

# Public Duty in Private Corridors: Evaluating the RTE's 25%

## Mandate

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## Abstract

The 2009 Right to Education (RTE) Act sparked one of India's fiercest constitutional battles, centered entirely on Section 12(1)(c). This bold provision requires private, unaided schools to reserve 25% of entry-level seats for underprivileged children, aiming to dismantle economic segregation in our classrooms. This article critically analyzes this mandate, tracing its journey from the Supreme Court down to local district offices.

We first explore the constitutional friction between a private school's right to run an occupation under Article 19(1)(g) and the fundamental right to education under Article 21A. By tracking the shift from the *Inamdar* judgment to *Society for Unaided Private Schools*, we explain how courts justified forcing a public duty onto private entities.

However, constitutional victories often collapse in practice. The second half of this paper exposes severe administrative failures. We highlight how chronic delays in state reimbursements and heavy paperwork threaten the financial survival of budget schools.<sup>1</sup> We then show how High Court writ petitions can effectively break these bureaucratic deadlocks.

To resolve this tension, the article answers three core research questions:

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<sup>1</sup> 'MP High Court Directs State Govt To Pay Pending RTE Reimbursement Dues Of Private Schools Within 4 Weeks' (*LiveLaw*, 14 September 2021) <[www.livelaw.in](http://www.livelaw.in)> accessed 5 June 2026

First, does imposing a mandatory quota on private schools violate their economic and constitutional freedoms under Article 19(1)(g), or is it a valid restriction under Article 19(6) to uphold Article 21A?

Second, how do government reimbursement delays destroy the social justice intent of Section 12(1)(c)?

Finally, what practical litigation strategies can lawyers use to hold the state accountable, protecting both the institution's survival and the child's right to learn?

**Keywords:** Right to Education Act (RTE), Section 12(1)(c), 25% Mandate, Educational Equity, Private Schools, Constitutional Rights, Article 21A, Article 19(1)(g), Social Justice, School Reimbursement Delays, Public Duty of Private Institutions, Judicial Interpretation, Policy Implementation

## CHAPTER I

### Introduction: The Mandate for Social Mixing

Walk into any elite private academy in an Indian metro, and then walk into a municipal school just three blocks away. You are not just looking at two different buildings; you are looking at two entirely different Indias. For decades, our education sector has acted as a mirror to our deepest social stratifications, separating children not by their potential, but by the thickness of their parents' wallets. This entrenched economic apartheid in schooling is exactly what Section 12(1)(c) of the Right to Education Act, 2009, set out to dismantle.

Let us look at this provision for what it truly is. Section 12(1)(c) is not a simple, dry piece of administrative educational policy. It is a radical legislative intervention designed to force social integration in a deeply fragmented society. By mandating that private, unaided non-minority schools reserve at least 25% of their entry-level seats for children belonging to economically weaker sections (EWS) and disadvantaged groups, the Parliament attempted

something unprecedented. It sought to convert private boardrooms and gated classrooms into spaces of public welfare.

The philosophical underpinnings here go far beyond providing basic literacy. The true goal is social mixing.<sup>2</sup> When a child from an urban slum sits at the same desk as a child from a wealthy corporate family, the walls of social prejudice begin to fracture. It forces the wealthy to acknowledge the realities of the marginalized, and it gives the underprivileged a genuine, unfiltered shot at upward social mobility. However, noble intentions on paper almost always invite fierce resistance in the courtroom. By imposing a public, state-like duty onto private entities that receive no government aid, the Act set off a monumental legal storm, matching an aggressive pursuit of social justice against the sacred constitutional right to institutional autonomy.

## CHAPTER II.

### **The Constitutional Battle: Public Duties and Private Rights**

Can the state execute its welfare promises by reaching its hand into the pockets of private citizens? That is the core, uncomfortable question that drove the constitutional battle over Section 12(1)(c) of the Right of Children to Free and Compulsory Education (RTE) Act, 2009, all the way to the Supreme Court.

To understand how the law settled, we must first look at the massive legal barricade that stood in the government's way.

#### **The Barricade: *P.A. Inamdar v. State of Maharashtra***

#### **The Factual Matrix:**

In the early 2000s, several state governments, attempting to advance social justice agendas, enacted laws and notifications that forced private, unaided professional colleges (such

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<sup>2</sup> Accountability Initiative, *Right To Education Act Section 12(1)(c): Reservation within Reservation* (Centre for Policy Research 2015)

as medical and engineering institutions) to reserve a specific quota of seats for state-nominated students and backward classes. The private educational consortiums fought back aggressively. They argued that because they did not receive a single rupee of government funding, the state was essentially hijacking their private property and operations.

### **The Legal Issues:**

The core questions referred to the Supreme Court were whether the State possesses the constitutional authority to impose its reservation policies on private, unaided educational institutions, and whether such state interference annihilates the institutional autonomy guaranteed under Article 19(1)(g) (the right to carry on an occupation) and Article 30 (rights of minorities to establish educational institutions).

### **The Landmark Judgment:**

A formidable seven-judge Constitution Bench drew a hard line in the sand, delivering a fierce defense of private enterprise. Writing for the Bench, Justice Lahoti declared that the State absolutely cannot enforce its reservation policies or dictate admission quotas on unaided private institutions, regardless of whether they are minority or non-minority schools. The Court ruled that forcing private unaided colleges to surrender their seats to state mandates amounted to an unconstitutional nationalization of private enterprise. They held complete autonomy over their admission processes, subject only to maintaining merit and preventing the commercialization of education through capitation fees. <sup>3</sup>

### **The Collision:**

#### ***Society for Unaided Private Schools of Rajasthan v. Union of India***

### **The Factual Matrix:**

Fast forward to the enactment of the RTE Act, 2009. Through Section 12(1)(c), the Parliament mandated that *all* private, unaided schools must reserve 25% of their entry-level

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<sup>3</sup> (2005) 6 SCC 537

seats for children from economically weaker sections (EWS) and disadvantaged groups. Naturally, private school associations rushed back to the Supreme Court. They brandished the seven-judge *Inamdar* ruling as an impenetrable constitutional shield, arguing this 25% mandate was the exact kind of state expropriation that the Court had previously outlawed.

### **The Legal Issues:**

The Supreme Court faced a massive substantive and procedural dilemma.

1. *Substantively*: Did Section 12(1)(c) impose an unreasonable restriction on the economic freedoms of private schools under Article 19(1)(g)?
2. *Procedurally*: How could a three-judge bench possibly validate this law when a seven-judge bench in *Inamdar* had explicitly barred state-enforced quotas in private unaided institutions?

### **The Judgment and The Art of Distinguishing:**

For practitioners analyzing appellate mechanics, resolving this constitutional deadlock remains a masterclass. Under strict *stare decisis*, a three-judge bench holds absolutely no jurisdiction to overrule the seven-judge *Inamdar* precedent. Any such attempt would render the judgment *per incuriam*. Instead, Chief Justice Kapadia's 2:1 majority bypassed this formidable barricade using a classic litigator's strategy: they simply distinguished the ruling.

The bench isolated two fundamental legal shifts. First, *Inamdar* protected higher professional education, whereas the RTE Act strictly governs elementary schooling. Second, the constitutional landscape had aggressively evolved. *Inamdar* weighed private occupational freedoms against standard welfare policies. Conversely, the RTE Act was anchored by the newly minted Article 21A. <sup>4</sup>The Court reasoned this altered the legal paradigm entirely,

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<sup>4</sup> Jha, Praveen and Parvati, Pooja, 'Right to Education Act 2009: Critical Gaps and Challenges' (2010) 45(13) Economic and Political Weekly 20

making elementary education an inescapable constitutional mandate rather than a mere policy goal.

Because the State's infrastructure cannot unilaterally shoulder this sovereign duty, conscripting private schools was deemed legally valid. By emphasizing that Section 12(2) guarantees financial reimbursement, the Court successfully framed the 25% quota as a "reasonable restriction" under Article 19(6), rather than an unlawful expropriation.<sup>5</sup> Ultimately, the judgment cemented a definitive reality: private capital cannot claim immunity from public duties when fundamental human rights hang in the balance.

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<sup>5</sup> (2012) 6 SCC 1

### CHAPTER III.

#### **Implementation Disparities & Regional Context: The Ground Reality**

For a litigator, a Supreme Court victory is often merely the opening argument. The substantive fate of Section 12(1)(c) of the Right to Education Act is not adjudicated in New Delhi but rather dictated within the dusty corridors of district education offices. Since education occupies the Concurrent List, execution rests entirely upon state-drafted rules, resulting in a drastically fractured administrative reality.

Empirical data from the *State of the Nation* report—collaboratively authored by IIM Ahmedabad, Central Square Foundation, and the Vidhi Centre for Legal Policy—exposes this localized compliance. Historically, Madhya Pradesh and Rajasthan alone shoulder nearly half of all Section 12(1)(c) admissions nationwide. Their success stems directly from deploying robust, centralized online lottery portals that effectively strip private school managements of their discretionary power to unlawfully reject applicants from economically weaker sections. Conversely, administrative lethargy breeds institutional evasion. In states like Uttar Pradesh and Andhra Pradesh, early implementation rates plummeted below 5%, sometimes struggling to breach even 1%.<sup>6</sup> Absent strict regulatory pressure and digitized admission tracking, private schools routinely exploit statutory loopholes. Managements actively manipulate entry-level classifications—arguing their pre-primary sections circumvent the "Class 1" mandate—and deliberately deter marginalized parents through unchecked administrative discretion. Ultimately, the RTE Act's 25% mandate is not a uniform national triumph but a patchwork quilt of regional compliance. The evidence is unequivocal: where state governments mandate technological transparency and aggressively curtail human discretion, the promise of social

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<sup>6</sup> Dongre, Ambrish and Tewary, T., *Impact of Private Schooling on Learning: Evidence from India's RTE Act* (Vidhi Centre for Legal Policy 2016)

mixing thrives. Where the executive slumbers, the constitutional guarantee collapses squarely at the school gates.

## CHAPTER IV.

### **Societal Impact and Enforcement Hurdles: The Administrative Bottlenecks**

Even where schools follow the rules, the clash between public duty and private business remains harsh. There is a massive gap between the ambitious promises of the law and the everyday reality of running a school.

The biggest threat to Section 12(1)(c) is the ongoing fight over money. The law clearly states the government will pay schools back for admitting underprivileged children. Yet, state departments are notoriously slow at releasing these funds. Smaller private schools, which barely break even, often wait years to get paid. This delay is not just a minor headache; it is a financial disaster that threatens to shut them down completely. Because the government pays a low rate that fails to cover actual teaching costs, schools are forced to hike fees for their regular students. This angers paying parents and turns education into a pure business transaction.

Beyond the financial struggle, the system makes the admission process incredibly difficult for parents. To secure a seat, poor families must gather a mountain of paperwork, including domicile and income certificates. The irony is painful: the exact people this law is supposed to help are the least equipped to deal with complicated government offices. A simple spelling mistake on an Aadhaar card can completely ruin a child's chances.

For this law to survive, the government must stop acting like a strict police officer and start acting like a reliable partner. It must pay its bills on time and cut down the endless paperwork holding these children back.

## CHAPTER V.

### Conclusion

The author will conclude this article by breaking down the answers to the three core research questions raised at the beginning.

#### **1. Does forcing a 25% quota on private schools violate their fundamental right to run a business under Article 19(1)(g)?**

The simple answer is no, but it took two major judgments to settle this. Initially, in the seven-judge bench decision of *P.A. Inamdar v. State of Maharashtra* (2005), the Supreme Court ruled that the State absolutely could not force quotas on private, unaided schools. However, the addition of Article 21A changed the entire legal landscape. When the issue returned to the Supreme Court in *Society for Unaided Private Schools of Rajasthan v. Union of India* (2012), the Court ruled that because free and compulsory elementary education is now a supreme constitutional duty, conscripting private schools to help is completely valid. Because the government is legally required to reimburse the schools for these seats, the Court held that the quota is a "reasonable restriction," not an illegal takeover of private property.

#### **2. How do government payment delays and red tape ruin the actual goal of Section 12(1)(c)?**

The true goal of the RTE Act is to bring children from different financial backgrounds into the same classroom, breaking down social barriers. When the Supreme Court upheld the 25% quota in the *Society for Unaided Private Schools* case, it did so on the strict condition that the government would promptly reimburse the schools. However, when state governments fail to pay these reimbursements on time, they create a massive financial crisis for budget private schools.<sup>7</sup> To survive, schools are forced to hike the fees for their regular

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<sup>7</sup> Sarin, Ankur, Dongre, Ambrish and Wad, Shrikant, *State of the Nation: RTE Section 12(1)(c)* (Indian Institute of Management Ahmedabad & Central Square Foundation 2015)

students, sparking outrage. Out of sheer frustration, school managements start weaponizing minor administrative errors—like a spelling mistake on an income certificate—to reject underprivileged students. Thus, bureaucratic delays effectively turn a noble mission of social equality into a hostile environment for the child.

### **3. What practical steps can a lawyer take to force the government to pay and protect the schools?**

When the education department ignores a school's request for payment, writing endless complaint letters is a waste of time. The most effective weapon for a practicing lawyer is to bypass the local bureaucracy and file a Writ Petition before the High Court under Article 226 of the Constitution. Drawing on the principles established in the *Society for Unaided Private Schools* judgment, lawyers can represent groups of schools to demand a court-ordered, time-bound payment of all pending statutory dues, along with interest. A Writ of Mandamus legally forces the government executive to wake up and perform its duty, ensuring that the state fulfills its role as a financial partner.

Ultimately, the survival of the RTE Act rests heavily on the shoulders of the legal fraternity. The Constitution has provided the framework, and the Supreme Court has cleared the path. But a statute, no matter how well-intentioned, is only as strong as its enforcement on the ground. It is up to proactive lawyers to ensure that bureaucratic apathy does not defeat the promise of social justice. By stepping into constitutional courts to bridge the gap between grand legal ideals and harsh administrative realities, the legal community does more than just win cases—it actively builds a more equitable and educated India.

**Conflict of Interest:** The corresponding author, on behalf of second author, confirms that there are no conflicts of interest to disclose.

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## References

- Government of India. The Right to Information Act, 2005. Ministry of Law and Justice, 2005
- 'MP High Court Directs State Govt To Pay Pending RTE Reimbursement Dues Of Private Schools Within 4 Weeks' (*LiveLaw*, 14 September 2021) <[www.livelaw.in](http://www.livelaw.in)> accessed 5 April 2026
- Accountability Initiative, *Right To Education Act Section 12(1)(c): Reservation within Reservation* (Centre for Policy Research 2015)
- P.A. Inamdar v State of Maharashtra* (2005) 6 SCC 537
- Jha, Praveen and Parvati, Pooja, 'Right to Education Act 2009: Critical Gaps and Challenges'* (2010) 45(13) Economic and Political Weekly 20
- Society for Unaided Private Schools of Rajasthan v Union of India* (2012) 6 SCC 1
- Dongre, Ambrish and Tewary, T., *Impact of Private Schooling on Learning: Evidence from India's RTE Act* (Vidhi Centre for Legal Policy 2016)
- Sarin, Ankur, Dongre, Ambrish and Wad, Shrikant, *State of the Nation: RTE Section 12(1)(c)* (Indian Institute of Management Ahmedabad & Central Square Foundation 2015)