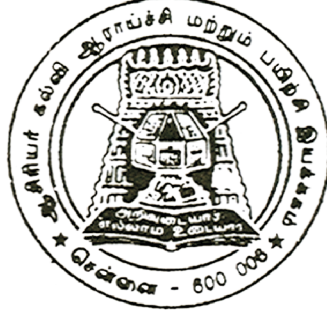




SCHOOL EDUCATION DEPARTMENT

**FREQUENTLY ASKED QUESTIONS ON
THE RIGHT OF CHILDREN TO
FREE AND COMPULSORY EDUCATION ACT-2009**

**DIRECTORATE OF TEACHER EDUCATION
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Frequently Asked Questions on the RTE Act 2009

Right to Free and Compulsory Education Act-Definitions

1. When was the first demand for RTE made in the country?

Gopala Krishna Gokhale moved in the Imperial Legislative Council on 18th march, 1910 for seeking provision of 'Free and Compulsory Primary Education" in India. This initiative must however be seen as part of the following sequence of events:

2. How was the original Article 45 of the Constitution arrived at?

1946: Constituent assembly began its task

1947: Kher Committee set up to explore ways and means of achieving Universal Elementary Education within ten years at lesser cost.

1947: Constituent Assembly Subcommittee on Fundamental rights places free and compulsory education as a fundamental right of children.

3. Brief the demands of Compulsory education on list of Fundamental Rights?

"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."

1947 (April): Advisory Committee of the Constituent Assembly rejects free and compulsory education as a fundamental right (costs being the reason). Sends clause to list of "non - justiciable fundamental rights" (later termed as 'Directive Principles of State Policy).

Article 45 of Directive principles of state policy accepted, "the state shall endeavour to provide within a period of 10 years from the commencement of the constitution; for free and compulsory education for all children and till they complete the age of 14 years".

1949: Debate in Constituent Assembly Removes the First Line of 'Article 36'... "Every citizen is entitled as of right to free primary education and it shall be the duty of the State to.." and replaces it with "The State shall endeavour to.."

The Article 21 refers 'the citizens of this country have a fundamental right to education'. This right is however, not an absolute right and his right to education is subjected to the limits of economic capacity and development of the state. The Article 21 A of the constitution inserted 'Right to education' and focussed, 'the state shall provide free and compulsory education to all children of the age of 6 to 14 years'.

4. What did the Supreme Court have to say?

The Supreme Court in 1993 held free education until a child completes the age of 14 to be a right (Unnikrishnan and others Vs State of Andhra Pradesh and others) by stating that: "The citizens of this country have a fundamental right to education. The said right flows from Article 21. This right is, however, not an absolute right. Its content and parameters have to be determined in the light of Articles 45 and 41. In other words, every child/citizen of this country has a right to free education until he completes the age of fourteen years. Thereafter his right to education is subject to the limits of economic capacity and development of the State."

5. What is the 86th Amendment?

Spurred by the Unnikrishnan judgment and a public demand to enforce the right to education, successive governments from 1993 worked towards bringing a constitutional amendment to make education a fundamental right. That led to the 86th amendment in December 2002 which inserted the following articles in the Constitution:

1. Insertion of new article 21A- After article 21 of the Constitution, the following article shall be inserted, namely:- Right to education.
"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."
2. Substitution of new Article for Article 45 of the Constitution, the following shall be substituted, namely:-
Provision for early childhood care and education to children below the age of six years.
"Article 45. The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years."
3. Amendment of Article 51A- In article 51A of the Constitution, after clause (J), the following clause shall be added, namely:-
“(k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.”

6. It is said that the 86th amendment diverted from the Unnikrishnan judgment; how?

The original Article 45 of the Directive Principles had used the term 'up to 14 years' and the Unnikrishnan judgment said 'till he completes the age of 14 years'. Both these definitions contain the age group 0-6 years. Article 21A restricted the age group from 6 to 14, thereby removing the 0-6 age group from the right; relegating it to the new article 45 of Directive Principles. The Unnikrishnan judgment had further observed that the right to education existed and would not be contingent upon the economic capacity of the state up to 14 years of age. Article 21A said that it would come into force 'in such manner as the State may, by law, determine'. So it was made contingent on a law that the state may bring in. This Act is that law, and it took another eight years to come since the 86th amendment was passed. So it took seventeen years for the right to be enforced since the Unnikrishnan judgment, that too for the restricted age group of 6 to 14 years. It may be noted here that it was the Parliamentary Standing Committee on Education that recommended the age group 6 to 14 years for the eventual 86th constitutional amendment, paving the way for the restricted age group.

7. What was the sequence of events leading to the 2009 Act?

After the 86th amendment in December 2002 the following actions took place:

- * 2003: The Free and Compulsory Education For Children Bill, 2003 (NDA government)
- * 2004: The Free and Compulsory Education For Children Bill, 2004 (NDA government)
- * 2005: The Right to Education Bill, 2005 (June) (CABE Bill) (UPA I government)
- * 2005: The Right to Education Bill, 2005 (August) (UPA I government)
- * 2006: Central legislation discarded. States advised to make their own Bills based on The Model Right to Education Bill, 2006 (UPA I government)
- * 2008/9: Central legislation revived. The Right of Children to Free and Compulsory Bill, 2008, passed in Rajya Sabha and Lok Sabha, President's assent in August 2009.

However, the notification of the Act and the 86th amendment, issued on Feb 19, 2010 in the Gazette of India, stating that implementation will begin from April 1, 2010, eight months after the presidential assent. (UPA II government).

Notice that the word 'Right' was missing in the first two drafts of the Bill and was used from the 2005 CABE bill onwards. The central legislation was dropped in 2006 in preference to state legislations based on a token model bill draft, for the recurring 'lack of central resources'

argument, but it was intense public pressure based on independent financial estimates that made it possible to revive and bring back the central legislation in 2008.

This Indian Act is unique from amongst such Acts from many other countries for the following reasons:

- * the definition of 'free' that goes beyond tuition fees
- * the 'compulsion' being on the governments rather than on parents
- * the stress on ending discrimination, and on inclusion
- * prescribing quality principles for the teaching-learning process
- * an external constitutional body for monitoring the Act
- * defining minimum norms and standards for the school
- * an external constitutional body for monitoring the Act
- * addressing the emotional, stress and anxiety issues of children

The Act is also momentous since it took over a hundred years to bring it in. If we take 1857 war as the milestone for the fight for India's independence, it took ninety years, up to 1947, for that to become a reality. But for the Right to Education, it has taken a decade longer, sixty two of those years being after the nation became independent. That gives the Act a very serious historic significance.

8. When has the RTE Act 2009, come into effect?

The Right of children to free and compulsory Education Act-2009 (Central Act 35 Of 2009) has come into effect from 1st April 2010.

9. What Right does the Act provide?

Every child of the age 6 to 14 years shall have a right to free and compulsory admission, attendance and completion of education in a neighbourhood school. A child with disabilities shall also have the right to pursue free and compulsory elementary education up to age of 18 years.

10. Who has issued guidelines for the implementation of the Act?

School Education Department, Government of Tamil Nadu prepared guidelines on the lines of the model guidelines issued by Ministry of Human Resource Development.

11. What are the areas covered under the Act? or Where does the Act extend to?

The Act shall extend to the whole of India except the state Jammu and Kashmir.

12. What are the Rules issued by the State Government called?

The Rules may be called the Tamil Nadu Right of children to free and Compulsory Education Rules, 2011. (G.O.(Ms.)173, dated 08.11.2011). It is issued based on the powers conferred by sub section (1) of section 38 of Right of children to free and compulsory education Act, 2009 (central Act. 35 of 2009), the Governor of Tamil Nadu makes the rules.

13. What is the implication of 'free education'?

'Free Education' is often meant to imply waiver of tuition fees, since the poor families are often not able to meet the other expenses needed for education. It includes textbooks, uniforms, transportation, support materials for disabled children (hearing aids, spectacles, Braille books, crutches) or even the library and laboratory fee.

14. What is meant by compulsory education?

It refers to compulsory admission, attendance and completion of elementary education. The implication is that if a child in the age group 6 to 14 years is working at teashop, home etc., when the school is functioning, the government is violating his / her fundamental / right. It is the duty

of State Government to ensure that all children attend school and complete their elementary education.

15. What do you mean by 'Extent of School's responsibility for free and compulsory education?'

All Private Schools (the sub clause iii & iv of clause (n) of section 2) shall provide and admit in class I to the extent of atleast 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.

16. What does the 'Appropriate Government' mean?

Appropriate Government means the Central Government, State Government and Union Territory which establishes, own or control the functioning of schools.

17. What does 'Capitation Fee' mean?

'Capitation Fee' means any kind of donation or contribution or payment other than the fee notified by the school.

18. Who come under 'Child belonging to disadvantaged group?'

As per G.O.(Ms) No.174, School Education (C2) Department, Government of Tamil Nadu (Notification-I). Dated 08.11.2011, child belonging to disadvantaged group means a child who is an orphan or affected with HIV or a transgender or a child of a scavenger in addition to the definition given in the Act i.e., A child belonging to SC, ST, Socially and educationally backward class or such other groups having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factor.

19. Who come under 'child belonging to weaker section?'

As per G.O.(Ms) No.174, School Education (C2) Department, Govt. of Tamil Nadu (Notification-III), dated. 08.11.2011, child belonging to weaker section means a child belonging to such parents or guardians whose annual income is lower than Rs.2,00,000/- (Rupees Two lakh only).

20. What does 'Parent' mean?

'Parent' means either the natural or step or adoptive father or mother of a child.

21. What does 'guardian' mean?

'Guardian' in relation to a child means, a person having the care and custody of that child and includes a natural guardian or guardian appointed or declared by a court or statute.

22. Can a child be prevented to pursue schooling if it does not pay any fees or charges?

No. No child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education under the sub-section (i) of section 3 of the Act.

23. Can a child above six years of age take claim to get admission in a school?

Yes. Under the section 4 of the Act, a child above six years of age who has not been admitted in any school or though admitted, could not complete his or her elementary education, then he or she shall be admitted in class appropriate to his or her age.

24. What provision is available to children admitted in age-appropriate class?

The children admitted in age-appropriate class have a right to receive special training. The special training shall be based on specially designed learning material approved by the academic authority.

25. Who will identify the children requiring special training? Who will offer such special training to children?

The School Management Committee shall identify the children requiring special training.

The teachers working in the school or by teachers specially appointed for the purpose will offer the special training.

26. Where will the Special Training be held?

The special training will be held in the premises of the school or through classes organised in places identified by the Head Teacher.

27. What is the duration of the Special Training?

The duration of the special training shall be for a minimum period of three months which may be extended up to two years based on periodical assessment of learning progress of children.

28. What is the purpose of organising special training to children?

The purpose is to integrate the children with the rest of the class academically and emotionally.

29. Who will provide special training to out of school children admitted in unaided school?

The SSA will provide special training to out of school children and main stream them in age appropriate class.

30. Can a child seek transfer to any other school?

Yes. If there is no provision for completion of elementary education in a school a child shall have a right to seek transfer to any other school excluding the school specified in sub-clause (iii) and (iv) of clause (v) of section 2, for completing his or her elementary education.

A child can seek transfer to any other school if he/she is required to move from one school to another either within a state or outside, for any reason, such child shall have a right to seek transfer to any other school, excluding the school specified in sub-clause (iii) and (iv) of clause (v) of section-2, for completing his or her elementary education.

31. What are the documents which can be produced as proof of age of children for admission?

1. Birth certificate of child issued under the Births, Deaths and marriages Act, 1886 (Central Act VI of 1886) or
2. Hospital or Auxiliary Nurse and Midwife (ANM) register record or.
3. Anganwadi record.
4. Declaration of the age of the child by the parent or guardian.

32. How long the period of admission in a school is extended?

The admission in a school is extended for six months from the date of commencement of the academic year.

33. Is there any assistance given for a child admitted after the extended period?

Yes. When a child is admitted in a school after the extended period, in an age-appropriate class he / she shall be eligible to complete studies with the help of special training (bridge course) as determined by the state Government.

34. Can the delay in producing TC be a ground for either delaying or denying admission for a child in a school?

No, delay in producing TC shall not be a ground for either delaying or denying admission for child in a school.

35. Can an Head Master delay the issuance of TC to a child?

No, Head Master can not delay the issuance of T.C. In the absence of the Head Master, in-charge of the school must issue T.C. In the case of delay Head master / in-charge shall be liable for disciplinary action under the service rules applicable to him or her.

36. What are the challenges in implementing RTE?

The main challenges in implementing RTE 2009 are viz.

- * Ensuring 25% reservation in admission of children who hail from EWS or disadvantaged groups at the entry level either in L.K.G. or Std I.
- * Admission of children in age-appropriate classes and offering special training (Bridge course).
- * Streamlining Recognition or Un-Aided schools.
- * Establishing School Management committees with due representation from parents.

37. Why parents can't be held responsible for sending children to schools?

In a country like India where such a large majority of parents are poor, migrate for work, do not have support systems, putting compulsion on them, with punishment, would imply punishing them for being poor – which is not their choice. As the well-known educationist J.P.Naik once jocularly remarked, if parents are sent to jail for not sending their children to schools, there may be more parents in jails than children in schools!

38. If parents don't send children to school, what should be done?

Section (10) of the Act makes it the duty of the parents to ensure that their children go to schools, without prescribing any punishment. This implies that SMC members, local authorities and community at large must persuade reluctant parents to fulfill their duty. For child labour and street children, the government would have to ensure that they are not compelled to work and provide schools for them, perhaps residential in many instances. Parents and communities who traditionally forbid their adolescent girls from going to school, or indulge in child marriage would have to be persuaded, or the child marriages act would need to be invoked against them. Civil society interventions would be crucial here.

39. Does the Act target only weaker sections?

No, it is universal. Any child who is a citizen of India, rich or poor; boy or girl; born to parents of any caste, religion or ethnicity shall have this right. If a rich parent decides to send his/her child to a school owned by the government/local authority, that child would also have a right to all the free entitlements. Only those children who are sent by their parents to a school that charges fees (private aided/unaided) will surrender their right, as per Section 8(a) of the Act, to free entitlements; they cannot claim reimbursement from the government for their educational expenditure (except for the obligatory 25% quota for children of disadvantaged groups and weaker sections to unaided schools).

40. Have the disabled children been adequately addressed in the Act?

There are deficiencies in the Act as it was passed in August 2009 in relation to children with disabilities. They should have been included in the definition of disadvantaged groups, but were inadvertently left out. The Act says that their education shall follow the provisions of the

Disabilities Act 1996, but that Act has deficiencies in as much that it does not include mental disabilities. The central government has acknowledged these lacunae and promised to bring appropriate amendments in the Budget 2010 session of Parliament, as also to amend the Disabilities Act 1996 appropriately.

41. Would home based education to the severely disabled come within the purview of the Act?

No, As the Act stands, education would be inclusive for all categories of disability, including severe and profound. Attempts must be made by the state to educate differently – abled children in the formal schools.

42. What about children not in schools right now?

The Act, at Section 4 lays down that all children who are out of school, as never enrolled or drop outs (in the 6-14 age group), would have to be admitted in age-appropriate class in regular schools, and they would have a right to complete elementary education even after crossing age 14.

43. Can children actually be made equal to age - appropriate class in two years?

Pioneering work by groups like the MV Foundation has shown that it is indeed possible to do so. However certain flexibility could be used after the duration of special training. If a child after completing special training is 13 years old and should be in class 7 by the age-appropriateness criterion, but the teacher/school feels that it would be better for the child, in terms of coping, to be in class 6, they could advise the child/parents accordingly.

44. What if children are admitted in Std I after age 6 and complete VIII Std after 14 years?

They would have the right to get free education till they complete class 8, even if they exceed age 14. This would apply, for example, to a 13 year never enrolled child who may take 5 years to complete class VIII, up to the age of 18 years, or more.

DUTIES OF APPROPRIATE GOVERNMENT, LOCAL AUTHORITY AND PARENTS

45. What are the duties of appropriate Government?

- a. Provide free and compulsory elementary education to every child.
- b. Ensure availability of a neighbourhood school.
- c. Ensure the child belonging to weaker section and disadvantaged group and they are not discriminated against and prevented from pursuing and completing elementary education on any ground.
- d. Provide infrastructure, school building, teaching staff and learning materials.
- e. Provide special training facility.
- f. Ensure and monitor admission, attendance and completion of elementary education by every child.
- g. Ensure good quality elementary education conforming to norms and standards specified in the schedule.
- h. Provide training facility for teachers.

46. What do you mean by “neighbourhood School”?

It refers to the area at limits of neighbourhood within which a school shall be established by the State Government. It is a distance of one kilometer in respect of children in classes I to V and it is of 3 kilometers in the respect of children in classes of VI to VIII.

47. What are the facilities made available by the State Government in the absence of neighbourhood school?

When it is not possible to establish a school within the limits of neighbourhood prescribed by

State Government (as of one km to Primary and 3Kms to Upper Primary), and children from small hamlets, the State Government shall make adequate arrangements for free transportation and residential facilities for providing elementary education.

48. When will the State Government relax the limits of neighbourhood?

The State Government shall locate the school and relax the limits of neighbourhood in places with difficult terrain; risk of landslides, or lack of proper roads and approach from their homes to the school.

49. How do you locate the neighbourhood school?

The local authority in consultation with Assistant Elementary Education Officer or District Education Officer shall locate the neighbourhood school through 'School Mapping'.

50. Who will submit the proposal of financial assistance to MHRD for free and compulsory education?

The State Government shall prepare annual estimates of capital and recurring expenditure for the implementation of provisions of the Act. It is also based on the existing level and standards of the education systems. The prepared proposal shall be submitted to MHRD.

51. Who will bear RTE related expenses?

A sharing pattern will be arrived at through mutual negotiations between the Central and State Governments. The sharing pattern will need to be reviewed and recommended 75:25 between the centre and the states.

52. Who will maintain the records of Children?

The Local Authority will maintain a record of all children in its jurisdiction through a household survey from their birth till they attain the age of 14 years and of children with disabilities till they attain the age of 18 years.

53. What are the records to be maintained by Local Authority?

The records of every child to be maintained, include

- * Name, Sex, Date of birth and place of birth.
- * Name, Address and occupation of parent or guardian.
- * School anganwadi centre that the child attends.
- * Present address of the child.
- * Class in which the child is studying and if the education is discontinued, the cause for such discontinuance.
- * The child belonging to weaker section or disadvantaged group.

54. How will children of migrant families receive education?

There are two options. If children migrate with parents particularly small children, the schools in the migrated areas have to admit all children even if they cannot produce Transfer Certificates. Or if the parents demand that their children be given education in their native place while they are away for work, appropriate Government / Local Authorities shall have to ensure the availability of free residential schools for them.

55. Whose responsibility is to ensure children particularly of the disadvantaged groups are not discriminated against?

Legally it is the responsibility of State Government, Local Authorities and the schools monitored by the SMCS / Civil society groups and the National Commission for Protection of

Child Rights and the State Commission for protection of Child Rights.

56. Who will decide the academic calendar of the school?

The Local Authority has the right to do so. This will open up the possibility of decentralized school calendars suitable for local conditions.

57. What does pre-school education mean?

1. It refers to 'readiness programme' to prepare children above the age of 3 years for elementary education.
2. The State Government will make necessary arrangements for providing free pre-school education.
3. For areas where there are no anganwadi or balwadi centres, efforts should be made to provide Free Pre-School Education in the neighbourhood school itself.

58. On whom does 'compulsion' of providing free and quality education lie?

As per Section 8 (explanation) (1) and (2), the state is compelled to provide free education and ensure compulsory admission, attendance and completion of elementary education. The implication is that if a child in the age group 6-14 is working at a tea shop, agricultural field and so on, cooking at home or simply wandering around when the school is functioning, the government is violating his/her fundamental right. It is the government that must ensure that all children are attending school and complete elementary education. This violates both RTE Act, 2009 and child labour Act 1986.

59. Can the norms and standards (schedule) be improved or changed?

Yes, and that shall not require a parliamentary amendment. As per Section 20 it can be done by the central government through a notification. Most likely, the National Advisory Council shall be assigned the task of reviewing the schedule periodically.

60. What kind of a school is envisioned under RTE Act, 2009?

The Act lays down minimum norms and standards for all schools, government and private, through a mandatory schedule. This includes number of teaching days per year, number of teaching hours per day, number of rooms, availability of Teaching Learning Materials, library, toilets, safe drinking water, playground, kitchen for mid-day meals, Pupil Teacher Ratio, subject teachers in classes 6 to 8, part time art, work and physical instructors and so on. Governments and private managements have three years to upgrade their existing schools to these minimum norms, barring which they will not be allowed to operate. Governments have to provide such a neighbourhood school to all children within three years, i.e. by March 31, 2013. The prescribed norms are minimum, which implies that nothing stops state governments/managements to have higher norms than those listed in the schedule. In particular, if some schools already have higher norms, it does not imply that they reduce those norms to match the schedule.

61. Why is 'neighbourhood school' not defined in the Act? Why leave it to Rules?

To ensure that instead of a rigid national norm, the states define it in terms of their geographical, social and cultural realities. The Model Rule (4) indicates these realities, like difficult terrain, risk of landslides, floods, lack of roads, and in general, danger to young children where the 1 km and 3 km norm could be reduced.

62. Is there a financial estimate for the Act? Why was it not attached when the Bill was introduced in the Parliament?

Financial estimates made by the National University for Educational Planning and Administration suggest that an additional 1.71 lakh crore rupees (about thirty four crore rupees per year) shall be required to implement the Act in the next five years.

since the Bill was introduced in the Rajya Sabha first, a financial estimate was not attached (only a financial memorandum was, which committed funds from the consolidated funds of the government). With an attachment of financial estimates, the Bill would have had to be introduced in the Lok Sabha first (as a money Bill), where it would have lapsed since it was not passed before the end of the term of the last Lok Sabha. MHRD has recently revised the NUEPA figure of 1.71 lakh crore rupees to 2.33 lakh crore rupees for five years, taking into account the previous deficit of teacher recruitment under SSA, when the Act had not come into force.

63. What does the reference to Finance Commission in section 7(4) imply?

It implies that on the basis of a reference by the central government through the President, the Finance Commission could sanction monies directly to states for the Act, which would be in addition to the sharing ratio of the centrally sponsored scheme operating the Act. It provides an additional window for central funds to be allocated to states that need them most.

64. Who will ensure good quality education?

The governments and the academic institutions under them, like the NCTE, NCERT, SCERTs and so on, by ensuring that the norms and standards of the schools are adhered to within three years, all teachers are professionally trained in a maximum of five years, curriculum, content and process follows principles laid out in Section 29, a comprehensive and continuous evaluation system is in place, and children learn in an atmosphere free of fear, anxiety and trauma. The governments would be well advised to seek collaboration from university education departments and civil society groups that have experience in quality elementary education in this effort. These would be monitored by the NCPCR/SCPCRs and civil society institutions.

In addition, as per the model rules 21(3), the appropriate governments must undertake systemic quality reviews periodically through institutions of renown, which are not confined only to testing children's achievement scores, but include assessment of teacher quality, curricular issues, social discrimination, infrastructure and other parameters that impact on quality. The involvement of institutions of higher learning on a continuous basis would be critical in this respect.

RESPONSIBILITIES OF SCHOOLS AND TEACHERS

65. What is the norm for the reimbursement of per-child expenditure?

The per child expenditure shall be the expenditure incurred by the State Government for a child in the Government School or the fee fixed by the committee constituted under Tamil Nadu Schools Act 2009 in respect of the School where the child is admitted whichever is less.

66. When and who will reimburse the amount?

The local authority shall sanction the reimbursement amount for each academic year in 2 installments namely in the month of September and March after verifying or cause to be verified the enrolment of those students and their continuous attendance in school.

67. How does the reimbursement amount be cleared?

The reimbursement amount shall be made through electronic clearance system in the separate banks account maintained by the school for the purpose.

68. What does the 25% Quota obligation of private schools imply?

All private, unaided schools and specified category schools have to reserve minimum 25% seats of the entry class at pre-school level or in class I for the children from disadvantaged groups and economically weaker sections from their neighbourhoods for free and compulsory elementary

education every year. As per the State Rule, the neighbourhood limit can be extended if the number is not filled up within the customary 1-Km distance with prior approval from the Government.

69. What does the 25% Quota obligation to aided schools imply?

The private aided schools have to admit children from disadvantaged groups and economically weaker sections from the neighbourhood, in the proportion of aid they receive from the government, in the entry level class each year, and will not receive any extra reimbursement for these children. For example if the total annual contribution from the government to an aided school is 70% of its total recovering expenditure for a particular year, it will have to admit children proportionate to the aid in the entry level class that year.

70. How will the private and aided schools be reimbursed by the Government for the reserved Quota?

For the reimbursement of the cost towards 25% reservation, the State Government will work out its per-learner cost by adding up all the recurring costs it incurs in one year from its own and central funds including midday meals and divide it by all the children enrolled in its schools. It will reimburse the unaided schools admitting 25% children at this rate or the fee of the school whichever is less.

71. What does 'Screening Procedure' mean?

Any test or interview / interaction of the child or interview of parents for the purpose of admission is termed as screening procedure. Section 2(0) along with section 13 (2) (b) prohibits any of these screening procedures and calls for only random procedures to be used for admitting a child to school.

72. What do you mean by 'Random Procedure'?

Random Procedure implies that if the number of children applying to a school exceeds the available seats, an open lottery system or any other random selection process will be used to fill the seats.

73. What is meant by 'Capitation fee'? Is it punishable?

'Capitation fee' is the money or donation or material charged from the child or parent on admission other than tuition fee prescribed for the standards. No school or person shall collect any capitation fee while admitting a child and it is punishable. If any school receives capitation fee shall be punishable with fine which may extend to ten times the capitation fee charged.

74. Can lack of proof of age be the basis of denying admission?

In the absence of birth certificate issued under the Births, Deaths and marriages Registration Act 1886, any one of the following documents shall be deemed to be proof of age of the child.

1. Hospital or Auxiliary Nurse and Midwife register Record.
2. Anganwadi Record.
3. Declaration of age of the child by parent or guardian.

75. Is it true that no child can be expelled or failed?

Yes, no school, government or private can detain or expel any child at elementary stage. The Delhi High Court has already given a verdict in this regard on the basis of the Act. (April 7- 2010) against Saint Xavier's schools Delhi. (Sec G.O. Ms.No.189, Para / Dated 12.07.2010).

76. Is the Physical / Mental harassment banned?

Yes, no child shall be subjected to physical or mental harassment in the school. It is totally

prohibited and who ever contravenes the provisions, it shall be liable to disciplinary action under the service rules applicable to such person.

77. What will happen to the persons running school without recognition?

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 one lakh rupees and in the case of continuing contraventions to a fine of ten thousand rupees for each day during which such contravention continues.

78. What does the relaxation period for the schools to conform the norms & standards?

The schools which do not conform to the norms, standards and conditions mentioned in the rule 12, (1) shall be listed by the competent authority through a public order. Such schools may request the competent authority for an on-site inspection for grant of recognition at anytime within the next 3 months.

79. How do we apply for the grant of recognition of school?

Any person who intends to establish a school shall apply to the competent authority in form – I for obtaining a certificate of recognition. The applicant shall in addition to the norms and standards specified in the schedule fulfill the following conditions before making an application for recognition.

1. Fee structure: The applicant shall give a declaration that the school will collect the fee fixed by the committee constituted under the Tamil Nadu Schools. Act 2009.
2. Minimum infrastructure facilities: The schools seeking recognition shall comply with the norms and standards regarding the land and other requirements stipulated in the schedule.
3. Other facilities: Number of teachers to be employed, nature of building and facilities to be provided, teaching, learning equipment, library, play material, sports equipments should be made available in the school shall be in accordance with the norms and standards specified in the schedule.

80. Who is the competent authority to get recognition of school?

Every school other than a school specified in sub-clauses i and ii of clause (or) of section. 2 shall make a self-declaration to the competent authority. It means

1. The Joint Director, Directorate of Elementary Education — In the case of schools having classes I to V or schools having classes I to VIII.
2. The CEO of the District — In the case of schools having classes LKG to V.
3. The Joint Director (Secondary Education), Directorate of School Education — In the case of minority schools having classes I to X. or VI to X.
4. The CEO of the District — In the case of nonminority schools having classes I to X. or VI to X.
5. The Joint Director, Directorate of Matriculation Schools — In the case of matriculation schools.
6. The Joint Director (Secondary Education), Directorate of School Education — In the case of Anglo Indian Schools.

81. Do the norms and standards of a school apply only to Private Schools?

No. all schools must adhere to the norms. As per section 19. (1), no school shall be established (by the Government) or recognized (Private), if it does not fulfill the norms and standards prescribed by the Act.

82. Are all schools required to have SMCs?

All the Government, Aided and Special category schools have to constitute SMCs as per section 21 of the Act. Since Private Schools are already mandated to have management committees on the basis of their trust / society registrations, they are not covered by section 21.

83. How will the SMCs be formed?

- * A school management committee shall be constituted in every school, other than unaided school, will not less than nine members within its jurisdiction within six months of the appointed date and reconstituted every two years.
- * No member other than Ex officio member shall serve as a member of the committee for more than 2 terms.
- * 75% of the strength of said committee shall be from amongst parents or guardians of children with proportionate representation to the parents or guardians of children belonging to disadvantaged growth and weaker section.
- * The remaining 25% of the strength of said committee shall be from amongst the following persons.
 - * 1/3 members from the selected members of local authority.
 - * 1/3 members from amongst teachers from the school, to be decided by teachers of the school.
 - * 1/3 members amongst local educationists or children in the school to be decided by the parents in the said committee.
 - * 50% of the members of the committee shall be women.

84. What is the tenure of SMCs to prepare school development plan?

The committee shall prepare a school Development plan for every 3 year period comprising of 3 annual sub plans.

85. What particulars that SDP should contain?

The SDP shall contain the following details:

1. Estimates of class wise enrolment for each year
2. Requirement over 3 year period of the number of additional teachers including Head teachers, subject teachers and part time teachers for classes I to V, and VI to VIII as per the norms specified in schedule.
3. Physical requirement of additional infrastructure and equipments over 3 year period (as per schedule)
4. Additional financial requirement over 3 year period in respect of (283) above, for providing special training. Entitlements of children such as free text books, I uniforms and other financial requirements.

86. Who will sign the SDP?

The SDP shall be signed by the Chairperson and convener of the committee and submitted to the local authority before the end of financial year.

87. Does the Act define a Teacher?

Any person possessing minimum qualification as laid down by an academic authority, authorized by the State Government shall be eligible for appointment as a teacher.

88. What are the duties to be performed by Teachers as per Act?

The Teacher appointed shall perform the following duties.

- * Maintain regularity and punctuality in attending the school.
- * Conduct and complete the curriculum within specified time.
- * Assess the learning ability of each child and supplement additional instructions if any required.
- * Hold regular meetings with parents and appraise the students ability to learn, regularity and progress made.
- * Participation in the Training Programmes.
- * Participation in curriculum formulation and Syllabi.
- * Development of textbooks and training module.
- * Maintain physical cumulative record for every child.

89. Is Private tuition banned for all teachers?

It is banned for all teachers working in Government or Private Elementary Schools. Since, this act does not apply to Secondary School Teachers, the ban on tuitions under this Act shall not extend to them.

90. What is the minimum Qualification to become a teacher?

In addition to the prescribed academic qualification, the Teachers recruited for elementary segment should have passed the Teacher eligibility Test (TET) to be conducted by the appropriate Government in accordance with guidelines framed by NCTE.

91. What are the State rules for recruitment of teachers?

The Government of Tamil Nadu issued the orders for recruitment of secondary grade and B.T. Teachers as follows:

1. In respect of SGT, the statewide seniority in employment exchange registration will continue to be followed till the disposal of SLP filed in the Supreme Court of India.
2. In respect of graduate Assistants, in all middle, High / Higher Secondary Schools selection through written exams in accordance with the guidelines framed by NCTE will be followed.
3. The TRB is designated as Nodal Agency for conducting TET and recruitment of teachers.

92. What are the important regulations for private schools under RTE Act 2009?

They will have to adhere to the norms and standards prescribed by the schedule and have three years to do so. Their teachers shall also be required to have the nationally prescribed teacher qualifications, within five years. They will have to get recognition within the three year period; if they don't have recognition after three years, they cannot function, and heavy fines will be imposed on them if they do. They cannot take tests or interview children or parents for giving admission; all admissions have to be based on random selection and violations will lead to financial punishments. They must announce at the beginning of the term the fees they will charge, after that they cannot ask for other charges during the year (capitation fees).

93. Will the universal promotion policy affect the quality of learning?

This is a common perception since it is difficult to see beyond the centuries old custom and culture of failing and expelling children. That the learning level of a child who is punished by failure at any time in the elementary stage shall improve the next year has no educational or research backing. If at all, the social stigma of failure, particularly for a child coming from a poor home is more likely to ensure that the failed child shall drop off from the next year. It is a method to weed out children who are harshly judged for being 'weak' or 'dull', which may have a lot to do with the learning environment of the school, the psychological and coping stress on the child, rather than any innate deficiency in the child. More often, failure and expulsion of the child hides the deficiencies of the learning environment of the class room. That is why the CCE, which continuously monitors the learning levels of the child and helps in timely intervention is far superior educationally to annual or board examination based punishments of failure and expulsions.

94. What about salaries of teachers?

These too are within the purview of the state governments and are to be prescribed by them. The Model Rule 18 (3) however lays down the principle that salaries and other benefits of teachers, including those handling out-of-school children, shall be that of regular teachers, and at par for similar work and experience.

95. What if the teacher remains absent or does not teach properly?

Disciplinary action can be taken against the teacher (Section 24(2)). Under Model Rules 18(2) (a), it is prescribed that the service rules of teachers should mandate the accountability of teachers to the School Management Committees.

96. How long do governments have to ensure the PTR as given in the schedule?

There is a certain ambiguity about this in the Act. Section 25(1) says that the PTR ratio shall be maintained in each school within six months of notification of the Act. However for implementing the schedule of norms and standards of the school, that prescribes the PTR ratio, a three year time period has been given.

97. Why not disallow election duties of teachers since they take away a lot of teacher time?

Though the Act recommends avoidance of non-academic duties for Teachers, Election work has been upheld by Supreme Court and teachers can not be exempted from it.

Curriculum, Content and Process

98. Who lays down the curriculum and evaluation procedure for elementary education?

The academic authority specified by the State Government (Common School Board)

99. Up to which point of time every child is not required to take any Board Examination / Annual Examination for promotion to a higher class?

Every child is not required to take public examination till the completion of Std VIII.

100. Why is completion certification essential at the end of Std VIII?

Students who study in middle schools need to take a certificate to pursue Std IX in a neighbourhood High / Higher Secondary School. Besides, migrating children need certification at the end of Std VIII to continue their secondary education in the new school.

101. In what way CCE is relevant to RTE?

Each child has a right to learn free from fear, trauma and anxiety about the evaluation process. As formative evaluation ensures assessment of children without their own knowledge, students would enjoy schooling process much better, besides, CCE insists on “No pass no fail” only grades. This unique evaluation process respects children's skills in co-scholastic areas as well. Thus, CCE is relevant to RTE.

102. What is the recommended medium of instruction under RTE Act?

Under RTE Act, Education ought to be given as far as possible, in the child's own mother tongue.

103. How long a child is guaranteed of free and compulsory quality education?

A child is guaranteed of free and compulsory quality education till he / she completes elementary education (i.e.) Std VIII.

104. Who is the academic authority of Tamil Nadu as per RTE Act?

The State Common Board of School Education is the academic authority of Tamil Nadu as per RTE Act.

105. How can a School ensure acquisition of required skills for students who are in a different age group say above the age of 6 in Std I and above the age of 8 in Std II?

When a child is admitted directly either in Std II or any other class appropriate to his / her age, special training must be provided to the child in order to be at par with others.

106. A leading private school recognized by the State is complained of collecting capitation fees at LKG. Where should one lodge a complaint for redress?

If the Private School is affiliated to the State Common Board, the Directorate of Elementary Education should conduct an enquiry and initiate proceedings of withdrawing recognition accorded to the Institute for nursery classes, if the initial warnings are not taken notice of.

But if the school has I to X classes under Matriculation banner, then the Directorate of Matriculation Schools needs to take disciplinary action against such a school.

107. Who is called the “Local authority”?

The AEEO for class I to VIII and DEO for class VI to XII are called local authority. They are the competent officers to address grievance lodged against violation of RTE.

108. What is the duration of time earmarked for a local authority to act on a complaint against violation of RTE? Why?

The local authority may take three months to take action on a complaint against violation of RTE. The duration of 3 months is given for hearing the grievances of both the parents and the school management as well.

109. Who are the members of the State Advisory Council?

School Education Minister is the Chairman of the Council. SPD, SSA is the member secretary of the Council. School Education Secretary, DSE, DMS, DEE, DTERT, DGE and some of the eminent educationists.

110. Who is competent to prosecute offences committed by school managements of Elementary, Nursery and Pre – Primary Schools in violation to RTE Act?

Director, Elementary Education

111. Who is authorized by the State to take against erring High and Hr.Secondary Schools?

Director, School Education

- 112. Who is competent to punish offenders against RTE in Matriculation Schools?**
Director, Matriculation School.
- 113. Who is authorized to take disciplinary action against violation of RTE Act in Anglo – Indian Schools?**
Director, School Education.
- 114. Who is the appellate authority to receive and Act on complaint against violation of RTE in Schools under Directorate of Backward, and Most backward classes?**
Director of Backward, Most Back Ward Classes.
- 115. Who addresses issues pertaining to violation of RTE Act in welfare schools?**
Director of Social Welfare
- 116. What is the process of selection of 25% students from disadvantaged and weaked section?**
Random Selection Method.
- 117. Who will protect the rights of children in the state?**
REPA is the alternate body of SCPCR. REPA / SCPCR will protect the Rights of the child in the state. Now, it is under the active consideration of the Government to form SCPCR at the earliest.
- 118. What about innovation and research?**
Providing technical support and resources to the state governments for promoting innovations, research, planning and capacity building is a task assigned to the central government (Section 7(6c)). Model Rule 19(2)(b) prescribes that a teacher may perform the tasks of curriculum formulation, development of syllabi, preparation of training modules and text book development, in a manner that these tasks do not interfere with his/her regular teaching.
- 119. What will be the redressal mechanism if a child is denied admission, beaten up or discriminated against?**
One may assume that a number of complaints would be settled at the school and SMC level itself, through the intervention of civil society groups. If that does not happen, the next step would be for the complaint to be filed with the local authority. The complainant could appeal to the SCPCR if the action of the local authority does not redress the complaint satisfactorily.
- 120. Can NCPCR/SCPCR act on their own, even if a complaint has not been filed?**
Yes, both the NCPCR and the SCPCRs can move on their own, suo moto, without any one specifically filing a complaint. As per Model Rule 25, SCPCRs shall set up child help lines, accessible by SMS, telephone and letter for receiving and registering complaints and can act upon them.
- 121. What kind of powers do the NCPCR/SCPCR have? Can they punish?**
Under the NCPCR Act 2005, the NCPCR and SCPCRs have quasi-judicial powers whereby they can investigate, summon and recommend cases to the courts. They cannot, however, pass judgments and hand out punishments.
- 122. What about the courts? Which court can one go to and who can go?**
As a law flowing out of a fundamental right, it is justiciable from the lowest to the highest court of the country. One can file a case in the lowest civil court, or the Supreme/High Court, depending on the nature of complaint.

123. Is there any role for NGO's/civil society groups in monitoring the implementation of RTE Act, 2009?

NCPCR has already initiated moves to work through civil society groups in a variety of ways. Independent of that, NGOs and other civil society groups can on their own bring violations to the notice of authorities and courts. An example of that is the civil society group Social Jurist working in Delhi. They can ensure opening of neighbourhood schools, monitoring teacher availability, and help in local redressal mechanisms.

124. What if the problems are not at local levels, like unavailability of funds, insufficient teacher recruitment and so on?

Since the 'compulsion' in the Act is on the governments, the NCPCR/SCPCR and the courts shall have to investigate where the onus of a particular violation rests, and judge accordingly.

125. Does the RTE Act include home-based education or alternative education? Could a child studying at home seek reimbursement?

No, the Act does not recognize a child's right to education at a site other than a school defined in the Act at section 2 (n) (see Q18). In that sense, the Act is more like a "Right to Free and Compulsory Schooling". Schooling would in fact be compulsory for all children.

126. Who may issue guidelines at various levels for the implementation of the Act?

- * The Central Government may issue guidelines to the State Government.
- * The State Government may issue guidelines to local authority or SMC
- * The local authority may issue guidelines and directions to the SMC.

127. Can a suit be filed against Government for anything done in good faith?

No, suit or other legal proceeding shall lie against the Central Government, the State Government, the National Commission for protection of child rights, the State Commission for protection of child rights, the local authority, the School Management Committee or any person, in respect of anything which is in good faith done or intended to be done in pursuance of the act or rules.

128. Who may make rules for carrying out the provisions of the Act.

The State Government may by notification make rules for carrying out the provisions of this act.

129. Would education through the open schooling system be deemed to be equivalent to formal education as envisaged under the RTE?

Open schooling provides external certification at various levels in the 6 to 14 age group, even when a child is either not in a school, or is in an informal or non-formal school. Since the Act replaces external board examinations by Comprehensive and Continuous Evaluation (CCE) in this age group, and makes education in a neighbourhood school of minimum norms and standards provided by the schedule of the Act compulsory, open school certification would no longer be admissible under the Act. The National Institute of Open Schooling has already withdrawn its certification process for the 6 to 14 age group. All children not in school, or previously under an open school situation have a right to be admitted to age-appropriate class to a neighbourhood school, without having to produce any certification of their earlier education.

130. What will be the role of the NAC and SACs?

They shall act as advisory bodies. They could also facilitate research and studies and systemic evaluation to help improve the implementation of the Act. The NAC is also likely to be the body that will monitor the norms and standards of a school contained in the schedule attached to the Act, and suggest changes to it whenever necessary.