

**GOVERNMENT OF INDIA
HUMAN RESOURCE DEVELOPMENT
LOK SABHA**

STARRED QUESTION NO:365
ANSWERED ON:02.05.2012
IMPLEMENTATION OF RTE ACT
Owaisi Shri Asaduddin;Shekhar Shri Neeraj

Will the Minister of HUMAN RESOURCE DEVELOPMENT be pleased to state:

- (a) whether the Supreme Court, in its recent judgement, has upheld the constitutional validity of RTE Act, 2009 and directed the Government to ensure admission of 25 per cent poor students in private schools;
- (b) if so, the details thereof along with the implications of the said order;
- (c) the penalty provided for failure to adhere to the 25 per cent criterion of reservation for the economically weaker sections under RTE and the details of funds earmarked or likely to be earmarked for the purpose during 2012-13, State-wise;
- (d) whether the Government has assessed the number of teachers required for the implementation of the verdict and if so, the details thereof;
- (e) whether the 25 per cent seat reservation for the economically weaker sections under RTE is likely to trigger fee hike by the schools and load the general category students with extra financial burden and if so, the steps taken/being taken by the Government in this regard; and
- (f) the other steps taken/being taken by the Government to implement fully the RTE Act, 2009, upheld by Supreme Court recently?

Answer

MINISTER OF THE STATE IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (SHRI KAPIL SIBAL)

(a) to (f): A Statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO PART (a) to (f) OF LOK SABHA STARRED QUESTION NO. 365 FOR 2ND MAY, 2012
ASKED BY SHRI NEERAJ SHEKHAR AND SHRI ASADUDDIN OWAISSI M.Ps REGARDING IMPLEMENTATION OF RTE ACT.

(a) & (b): The Hon'ble Supreme Court in its judgement dated 13th April, 2012 in Writ petition (C) No. 95/2010 and other Writ petitions, has held that the Right of Children to Free and Compulsory Education (RTE) Act, 2009 is constitutionally valid and shall apply to (i) a school established, owned or controlled by the appropriate Government or a local authority; (ii) an aided school including aided minority school(s) receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority; (iii) a school belonging to specified category; and (iv) an unaided non-minority school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority. The Supreme Court has held that the RTE Act, and in particular sections 12(1)(c) and 18(3) infringes the fundamental freedom guaranteed to unaided minority schools under Article 30(1), and consequently shall not apply to such schools.

(c): The RTE Act flows from Article 21-A as a fundamental right in the Constitution of India. Failure to adhere to any provisions under the Act would make the school liable for action. Reimbursement of expenditure to private unaided schools for education of child belonging to disadvantaged group and weaker section in pursuance of section 12(1)(c) of the RTE Act, shall be made by the appropriate Government in accordance with the provisions of section 12(2) of the Act.

(d): The Sarva Shiksha Abhiyan (SSA) Framework of Implementation has been revised to correspond with the provisions of the RTE Act. Accordingly, SSA provides for additional teachers to enable States to meet the Pupil Teacher Ratio (PTR) norms laid down in the Schedule of the RTE Act. At the national level, it was estimated that 5.08 lakh additional teachers would be required in States to meet the norms laid down in the RTE Act. However, based on proposals received from the States over six lakh teacher posts have been sanctioned during 2010-12. In so far as private unaided schools are concerned, the schools are required to meet the Pupil- Teacher Ratio (PTR) as required under the Act.

(e): Section 12(2) of the RTE Act provides that a private unaided school admitting children belonging to disadvantaged group and weaker section in pursuance of section 12(1)(c) of the RTE Act 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. The per-child expenditure by many private schools, especially in rural areas and small towns, is lower than that in government schools. Reimbursement provided by government, therefore, will be adequate to meet the costs of educating children from weaker sections in such schools. However, some schools in metros have per-child budgets much in excess of those in State schools. These schools would have to find innovative ways, with philanthropic individuals, charitable trusts and corporate funding, to meet the gap without loading the general category students

with fee hike.

(f) Several steps have been taken by the Central and State Governments for implementing the RTE Act, including the following:

(i) The Central RTE Rules were notified on 9th April, 2010, which are applicable to five UTs without legislature;

(ii) 28 State Governments have notified the State RTE Rules;

(iii) The SSA Framework for Implementation has been revised to correspond with the provisions of the RTE Act;

(iv) The Centre-State funding pattern for implementation of the combined RTE-SSA programme has been revised to provide for greater financial support to States;

(v) Teacher qualification norms have been notified, and Teacher Eligibility Test (TET) has been conducted by the Central Government and several State Governments;

(vi) Since the commencement of the RTE Act, sanctions have been issued for opening of 39,502 new primary schools and 11,952 upper primary schools, construction of 28,561 primary schools and 8,247 upper primary schools, construction of 4,98,339 additional classrooms, 2,49,400 toilets, and 22,791 drinking water units, and appointment of over 6 lakh teachers.