records of recognition and their updation. Both U-DISE and Education Portal would be linked to remove the discrepancies in number of recognised private schools in the districts. Department further stated that a system was in place in the State to impart recognition to the schools. Instructions had been issued to DEOs for periodical monitoring of functioning of the recognised private schools.

The reply is not acceptable, as RSK had accepted (July 2016) that if any school was not in U-DISE or Education Portal, there was no system for tracking the operation of private schools. Further, District officers also reported absence of any mechanism for monitoring of private schools.

6.1.2 Provisional recognition of private sector schools

As per Rule 11 of MP RTE Rules, schools who did not fulfil the RTE norms and were established before the commencements of the RTE Act were to be provided provisional recognition up to March 2013. The number of schools provided provisional recognition was not available at State level. In 12 test-checked districts, 1883 schools were running prior to the implementation of the Act. However, the submission of application for recognition by these schools and the date of providing recognition and the number of schools to whom permanent recognition was granted were not available.

During exit conference (November 2016), Department stated that there was no provision for provisional recognition at the present.

The reply is not acceptable, as Department did not ascertain as to whether schools running prior to implementation of the RTE Act were provided provisional/permanent recognition.

6.1.3 Delays in recognition of private sector schools

In 12 test-checked districts, 3,182 schools did not submit (lock) their applications in Education Portal within the time specified as per MP RTE Rules. In 5,612 cases, the BEEOs did not forward the applications within 15 days and in 6,074 cases the DEOs granted recognition with delay during the period 2010-11 to 2015-16. Further, it was noticed that the DEO locking date in the portal was shown as January 1, 00 in 868 cases of 10 districts.

Audit noticed time gap in the date of expiry of recognition and the date of renewal of recognition of 136 private sector schools in three districts. Thus, these 136 schools remained derecognised during the gap period. Of these, two schools in the district Balaghat and four schools in the district Indore were provided recognition after the academic session. Further, 414 cases were pending in the portal with the instruction “pending since long-possible reason may be double registration or dummy, districts programmer check it and report to RSK so that records may be removed”.

Audit noticed delays in recognition of private sector schools due to lack of system of monitoring.

The DEOs stated that schools did not submit proposal timely and cases were also delayed at BRCC level. Action for recognition would be ensured in future.

During exit conference (November 2016), Department stated that DEOs had been instructed to follow the time frame laid down in the MP RTE Rules for processing for recognition.

Fact remains that there were delays at various steps in recognition due to lack of system of monitoring.

6.1.4 Closing of schools not fulfilling RTE norms

RSK informed (July 2016) that recognition of 998 private schools was withdrawn during 2010-16 due to violation of the RTE Act. Five schools appealed to the Department, recognition of one school was withdrawn and four other cases were returned to districts due to incomplete proposal, which were under process.

Functioning of school without recognition

Audit scrutiny of records revealed that two private schools (*Nutan Vidya Mandir Prathmik shala, shekhapur, Khakner and Swami Rewanandji vidyalaya, Ambura, Nepanagar*) in the district Burhanpur applied for recognition in March 2015 and September 2014 respectively. The applications for recognition were pending. Further scrutiny of records revealed that these schools were running without recognition. However, Department did not take any action against them.

In the exit conference, Department stated (November 2016) that action would be taken as per rule after investigating the two cases of districts Burhanpur.

Recognition to school without proper inspection

Shri Laxmi Convent School, Pithampur, Dhar was granted recognition in September 2015. However, on the complaint of a private person, a committee was constituted (March 2016) to investigate the availability of infrastructure in the school according to required norms for running school. As per the report of the committee, the following deficiencies were noticed during investigation:

- The residential house, where school was running, did not seem to be a school building. The building was without roof and having tin shed, with low height. There was absence of light in the rooms.
- The teachers were not professionally qualified.
- There was toilet nearby the entry gate of building and the dirty water flowing.

The District Collector, directed (April 2016) to withdraw the recognition of the school and accordingly DEO withdrew (May 2016) the recognition of the school. Thus, recognition to *Shri Laxmi Convent School, Pithampur, Dhar* was granted in September 2015 without proper inspection of facilities in the School.

In the exit conference, Department stated (November 2016) that action would be taken as per rule after investigation.

6.1.5 Renewal of Recognition

DEO Hold Application Option was developed in 2016-17 in Education Portal for schools whose teachers did not possess the minimum required qualification by March 2015. At State level, 3,370 renewal cases and 1,605 new cases of recognition were pending.

In the exit conference, Department stated (November 2016) that this issue had been brought to the notice of MoHRD and request being made for providing three years relaxation for giving opportunity to teachers not having professional qualification. Action would be taken for providing recognition to the schools kept on hold application option after getting guidance from GoI.

6.2 Admission of children belonging to disadvantaged groups and weaker section in private unaided schools

Section 12 (1) (c) of the RTE Act states that private unaided schools shall admit in class I, minimum 25 *per cent* of strength of that class, children belonging to disadvantaged groups and weaker section in the neighbourhood and provide free and compulsory elementary education till its completion.

Scrutiny of records revealed that every year instructions were issued by the Department for admission of children belonging to disadvantaged groups and weaker section in the neighbourhood private schools. Admission in these schools was started in the State from the academic session 2011-12.

6.2.1 Transparency in admission in unaided schools not ensured

Audit noticed the following deficiencies in the admission of children belonging to disadvantaged groups and weaker section in the neighbourhood private sector schools:

- The Department had no information about the intake capacity in class 1 or in pre-school education in unaided private schools operating during 2011-16. Similarly, DPCs of test-checked districts did also not have such information. Thus, the Department/DPC did not ensure admission of children belonging to disadvantaged groups and weaker section in the school to the extent of at least 25 *per cent* of the strength in Class 1 or in pre-school education.

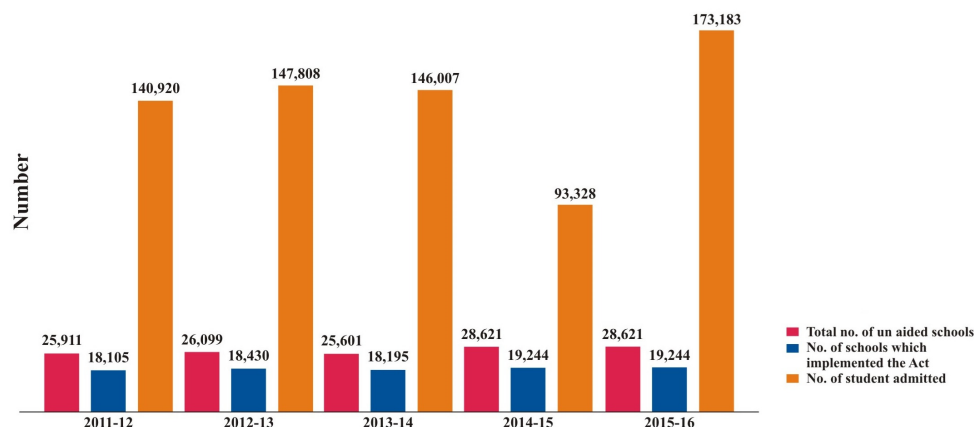
During exit conference, Department stated that school wise information of 25 *per cent* seats was collected before the beginning of the admission process.

The reply is not acceptable, as the DPCs in test-checked districts could not furnish the information on intake capacity of private sector schools.

- As per information furnished to audit by RSK, 67 to 71 *per cent* of private sector unaided schools in the State provided admission to 7.01 lakh students during 2011-16. Department had no information about the reason due to which remaining schools did not implement the RTE Act. The details of children enrolled in private sector unaided schools under the RTE Act are depicted in **Chart 6.1**.

Only 67 per cent to 71 per cent of private sector unaided schools in the State provided admission to children under the RTE Act.

Chart 6.1: Details of enrolment of children in private sector unaided schools under the RTE Act at State Level



(Source: Information provided by RSK)

- In test-checked districts 2.60 lakh students were enrolled in private unaided schools during 2011-16 and the percentage of schools providing admission was 83 to 88 *per cent*. Out of 61,307, students admitted in 2011-16 in four test-checked districts, 58,744 students continued studies till 2015-16. In three test-checked districts, during 2011-15, out of 61,594 students admitted only 58,782 were found studying in 2014-15. DPC did not intimate the reason of dropout of students.

The Chief Minister of State in his letter (June 2014) to Minister of MoHRD stated that expenditure on uniform, textbooks and other requirement were borne by the parents of children admitted in private schools under the RTE Act. There was no provision for such entitled for these children in SSA. The feedback of first three years of such children revealed that if the government did not extend the helping hand to such children, they would be dropped out from school and the very purpose of providing education to such children in private school would be defeated.

During exit conference (November 2016), Department stated that development of mechanism for tracking dropout children admitted under 25 *per cent* reservation quota was being considered.

- Under Rule 7 (4) of MP RTE Rules, *Jan Shikshak* should maintain a list of children belonging to the disadvantaged group and weaker section in the limits of neighbourhood of private and specified category schools within his/her jurisdiction. However, audit scrutiny revealed that *Jan Shikshak* did not maintain information about the children of disadvantaged groups and weaker sections admitted in private sector and specified schools.

During exit conference (November 2016), Department stated that instruction had been issued to ensure better compliance of the provision of the MP RTE Rules.

- RSK directed (February 2014 and December 2014) DEOs and DPCs to issue certificates in three copies for getting admission under 25 *per cent* quota under the joint signatures of the nodal officer and head teacher of the concerned school and one copy would be issued to guardian of the child. From

Children enrolled in the private sector schools under the RTE Act were dropped out due to lack of government support on uniform and textbooks.

the certificate, guardian would aware of the fact that the reimbursement of fees of child would be borne by the government.

Audit scrutiny revealed that the direction of RSK was not complied and the required certificates were not issued.

During exit conference (November 2016), Department stated that compliance of instructions issued earlier would be ensured.

- As directed by RSK (August 2015), students admitted under 25 per cent quota by providing forged documents was to be inspected by constituting a team at cluster level. However, the reports of such inspections were not available either at district or State level.

During exit conference (November 2016), Department stated that information of 10 districts had been received and information of remaining districts would be collected.

- Section 13(1) of the Act prohibits screening procedure for admission of students in unaided schools. As per directions issued by (November 2010) GoI for admission of remaining 75 per cent, each school had to formulate its own admission policy and display the policy for public information in the public domain, give wide publicity and mention in school prospectus. As directed by the Department, the admission procedure/rules framed by the private sector schools was to be sent to DEOs. However, audit noticed that private sector schools did not submit the admission procedure/rules framed by them to DEOs.

During exit conference (November 2016), Department stated that compliance of the instructions would be ensured.

6.2.2 Declaration of fees structure by Private School

Rule 11 of the MP RTE Rules provides that the recognised school should notify the fee to be charged from the children every year to the DEOs before the commencement of the academic session. As per the instructions issued (March 2011) by the RSK, private sector schools had to intimate the class wise details of all types of fees to DEOs before one week of starting of academic session. The DEOs would upload the school fees in the Education Portal within three days from receipt of information from schools. However, these instructions were not followed by schools and no action was taken by DEOs.

During exit conference (November 2016), Department stated that compliance of the provision would be ensured.

Thus, the department did not ensure compliance of the provisions of the Act/Rules by private sector schools even after six years of implementation of the RTE Act.

Transparency in admission in unaided schools not ensured.

6.3 Admission in private aided schools

Section 12(1)(b) of the RTE Act provides that private aided school should 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 25 per cent.

There were 389 private aided schools running in test-checked districts, except district Singrauli. The number of students admitted in private aided schools under the RTE Act was not available in the district. Neither the DPC ensured admissions in aided school nor the DEO and the ACTD, who provided the grants-in-aid to the schools, had information about the students admitted in these schools. However, the analysis of information furnished by the test-checked private aided schools revealed that out of 87 schools, 61 schools were not charging fees from students and 26 schools were collecting fees. Out of these 26 schools, 10 schools did not provide any admission under the RTE Act and in other 10 schools, percentage of students admitted was less than minimum required 25 per cent during 2011-16.

During exit conference (November 2016), Department stated that information with regards to 26 schools was being collected.

6.4 Admission of Students in specified category of school

Kendriya Vidyalayas are categorised as 'Specified Category' as per section 2(p) of the RTE Act. Analysis of information and records made available to audit by 11 *Kendriya Vidyalayas* of 10 test-checked districts revealed the following:

- The number of students admitted in specified category of schools was not available with DPCs at district level.
- The disadvantaged group notified (July 2011) by the Government of Madhya Pradesh for the purpose of section 2(d) of the RTE Act are Scheduled Castes, Scheduled Tribes, De-notified Tribes, Lease holder families of forest villages and Children with Special Needs (with disability more than 40 per cent). According to this notification, the weaker section for the purpose of section 2(e) of the Act are families living below poverty line as defined by the Departments of Panchayat and Rural Development, and Urban Administration and Development in the State.

As per guidelines for admission in *Kendriya Vidyalaya*, the definition/eligibility criteria of disadvantage group/ weaker section/ Below Poverty Line/ Other Backward Classes (non-creamy layer) will be as per the notification of concerned State Government.

Audit noticed that the application forms and formats prescribed for admission did not contain two notified disadvantaged groups, namely, De-notified Tribes and Lease holder families of forest villages.

- *Kendriya Vidyalaya Sanghathan*, New Delhi issued (February 2012) directions to all the Deputy Commissioner and Directors of *Kendriya Vidyalaya Sanghathan* regarding implementation of the RTE Act. As per the order, fees was not to be charged from the children admitted under 25 per cent quota of the RTE Act. One set of NCERT text books for each child was to be provided by the school and other expenses on account of note books, stationery, uniform and transport was to be reimbursed to the parent on production of proper bills.

Analysis of information furnished by test-checked *Kendriya Vidyalayas* revealed that out of 2,928 students admitted under RTE quota, text book was

not supplied to 710 students. Further, reimbursement was not made to 994 students for uniform, 1,633 students for stationary and 1,431 students for conveyance during 2011-16.

During the exit conference (November 2016), Department stated that admission provided under RTE was as per *Kendriya Vidyalaya* admission guideline. Reimbursement was made to students according to the grants received from MoHRD.

6.5 Recommendations

- Department should develop effective mechanism to ensure the functioning of private school and monitoring their activities. A system should be developed to track the opening, running and closing of private schools in the interest of students.

Department stated (November 2016) that functioning of private school was being monitored. The system would be further strengthened as per recommendation.

- Mechanism developed by Department for recognition of private schools through Education Portal needs to be more effective and maintenance of records of recognition should be ensured both at State and district levels for future convenience.

Department stated (November 2016) that the process of providing recognition was online and transparent. Instructions would be issued to DEOs and BRCCs for maintaining records of recognition and their updation.

- Efforts should be made by the District Education officers for getting the admission policy framed by private unaided schools and their fee structure. Habitation wise location of schools should be publicised for ensuring transparency in admission procedure.

Department stated (November 2016) that there was provision in MP RTE Rules mandating private schools to intimate fee structure to DEO prior to academic session. The compliance of the provision would be monitored.

