13

EDUCATION LAW

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I INTRODUCTION

"Education's purpose is to replace an empty mind with an open one. The function of education is to teach one to think intensively and to think critically."

-Malcolm Stevenson Forbes

EDUCATION IS the foundation of a nation's growth and development, playing a pivotal role in shaping its future. It empowers individuals with knowledge, skills, and critical thinking abilities, fostering innovation, economic growth, and social stability. A well-educated population contributes to higher productivity, technological advancements, and better governance, ensuring sustainable progress.Education enhances human capital by equipping people with the expertise needed for various sectors, from science and technology to governance and healthcare. Countries with robust education systems experience lower poverty rates, reduced crime, and improved public health. Moreover, an educated society upholds democratic values, promotes social harmony, and encourages active participation in civic affairs.

Beyond economic and social benefits, education fosters equality and inclusivity, bridging gaps in gender, class, and regional disparities. It cultivates leadership and ethical decision-making, essential for responsible governance and national stability. In the modern world, where globalization and technological disruptions shape economies, education ensures adaptability and competitiveness on a global scale.Education thus serves as the cornerstone of a nation's progress, and its legal framework plays a crucial role in shaping policies, governance, and rights in the education sector. Investing in education is not just a fundamental right but a strategic necessity for any nation aspiring for sustainable development, prosperity, and global influence. A strong education system lays the groundwork for a progressive, innovative, and inclusive society. The Annual Survey of Education Law in India 2023 presents a comprehensive review of the key judicial pronouncements by the various high court and the apex court that have influenced and strengthened the education system.

The Indian education sector is witnessing a significant legal and policy change in recent times with the adoption of National Education Policy (NEP)

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2020.Debates on regulatory autonomy of higher education institutions, challenges concerning affirmative action and inclusive education policies, and emerging jurisprudence on academic freedom and institutional accountability have been on forefront. The critical judgments by the Supreme Court and high courts have shaped the contours of education law. This survey examines critical legal developments in areas such as affirmative action and reservation policies, inclusive education for transgender and persons with disabilities (PWD) candidates, implementation of the Right to Education Act, 2009 minority rights in education, university and school administration, recruitment and appointments in educational institutions, affiliation and recognition of institutions, and students' rights. These legal interpretations play a crucial role in shaping the framework of educational governance, access, and equity in India.

By analyzing these judicial decisions, this survey aims to provide valuable insights for policymakers, educators, legal professionals, and scholars, helping them navigate the dynamic legal landscape of education in India. The following sections present a detailed analysis of these rulings, their implications, and their potential impact on the future of education law.

II INCLUSIVE EDUCATION AND AFFIRMATIVE ACTION

Affirmative action plays a crucial role in ensuring inclusive education in India, particularly for historically marginalized communities. The Indian Constitution, through articles 15(3), 15(4), 15(5), and 16(4), empowers the state to implement reservations in education and employment for Women, Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs). Judicial interpretations have reinforced affirmative action as a tool for social justice, ensuring education remains accessible while maintaining constitutional equality. Courts continue to shape inclusive education policies through progressive rulings. Year 2023 witnessed several key decisions which reinforced the vision of inclusive education envisioned by Indian constitution.

State within its right to reserve seats for its own residents, but no wholesale reservationandwhile doing so, it must keep the ground realities

The case *Veena Vadini Teachers Training* v. *The State of Madhya Pradesh*[1] was an appeal filed by Veena Training Institute challenging the MP High Court's judgment and order. The appellant contested the Government policy on the grounds that it violated Articles 14, 15, and 19(1)(g) of the Constitution by reserving 75% of seats for residents of Madhya Pradesh, which they argued was legally impermissible. The appellant's argument was that due to the lack of sufficient eligible candidates from Madhya Pradesh, a significant number of reserved seats remained vacant. Therefore, they sought permission to admit candidates from outside the state, which was denied by the government. The court was tasked with two key questions: One; Can the state government legally reserve seats for "residents" of Madhya Pradesh? And two; If permissible, is reserving as much as 75% of the total seats justified?

1 2023 SCC OnLine SC 535.

The division bench of Justice Dinesh Maheshwari and Justice Sudhanshu Dhulia accepted that this issue is not *res integra*, and in *Pradeep Jain* v. *Union of India*,[2] apex court had upheld such reservation, and held that this departure from the Rule of merit based selection was justified on two grounds: One; significant state investment in medical infrastructure and backwardness of the region, and two: the expectation that local students would serve their home state after completing education. But this reasoning cannot be applied in toto in current scenario primarily for two reasons: *first;Scope of Judgement:* the Pradeep Jain case and subsequent rulings based on it primarily addressed medical education, whereas the current case pertains to B.Ed. course. And *second;Changed Ground Realities:* the *Pradeep Jain* ruling was delivered forty years ago, and circumstances have changed since then. The bench noted that these considerations may not be equally relevant in the B.Ed. context. The apex court in *Pradeep Jain* held that residence-based reservation should not exceed 70 percent.[3]Moreover, even in *Pradeep Jain*, the Supreme Court had cautioned against excessive reservations for state residents. The Bench in *Pradeep Jain* cautioned:[4]

> We agree wholly with these observations made by the learned Judge and we unreservedly condemn wholesale reservation made by some of the State Governments on the basis of "domicile" or residence requirement within the State or on the basis of institutional preference for students who have passed the qualifying examination held by the university or the State excluding all students not satisfying this requirement, regardless of merit. We declare such wholesale reservation to be unconstitutional and void as being in violation of Article 14 of the Constitution.

The data of the last two preceding years *i.e.,* 2021-2022 and 2022-2023 presented before the court shows that almost all the seats which were reserved for the residents of Madhya Pradesh have remained vacant in the last two years. For instance, in the year 2021-2022, only 4 seats out of 75 reserved seats for the resident of Madhya Pradesh had been filled and in the year 2022-2023, only 2 seats out of 75 reserved seats had been filled, and thus 71 and 73 seats, respectively remained vacant for the last two years.

It is evident that the high percentage of reserved seats for Madhya Pradesh residents, which remain vacant, fails to achieve its intended purpose. Furthermore, an extensive reservation exclusively for state residents would be contrary to the legal principles established in *Pradeep Jain* case.

Since the 2022-23 academic session had already begun, the court chose not to interfere but directed the State of Madhya Pradesh to reassess the reservation policy in light of the reasoning provided in this case. The court acknowledged that the State has the authority to reserve seats for its residents but emphasized that

2 *Pradeep Jain* v. *Union of India* (1984) 3 SCC 654.

3 *Id.*, para 21 of this judgment.

4 *Id*., para 20.

such reservations must align with ground realities. Reserving 75% of seats exclusively for Madhya Pradesh residents was deemed excessive and, based on enrolment data from the past two years, ineffective in achieving its intended purpose. The court instructed that from the next academic year, the seat allocation for residents and non-residents should be revised in accordance with its observations. It further clarified that while resident-based reservations are legally permissible, an excessive reservation of 75% amounts to wholesale reservation, which was declared unconstitutional in *Pradeep Jain* as it violates Article 14 of the Indian Constitution.

CLAT Consortium to publish CLAT scribe guidelines in advance and make reasonable accommodation for PwD candidates

The Supreme Court Bench led by Chief Justice D.Y. Chandrachud in *Arnab Roy* v. *Consortium of NLUs*[5]directed Consortium to ensure that visually impaired candidates are not deprived of necessary accommodations during the CLAT 2023. The case concerns the provision of scribes for candidates with disabilities during examinations, particularly the restrictions imposed just four weeks before the exam, which left at least 13 visually impaired candidates without access to a scribe. The restrictive conditions also denied scribe assistance to candidates who, despite facing genuine writing difficulties, did not have a benchmark disability.

The apex court bench, in a progressive ruling, addressed the examination guidelines to ensure equal opportunities for candidates with disabilities in the admissions process, specifically in the CLAT (Common Law Admission Test). The court clarified that candidates appearing for CLAT, conducted by the Consortium of National Law Universities, could either arrange their own scribe or, if that was not feasible, request the Consortium to provide one. Additionally, if the Consortium provided the scribe, the candidate must be given at least two days to interact with them before the exam.

A bench led by Chief Justice D.Y. Chandrachud issued several directives to ensure that candidates with disabilities receive all facilities as mandated by the Ministry of Social Justice and Empowerment, Government of India. Accepting the petitioner's suggestion, the court stressed the importance of issuing guidelines well in advance to ensure clarity regarding accommodations for candidates with disabilities. Furthermore, the court directed the consortium to align its guidelines with the official memorandum issued by the Ministry.

While concerns were raised about the condition that scribes should not be involved in coaching for competitive exams, which could limit their availability, the court allowed the consortium's request to uphold the integrity of the CLAT examination. However, the court also emphasized that the examination guidelines should remain adaptable, allowing modifications based on evolving circumstances and the knowledge gained from conducting CLAT, particularly in safeguarding the rights of Persons with Disabilities (PwD) candidates.

5 2023 SCC OnLine SC 484.

This judgment marks a significant step toward fostering inclusivity and equal opportunities in legal education. The Consortium of NLUs, established to enhance legal education standards and coordinate admissions in National Law Schools, aligns this decision with its broader objective of promoting accessibility and fairness in legal education.

There is a mismatch in the understanding of different departments regarding the mandate under Rights of Persons with Disabilities (RPwD) Act 2016

The case *Court on its Own Motion* v. *Kendriya Vidyalaya Sangathan*[6] was registered as a Public Interest Litigation (PIL) based upon a letter dated December 7, 2022 of the National Association of Deaf (NAD) through its President A.S. Narayanan being aggrieved by Advertisements No.15/2022 and 16/2022 issued by Kendriya Vidyalaya Sangathan (KVS).[7] The NAD in its letter had contended that the advertisements issued by KVS were violative of statutory provisions as contained under the Rights of Persons with Disabilities Act, 2016.[8]

The RPwD Act mandates a 4% reservation for Persons with Disabilities (PwDs), with 1% specifically reserved for Deaf and Hard of Hearing persons. This requirement is clear and non-negotiable. The association's grievance is that the respondent, Kendriya Vidyalaya Sangathan (KVS), failed to provide the required 1% reservation for Deaf and Hard of Hearing persons in the posts advertised under Advertisements No. 15/2022 and 16/2022. Consequently, they seek to have these advertisements set aside and request that the vacancies meant for deaf and hard of hearing persons, which have already been filled, be re-advertised to ensure compliance with the statutory reservation requirement.

The High Court of Delhi, after careful consideration, ruled that KVS violated the statutory provisions of the RPwD Act. The court concluded that KVS has assumed a power which never vested in it. The task of identification as well as of exemption of posts falls in the domain of the appropriate government. However, since the recruitment process had already been completed, the court directed that 1% reservation for deaf and hard of hearing persons must be provided against the total vacancies advertised. To rectify the violation, the KVS was ordered to conduct a special recruitment drive to fill vacancies reserved for various categories of disabled persons, including the 1% quota for deaf and hard of hearing individuals. The court emphasized that reservation must be calculated based on the total number of vacancies, and appointments should be made for posts identified in the 2021 notification. Furthermore, the KVS was directed to issue a fresh advertisement for the full 4% reservation for PwDs across the organization, with the entire process

6 2023 SCC OnLine Del 6993.

7 The advt. invited applications for various posts of Principal, Vice-Principal, Post-Graduate Teacher (PGT), Trained Graduate Teacher (TGT), Librarian, Primary Teacher (Music), Finance Officer, as well as other posts.

8 The RPwD Act.

to be completed within three months from the receipt of the certified copy of the order. The court observed:[9]

> It is unfortunate that disabled persons are being compelled to file writ petitions and are being compelled to run from pillar to post by an organization like KVS. They are not claiming any charity, and they are claiming their rights as guaranteed to them under the RPwD Act. The legislature has laid down a noble vision of providing "reasonable accommodation" to persons with disabilities so as to ensure that all possible special measures are adopted to enable the PwDs to perform to the best of their ability. Despite so, instead of creating such reasonable accommodation, the respondent has looked down upon the PwDs from the lens of inconvenience.

The court finally directed the Secretary, Ministry of Social Justice and Empowerment concerned to issue suitable guidelines for the implementation of reservation policy by all departments in a uniform manner.

In a republic governed by the Rule of Law, the measure that how civilized we are is not the benefits we confer on those who are already privileged, but how we care for those most in need of protection

The High Court of Bombay gave an important ruling on rights of person with disability in *Zill Suresh Jain* v. *The State CET Cell.*[10] The Petitioner in this case desired to study and practice physiotherapy contended that she is being denied these opportunities only on account of her vision impairment. She challenged the provisions of the Regulations on Graduate Medical Education (Amendment), 2019 issued by the Medical Council of India, to the extent of the disability of the present petitioner for pursuing the courses is violative of article 14, 19and 21, of Constitution of India as well as provisions of RPwD Act 2016 and hence must be declared ultra-vires to constitution. She also requested court to direct the respondent to consider the case of the present petitioner herein on the basis of the performance of the petitioner in NEET (UG) 2022 under such terms and conditions as this court deem fit and proper. The contesting respondent insisted that no amount of visual impairment is acceptable for being allowed to study or practice physiotherapy — the extent of impairment is immaterial.

The court observed that OTPT Council[11] does not answer the question raised in the petition, which asks why the study and practice of physiotherapy should be completely and totally denied to all persons on the blindness spectrum. The court observed that:

9 A similar "policy disconnect" was noted by the Hon'ble Supreme Court in *Vikash Kumar* v. *Union Public Service Commission* (2021) 5 SCC 370, wherein the stand taken by the Nodal Ministry was found to be in contrast with the stand taken by the recruiting agency – UPSC.

10 2023 SCC OnLine Bom 1269.

11 The Maharashtra State Occupational Therapy and Physiotherapy Therapy Council ("The Council") is regulatory body established under Maharashtra State Council for Occupational Therapy and Physiotherapy Act, 2022 ("OTPT Act").

> It is this Act and some of its provisions that will tell us clearly that the affidavits and reports by the OTPT Council have completely failed the stated intent and purpose of the RPWD Act, 2016. As Ms Pamnani points out, in a society such as ours that is polarised at every level in every conceivable way, what is required is a progression towards greater inclusiveness, not endeavouring to discover newer and newer methods of exclusion. This is what the Supreme Court has been telling us in every single matter involving the disabled, the marginalized, the poor. And yet we have here a statutory council that believes it is perfectly all right to tell persons who are, for no fault of their own, disabled, (in this case suffering from a blindness or a vision impairment) that certain fields of human endeavour must be forever shut to them. We are having none of it. To accept this position would be contrary to statute and a travesty of every concept of justice.

The court allowed the petition and ensured that petitioner be admitted to the first year of the physiotherapy course. It also clarified that her admission and continued study is not to be interrupted nor to be cancelled only on the ground of a low vision impairment. At the end the Bench observed:

> We must, we believe, express our very great dismay and displeasure at this approach of a regulatory Council. The constitutional mandate is not to find further methods of exclusion. It is not to find new methods to benefit majorities. The protections of Part III are for minorities, those marginalized and those deprived. Our collective endeavour as a society and particularly that of the State Government has to be a constant effort to find ways to assist those most in need of assistance; and never to say that nothing can be done. As a society in a Constitutional framework, one that is a Republic and therefore governed by the Rule of Law, the measure of how civilized we are is not the benefits we confer on those who are already privileged, but how we care for those most in need of protection. It is to this standard that we expect councils like the State OTPT Councils to always address themselves. The answer that we have received in these Affidavits are not only unacceptable to any judicial, constitutional or moral conscience but are, quite frankly, a betrayal of a Constitutional mandate and of a statutory duty.

III RIGHT TO EDUCATION

The Right to Education (RTE) wasincorporated as a fundamental right in India, enshrined under Article 21A of the Constitution, which guarantees free and compulsory education for children aged 6 to 14 years. This was reinforced by the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act), ensuring

12 AIR 1993 SC 2178.

access to quality education, prohibiting discrimination, and mandating infrastructure and teacher-student ratios in schools. However, even before constitutional amendment and RTE Act, the Supreme Court of India has played a crucial role in enforcing this right. In *Unni Krishnan* v. *State of Andhra Pradesh,*[12] the Court recognized education as an integral part of the right to life under Article 21. Later, in *Society for Unaided Private Schools of Rajasthan* v. *Union of India*,[13] the court upheld the constitutional validity of the RTE Act, making it mandatory for private schools to reserve 25% of seats for economically weaker sections (EWS).High courts have also actively intervened in cases of denial of admission, inadequate school infrastructure, and teacher shortages. Courts have consistently emphasized the duty of the State to ensure universal education. Thus, through judicial activism, both the Supreme Court and high courts have reinforced education as a cornerstone of social justice and empowerment in India. Some of the important rulings of the survey are:

Right to education means quality education which requires qualified and trained teachers

The bench comprising Justice Aniruddha Bose and Justice Sudhanshu Dhulia in *Devesh Sharma* v. *Union of India*[14] held that any compromise on the 'quality' of primary education would ultimately result in going against the very objective of Article 21A of the Constitution of India and the RTE Act.

What lies at the core of the dispute before Court in this case is the notification dated June 28, 2018, issued by the National Council for Teacher Education (hereafter 'NCTE'), made in exercise of its powers under Section 23(1) of the Right to Education Act, 2009. This notification made B.Ed. degree holders eligible for appointment to the post of primary school teachers (classes I to V). All the same, in spite of the above notification, when the Board of Secondary Education, State of Rajasthan, issued an advertisement on January 11, 2021, for Rajasthan Teacher Eligibility Test (RTET Level-1), it excluded B.Ed. degree holders from the list of eligible candidates. This action of the Rajasthan Government was challenged before the high court by Devesh Sharma, a B.Ed. degree-holder. As per the Notification dated June 28, 2018, he was eligible, like many other similar candidates. He requested the court that the advertisement dated January11, 2021 be quashed because it violated the notification dated 28.06.2018 issued by the NCTE. Besides this, there was another set of petitioners, with their own grievance. These are the candidates who are diploma holders in Elementary Education (D.El.Ed.), which was the only teaching qualification required for teachers at primary level, and who are aggrieved by the inclusion of B.Ed. qualified candidates. The State of Rajasthan understandably supported these second batch of candidates before the high court, as they would do before apex court. High Court of Rajasthan decided against the NCTE notification quashing it and decided that B.Ed. candidates were not qualified for the posts of primary school teachers.

13 (2012) 6 SCC 1.

14 [2023] 11 S.C.R. 167; AIR 2023 SC 3895.

In apex court, it was argued on behalf of B.Ed. qualified candidates that the high court did not consider the fact that the notification came as a policy decision by the NCTE after the Central Government issued directions for the same and the high court could not interfere with the policy decision taken by the Central Government. While lawyers representing Diploma holders argued that the NCTE as an expert body is supposed to take an independent decision in this case, on the basis of the objective realities and should not just follow the directions given by the Central Government.

The Supreme Court referred the right to free and compulsory education for children in India as a part of the 'social vision' of the framers of the Indian Constitution. The court further added that 'free' and 'compulsory' elementary education is useless unless it is also 'meaningful' education. Thus, in other words, elementary education should be of good 'quality', and not a mere ritual or formality.

The qualification prescribed for a primary school teacher was diploma in elementary education (D.El.Ed.), and no other educational qualification, including B.Ed was mentioned. It was held that the candidates with a D.El.Ed., degree were trained to handle students at the primary level, as they have undergone pedagogical courses necessary for such purpose. On the other hand, a candidate with B.Ed. qualification is trained to impart teaching to students of the secondary and higher secondary level and was not expected to provide training to the students at the primary level. Taking into notice the inherent academic weakness in the B.Ed. courses (for students of primary classes), the court further added that in case of primary education, any compromise on the 'quality' of education would ultimately result in going against the very objective of Article 21A and the RTE Act. The court observed: [15]

> We must recruit the best qualified teachers. A good teacher is the first assurance of 'quality' education in a school. Any compromise on the qualification of teachers would necessarily mean a compromise on the 'quality' of education. Jacques Barzun, the American educationalist and historian, in his seminal work 'Teacher in America', says "teaching is not a lost art, but the regard for it is a lost tradition". Though this comment was for the state of higher education in America, it is equally relevant here on the treatment of Primary education in our country, as it emerges from the facts before us.

While deciding on the argument by the central government that the policy decisions cannot be interfered with, the Supreme Court held that when the policy decision is itself in contradiction to the law and is arbitrary and irrational, in such a situation the powers of judicial review have to be exercised. The court also found that the procedure followed was flawed. Thus, the court held that the notification issued was not an independent decision made by the NCTE after due deliberation, but simply the direction of the Central Government was followed. Therefore, the

15 *Id*., para 21.

notification was quashed, and the decision of the High Court of Rajasthan which had made B.Ed. (Bachelor of Education) degree holders ineligible for appointment to the post of primary school teachers was upheld.

The qualification of the para teachers for the upper primary level may not be a suitable qualification for primary level of classes and will not satisfy the test of intelligible differentia

This question was deliberated by High Court of Calcutta in an appeal which originated from an order dated November 21, 2022, filed by para teachers of primary schools in case *Biplab Thakur* v. *Parimal Mahato.*[16] Appellants are dissatisfied with the impugned order of the same date, which directs the Education Department to take measures for filling para teacher vacancies by interpreting the Notification dated September 23, 2016, in a revised manner and allowing upper primary para teachers to participate in the selection process for recruiting para teachers in primary schools.[17]

Counsel for the appellants, stated that the Primary Teachers' Recruitment Rules, 2016, outline the selection process for appointing primary school teachers, whereas the recruitment of upper primary para teachers is governed by the West Bengal School Service Commission (Selection for Appointment to the Post of Teachers for Upper Primary Level of Schools) Rules, 2016 (referred to as "Upper Primary Level Rules 2016"). Both sets of rules include a provision reserving 10% of the total vacant posts for para teachers while maintaining the 100-point roster system as periodically notified by the state government.

It is contended that the eligibility criteria and remuneration for para teachers at the primary and upper primary levels differ. Primary para teachers are required to have passed Madhyamik or an equivalent qualification, whereas upper primary para teachers must hold a graduate degree with at least 300 marks in the relevant subject. According to Rule 2(b) of the Primary Teachers' Recruitment Rules, "appointment" refers to the recruitment of primary school teachers as per the provisions of the Act and subsequent Rules. Similarly, the Upper Primary Level Rules 2016 contain a corresponding provision, with Clause 2(p) explicitly defining "vacancy" as a vacant teaching position at the upper primary level.

The appellants argued that allowing upper primary teachers to compete for the 10% vacancies designated for primary para teachers would be discriminatory, as those qualified for the upper primary level would gain an undue advantage.

16 2023 SCC OnLine Cal 2362.

17 The challenge primarily concerned the notification issued by the Governor on Sep. 23, 2016, which directed the State to allocate 10% of the existing vacant teaching posts to para teachers currently serving in various primary schools during the upcoming recruitment process. This notification was issued under the Primary Teacher Recruitment Rules, 2016, and served as a clarification based on Rule 6, Sub-Rule 3, Note 7 of the said rules. It mandated the State to promptly initiate the recruitment of primary school teachers while ensuring that 10% of the available vacancies were reserved for para teachers working at that time in different primary schools across the State.

They contend that upper primary para teachers are not eligible for these vacancies, given the differences in qualifications and pay scales. Furthermore, a separate 10% reservation for upper primary para teachers is already provided under Rule 8(4) of the Upper Primary Level Rules, 2016. The writ petitioners have never challenged the validity or legality of Rule 6, Note 7 of the Primary Teachers' Recruitment Rules, 2016, which earmarks 10% of vacancies for primary para teachers. Since upper primary para teachers already benefited from a similar reservation, they cannot claim additional advantage in both primary and upper primary categories, especially when the Rules and Notification clearly distinguish between them.

In this case, there are two separate rules established under different statutes, each outlining distinct qualifications for different purposes. As previously noted, the qualification criteria and selection processes are governed by different authorities.

Determining the qualifications for a position falls within the domain of recruitment policy, and the State, as the employer, has the authority to set eligibility criteria as a prerequisite for appointment. As apex court observed in *Zahoor Ahmad Rather* v. *Sheikh Imtiyaz Ahmadand*[18] that:[19]

> It is no part of the role or function of judicial review to expand upon the ambit of the prescribed qualifications. Similarly, equivalence of a qualification is not a matter which can be determined in exercise of the power of judicial review. Whether a particular qualification should or should not be regarded as equivalent is a matter for the state, as the recruiting authority, to determine.....

When determining the qualifications for a position, the State, as the employer, may rightfully consider various factors, such as the nature of the job, the skills necessary for effective performance, the relevance of the qualification, and the academic content leading to its attainment. The State has the responsibility to evaluate the requirements of its public services, and administrative necessities fall within the scope of decision-making by the authorities. As a public employer, the State may also factor in social considerations, including the need to generate employment opportunities across different sections of society. These decisions are fundamentally policy matters, and judicial review should proceed with caution.

The impugned order does not acknowledge this distinction.The notification specifically pertains to primary schools, while similar provisions exist for upper primary schools with different qualification criteria. Given these fundamental differences, both categories cannot be considered equivalent. When specific qualifications are prescribed in the rules for a particular category of candidates, an individual with a higher qualification under a different set of rules cannot demand consideration for candidature based on the rules that require a lower qualification.

18 (2019)2 SCC 404.

19 *Id.*, para 22.

The high court referring *Devesh Sharma* v. *Union of India*[20] finally held that under such circumstances, the impugned order is set aside.

State cannot regulate fees for private unaided schools, emphasising the importance of considering quality education and personal development

Petitioner' institutions which are run by private management and some of them are unaided educational institutions have challenged constitutional validity of Sections 2(11-A), 5-A, 48, 112-A and 124-A of the Karnataka Education Act, 1983 along with Rule 10 of the Karnataka Educational Institutions (Classification, Regulation, Prescription of Curricula *etc.*) Rules, 1995 and Rules 2, 4 and 7 of the Karnataka Educational Institutions (Regulation of Certain Fees and Donations) Rules, 1999 on the ground that these are ultra vires to the Constitution of India.

The High Court of Karnataka in *Rashmi Education Trust Vidyaniketan School* v. *State of Karnataka*[21] relied on the landmark verdict of *TMA Pai Foundation* v. *State of Karnataka*[22] wherein apex court held that the decision on the fee structure must, necessarily be left to the private unaided educational institutions, as those educational institutions do not seek or are not dependent upon any funds from the government. That means, private unaided educational institutions, should not be under the control of the government insofar as fixing the fee is concerned. However, as an established dictum in *Pai case*, *Modern Dental College* case[23] and *Indian School Jodhpur* case,[24] the charging of fee should not amount to capitation fee or profiteering or unreasonable and same must conform to the constitutional provisions. The bench was also considerate on the fact that the private unaided educational institutions are also giving admissions to students through RTE and therefore, same will have financial implication on the affairs of the private unaided educational institutions and therefore any interference with such matters by the state government is unjust and contrary to Article 14 of the Constitution of India.

The court ruled that the state's involvement in determining fees for private unaided educational institutions violated Article 14 of the Indian Constitution. It specifically held:

(i) Sections 2(11-A),[25] 48, and 124-A[26] of the Karnataka Education Act, 1983 are contrary to Article 14 of the Constitution of India and are held to be unconstitutional insofar as private unaided educational institutions;

20 [2023] 11 S.C.R. 167.

21 Writ Petition No. 6313 of 2017. DoJ Jan. 5, 2023.

22 (2002) 8 SCC 481, para. 55 of the judgment.

23 (2016)7 SCC 353.

24 (2021)10 SCC 517.

25 Provision which established the District Education Regulatory Authority.

26 Provision prescribing penalties for violations of s. 48.

(ii) Sections 5-A[27] and 112-A[28] of the Karnataka Education Act, 1983 are contrary to Articles 14 and 19(1)(g) of the Constitution of India as well as the law declared by the apex court in the case of *Avinash Mehrotra* v. *Union of India*.[29]

Consequently, notifications issued by the government under these provisions were held unconstitutional and inapplicable to private unaided educational institutions.

Balancing equities of right to children's education *vis-à-vis* private school authority in fee dispute

On the issue of regulation of school fees during COVID-19, addressing concerns raised by parents of school students,[30] a division bench of High Court of Judicature at Allahabad in *Adarsh Bhushan* v. *State of UP*[31] heldthat private schools, having offered only online tuition in 2020-21 (during COVID), should refrain from charging for unrendered services. A division bench consisting Chief Justice Rajesh Bindal and Justice J.J. Munir directed UP's private schools to adjust 15% of 2020-21 fees in the next session, extending the refund provision to departed students within a mandated two-month processing period.

The High Court of Delhi in an important ruling in case of *Master Prabhnoor Singh Virdi (Minor Son) through Father Karamjeet Singh Virdi (Father)* v. *The Indian School*[32]while trying to balance the rights of a child to education[33] with the rights of the school under the DSER, 1973[34] observed that:[35]

> a child cannot be made to suffer and not be allowed to attend classes or barred from taking examinations in the middle of an academic session on the ground of non-payment of fees. Education is the foundation, which shapes the future of a child and which in turn shapes the future of the society in general. Therefore, not allowing a student to take examinations, especially the Board Examinations, would be infringement of the rights of a child akin to Right to Life as

27 Provision concerning student safety and security.

28 Provision imposing penalties.

29 (2009)6 SCC 398.

30 The petitioners relied on the judgement of the Supreme Court in *Indian School, Jodhpur* v. *State of Rajasthan* (2021) 10 SCC 517 in support of their contention, where it was held that the private schools demanding fees without providing any service amounts to profiteering of education.

31 Public Interest Litigation (PIL) No. - 576 of 2020. Decided on Jan. 6, 2023.

32 W.P.(C) 584/2023. DoJ 17 January 2023.

33 The petitioner studying in class X was struck off from the school due to non-payment of fees. The petition has been listed upon urgent mentioning since the Class 10th Board Examination (Practical Exams) are scheduled from tomorrow (i.e. Jan. 18, 2023) which constitute substantial part of the upcoming final Class 10th Board Examination. Prayer was made to issue direction to the school to reinstate the petitioner as a student on its rolls and allow the petitioner child to sit in the upcoming CBSE Board Exams for Class 10th.

34 Delhi School Education Rules, 1973 (in short 'DSER').

35 *Supra* note 32 at para 18.

> guaranteed under Article 21 of the Constitution of India. Supreme Court has expanded the rights under Article 21 of Constitution of India and education is certainly one of the important rights which would be encompassed under right to life. In furtherance of the same, Article 21A of the Constitution of India provides for Right to Education, wherein the State has been ordained to provide free and compulsory education to all children of the age of 6 to 14 years."

However, in order to balance the equities, the court found it imperative that the petitioner pays some amount towards the fees payable to the school. In the facts and circumstances of the case, since it has been expressed on behalf of the father of the petitioner that the family is undergoing financial constraints, the court directed that the petitioner shall pay an amount of Rs.30,000/- to the school within a period of four weeks on account of the dues payable to the school towards the fees.

Right to admit students of their choice by the Private Educational Institutions is subject to an objective and rational procedure of selection.

In *Ayan Jorwal (Minor) Through Father Dinesh Kumar Meena* v. *Govt. of NCT of Delhi*[36] the issue before High Court of Delhi was "whether a school's refusal to award sibling points for admission, based on fee payment distinctions within the Disadvantaged Group (DG) quota, violates the fundamental right to equality under the Right to Education Act, 2009?

The case involved denial of admission to a Class I boy under the sibling criteria because he didn't submit his sibling's tuition fee receipt. Petitioner's elder brother was studying in the same school under the Disadvantaged Group (DG) quota. The petitioner argued that he couldn't provide the receipt as his brother, being under the DG quota, didn't pay any fee. He presented a certificate from the school principal as proof and cited an order from the Directorate of Education (DoE) advising schools not to insist on the fee receipt. The respondent school argued that the sibling criteria is meant for applicants whose siblings are studying in the General Category in the school. The school also claimed its autonomy to define their criteria and that the petitioner was trying to blur the lines between the General and Reserved categories. They also stated that the petitioner had no right to claim sibling points as the Right to Education Act, 2009 (RTE) didn't recognize such a right.

The court cited the apex court ruling in *Chandan Banerjee* v. *Krishna Prosad Ghosh*[37] while holding that classification between persons must not produce artificial inequalities. The classification must be founded on a reasonable basis and must bear nexus to the object and purpose sought to be achieved to pass the muster of articles 14 and 16. The court further relied on *Andhra Pradesh Dairy*

36 W.P.(C) 348/2023 and CMAPPL. 1358/2023, DoJ April 17, 2023.
37 2021 SCC OnLine SC 773.

Development Corporation Federation v. *B. Narasimha Reddy*,[38] in which apex court has held:[39]

> It is a settled legal proposition that Article 14 of the Constitution strikes at arbitrariness because an action that is arbitrary, must necessarily involve negation of equality. This doctrine of arbitrariness is not restricted only to executive actions, but also applies to the legislature. Thus, a party has to satisfy that the action was reasonable, not done in unreasonable manner or capriciously or at pleasure without adequate determining principle, rational, and has been done according to reason or judgment, and certainly does not depend on the will alone.

The court based on above reasons found the action of school not awarding sibling points to petitioner unreasonable and discriminatory. It directed the school to award 'sibling points' to the petitioner and grant him admission, stating that schools cannot insist on only one document for sibling proof. It also held that while schools can establish additional admission parameters, they must be equitable, non-discriminatory, and unambiguous.

State responsible for all the costs of education, including uniforms, books, and study materials, for children admitted under the 25% quota of the Right to Education Act

The High Court of Madras in a significant ruling *M. Suveathan* v. *The State Commission for Protection of Child Rights*.[40] ruled that the state government is responsible for covering all expenses incurred by Economically Weaker Section (EWS) and Disadvantaged Group (DG) students admitted under the Right of Children to Free and Compulsory Education (RTE) Act. The court reaffirmed that the State must ensure free and compulsory education for these children, without requiring them to pay any fees.

The judgment was issued in response to a petition filed by a minor and his father, who were asked by a private unaided school in Vellore district to pay additional charges for uniforms, study materials, and other necessities. The court dismissed the State's argument that only tuition fees are reimbursed and held that all essential educational resources, including books and uniforms, must be provided at no cost to the students.

The court directed the school to supply the necessary materials to the petitioner and instructed the School Education Secretary to ensure that no school demands payments from RTE students. Instead, schools must seek reimbursement from the government for such expenses.

38 (2011) 9 SCC 286.

39 *Id*., para 17.

40 W.P. NO. 4615 OF 2022, DoJ April 18, 2023.

In a case of similar nature, the High Court of Judicature at Allahabad while hearing a PIL[41] filed by the Uttar Pradesh Senior Basic Shiksha Mahasabha concluded that the duty to provide free textbooks and uniforms applies only to students admitted under Section 12(1)(c) of the Act, which refers to students from weaker and disadvantaged sections occupying up to 25% of the total seats. The association sought a direction from the court to ensure the provision of free textbooks and uniforms to all students in classes 6 to 8 in non-aided recognized junior high schools recognized by the Basic Education Board, Prayagraj, Uttar Pradesh. Consequently, the court dismissed the writ petition, considering it to be misconceived.

Strict adherence to the provisions of the Right of Children to Free and Compulsory Education Act, 2009

The High Court of Gauhati in an important verdict *We for Guwahati Foundation* v. *The State of Assam*[42] directed the Secretary of the Department of School Education to facilitate the admission of 49 children whose applications remain pending under the Right of Children to Free and Compulsory Education Act, 2009, in various schools across Assam. The division bench cautioned that if the order is not implemented, the Secretary will be required to appear before the court at the next hearing. These directions were issued in response to a Public Interest Litigation (PIL) that raised concerns over the non-implementation of Section 12(1)(c) of the RTE Act in Assam's schools. The PIL alleged that, despite the state issuing notifications mandating compliance, several private unaided schools had refused to admit students for the current academic session. Section 12(1)(c) of the RTE Act mandates that private unaided schools must reserve at least 25% of seats in Class I for children from weaker and disadvantaged sections in the neighbourhood and provide them with free and compulsory elementary education.

The court had previously issued notices to the state and private institutions and directed the Secretary to take immediate action to ensure the admission of the listed children. However, during the hearing on May 17, the petitioner informed the court that only 15 out of the 49 children had been admitted under the RTE Act. Additionally, it was alleged that one school forced parents to sign blank undertakings, while two other schools charged fees from children admitted under the RTE quota. The court, taking serious note of these claims, directed the petitioners to submit an affidavit documenting these irregularities.

Balancing parental choice *vis-a-vis* autonomy of private unaided schools

In *Aahana v. Sanskriti School*[43] the petitioner argued that the respondent school wrongfully denied admission despite the petitioner meeting all eligibility criteria and securing a place in the merit list through a draw of lots. However, the

41 *U.P. Sr. Basic Shiksha Mahasha U.P. Officer N.P.M.Vidy. Raebareli Thru. President Ankur Chaudhari* v. *State of U.P. Thru. Addl. Chief/Prin. Secy. Basic Education U.P. Civil Secrt. Lko.,* Public Interest Litigation (PIL) No. - 178 of 2023. DoJ Mar. 3, 2023.

42 PIL/30/2023, DoJ May, 31, 2023.

43 W.P.(C) 3939/2021 and CM Appl.11847/2021 DoJ July 3, 2023.

school later rejected the petitioner's candidature on the grounds of distance between the petitioner's residence and the school, which the petitioner claimed to be arbitrary and illegal. Additionally, the petitioner contended that respondent no.2, the Directorate of Education (DOE), failed in its duty to ensure transparency and accountability in the recognized school, which denied admission without a valid reason. The petitioner asserted that choosing a school is a fundamental right of children through their parents and should not be subject to the discretion of the Government or private schools. The right to education cannot be restricted based on bus routes or area pin codes, especially when such criteria were not mentioned in the admission notification, nor available on the school's website or in the public domain.

Conversely, the respondent school defended its decision, arguing that private unaided schools have autonomy over admissions, including using bus routes to determine distance and locality. The respondents cited Supreme Court rulings,[44] emphasizing that unaided private schools have maximum autonomy in administration, including decisions on student admissions, faculty appointments, disciplinary actions, and fee structures, as a fundamental right under Article 19(1)(g) of the Constitution of India. The school had abided by its distance calculation points for all the students equally. The petitioner, obtaining 20 points for distance, was legitimately rejected due to higher-scoring applicants.

The court relying on verdicts of *T.M.A Pai Foundation* v. *State of Karnataka*[45] and *Society for Unaided Private Schools of Rajasthan* v. *Union of India*[46] where apex court reiterated that private unaided recognised schools have a fundamental right to maximum autonomy in the day-to-day administration, including the right to admit students dismissed the writ petition, affirming the school's justified stance based on established admission norms. The respondent school has clearly stipulated in its admission notification that the distance is calculated as per the school bus route. The criteria of the respondent school with respect to choosing bus route as a yardstick to determine distance/locality of any applicant, is founded on a rational basis and is acceptable. The said criteria cannot be said to be unjustified. The respondent school has applied the said criteria uniformly to all the applicants and the same is a cogent and intelligible criterion. The school has been following the said criteria consistently in a homogenous manner across the board with respect to all the applicants.

In a similar case of *Avani Shukla* v. *Apeejay School Sheikh Sarai,*[47] the High Court of Delhi also clarified that individuals do not possess a fundamental right to secure admission to a specific school or its branch as per their preference. The petitioner in this case argued for admission based on neighbourhood criteria

44 *T.M.A Pai Foundation* v. *State of Karnataka* (2002) 8 SCC 481, *Society for Unaided Private Schools of Rajasthan* v. *Union of India*, (2012) 6 SCC 1.

45 (2002) 8 SCC 481.

46 (2012) 6 SCC 1.

47 W.P.(C) 7728/2022, DoJ July 3, 2023.

under the RTE Act. The court held that desire to join a particular school is not recognized as a fundamental right under the Constitution. It also highlighted that private unaided schools are not obligated to grant admission to every child unless the admission criteria are deemed arbitrary. The court also noted a previously dismissed civil suit on similar grounds, and hence held it was barred by principle of constructive *res judicata*. As the admission was under the general quota, the RTE Act was deemed inapplicable, and the petition was dismissed.

'Neighbourhood Criteria' for Admissions under EWS or DG category should be flexibly applied

The High Court of Delhi , in the case of *Tarun Kumar* v. *The Principal Happy Hours School*,[48] ruled that schools in the National Capital cannot strictly enforce the "neighbourhood criteria" for admissions under the Economically Weaker Section (EWS) and Disadvantaged Group (DG) category. The court emphasized that if seats remain available under the EWS/DG quota, the Directorate of Education (DOE) should allocate them to eligible applicants, even if they do not strictly meet the neighbourhood requirement. The court highlighted that strict adherence to the neighbourhood criteria should not result in seats going unutilized, as this would defeat the objective of the reservation policy. While the DOE should prioritize placing students in schools closest to their residences, it must also ensure that children from weaker sections are given equal educational opportunities.

This ruling stemmed from a petition filed by two applicants who were initially allotted seats under the EWS/DG category but were later denied admission because they did not meet the school's neighbourhood criteria. The court directed the school to admit the petitioners under the EWS/DG quota and further clarified that if transportation was not provided by the school, the petitioners would need to arrange their own travel

Student's right to lifeand right to easy and hassle-free education is supreme

High Court of Madras delivered an important ruling in *Shreya Bhattacharya* v. *Kendriya Vidyalaya Sangathan*[49] *which affirmed easy and hassle-free education.*

In this case, the court was dealing with a plea moved by one Shreya Bhattacharya, the daughter of a non-commissioned Air-Force Officer, who was seeking a seat in Class VIII of Kendriya Vidyalaya. Her application was rejected on the ground that she was above the required age limit, as per the prescribed guidelines, for a student of Class VIII. The petitioner challenged these guidelines of the school on the grounds that they were violative of Article 21A of the Constitution and Section 3 of the Right of Children to Free and Compulsory Education Act, 2009. It was also violative of the policy of automatic admission of the children of servicemen. It was contended by the petitioner's counsel that due to denial of admission for only being two months over the prescribed age for

48 W.P.(C) 7953/2023 & CM APPLs. 30622-30623/2023, Decided on May 31, 2023.
49 WP.No.12893 of 2023. DoJ Oct. 9, 2023.

admission in Class VIII of the Kendriya Vidyalaya located at the Air Force Campus, petitioner Shreya was forced to attend a school 30 km away from her house.

The Deputy Commissioner, Kendriya Vidyalaya Sangathan stated in counter affidavit that the admission guidelines of KV for the academic year 2022-2023 were in line with the Right to Education Act, 2009 prescribing an age restriction for admission to every class which was not arbitrary. The personal inconvenience of the petitioner in travelling 30 km a day to her school cannot be a criterion for challenging the Guidelines, he submitted. It was further contended by the responded that "fixing the age limit for admitting a child in the Kendriya Vidyalaya is a policy decision, and it may not be interfered with in judicial review." Reliance was placed on the ratio in *Maharashtra State Board of Secondary and Higher Secondary Education* v. *Paritosh Bhupeshkumar Sheth*.[50] The respondent also contended that there was no vacancy in the said school at that time, and the student strength cannot be expanded.

The court, while referring this case as a 'test case', emphasized that it was not inclined to alter the existing guidelines. However, it upheld the student's right to life and her right to accessible and hassle-free education as paramount. Without modifying the prevailing regulations but making an exception in this particular case, the court ruled in favour of the petitioner. The bench of Justice N Seshasayee observed, "A guideline means what it says: it is a guideline, nothing more nothing less. A guideline cannot be elevated to the commandments of Solomon. It must be construed reasonably more so when the hardship its strict compliance produces is disproportionate, or even unjust absurd results, it seeks to achieve".

It directed the Principal of Kendriya Vidyalaya Air Force Station, Tambaram, to admit the student to Class VIII, granting relaxation only in terms of the age criterion, while ensuring that all other admission requirements remained unchanged. The court further clarified that this relaxation of the age criterion would be permitted only in exceptional circumstances like the present case. Additionally, the ruling would remain valid only until the first respondent appropriately amends its admission guidelines.

EWS reservation not merely an enticing promise but a sincere attempt to maintain equitable standards of education for all

Master Singham v. *Directorate of Education Govt. of NCT of Delhi Private School Branch Old Sett: Delhi through Director (Education)*[51] was a case pertaining misrepresentation of income statement to get admission in a school under EWS Category. Investigations also showed that there had been misrepresentation in the domicile as well as birth certificates. It was found that the petitioner's father consistently reported an income exceeding the EWS threshold. The question before the court were threefold: *one;* 'whether the petitioner obtained admission under the EWS Category in a mala fide manner and by engaging in

50 (1984) 4 SCC 27.

51 W.P.(C) 4006/2021 & CM APPL. 12085/2021, DoJ Dec. 5, 2023

fraud or misrepresentation'? *two;* Whether the scope of Article 226 of the Constitution of India, being equitable and discretionary, warrants invocation in favour of the petitioner in the given facts and circumstances? And *three*; whether the petitioner was afforded an effective hearing in congruity with the principles of natural justice, particularly the rule of *audi alteram partem?*

The single judge bench observed that the cancellation of the income and domicile certificates by the competent authorities remains unchallenged by the petitioner till date. The sole endeavour of the petitioner has been to contest the present matter by aggravating the technicalities to the status of substantial failure of justice. Therefore, the court found that the petitioner has tried to resort to the equitable jurisdiction of this court with tainted hands and therefore, the petition is liable to be straightforwardly rejected at this juncture only. However, taking into consideration that it is the third round of litigation preferred by the petitioner, this court deems it proper to delve into the merits of the case to satisfy its conscience and to meet the ends of justice. On the third question the single judge observed that:[52]

> The principles of natural justice are intended to infuse life into the promise of equal opportunity in the eyes of law and thus, could be said to be tacitly entrenched in the Constitution of India, including the Preamble. However, the practical application of these principles is not done in a mechanical or absolute manner. In fact, concept of natural justice was termed as an unruly horse, possibly to signify the dangers associated with mechanical application of the same.

Taking into account the facts of the present case, the single judge held that an opportunity of hearing, both in oral as well as in writing, was provided to the father of the petitioner.

The court dismissed the petition as it found the petitioner ineligible for EWS seats, emphasising that the entire case hinged on false income representation, making the fraudulent acquisition of domicile and birth certificates redundant in the absence of genuine income entitlement. The court observed:[53]

> the legislative intent behind the enactment of legislations in benefit of the economically marginalized sections was to ensure that the shackles of poverty are broken to help children from weaker sections to gain quality education. The EWS reservation in schools is, thus, not merely an enticing promise but a sincere attempt to maintain equitable standards of education for all in a multifaceted socio-economic structure. As the custodian of the constitution which seeks to weed out arbitrariness, this court cannot allow anyone to overwhelm the scheme of the welfare legislation in question by playing manoeuvres.

52 *Id*., para 76.

53 *Id.*, para 108.

Additionally, in order to ensure the effective implementation of the RTE Act and the 2011 Order in their true essence and to prevent misuse, as observed in the present case, the following directions were issued by Delhi High Court:

(i) The Government of NCT of Delhi shall review the prevailing economic conditions and other relevant factors to determine an appropriate increase in the current income threshold of 1 lakh per annum. This decision must be taken at the earliest, ensuring that the revised threshold aligns with the living standards of the intended beneficiaries. The criteria must be scientifically determined based on actual data.

(ii) Until this review is completed and the necessary amendment is made, the income limit under Clause 2(c) of the 2011 Order shall be raised to 5 lakhs, considering that most other states have set a threshold of approximately 8 lakhs.

(iii) These directions shall take immediate effect.

(iv) The self-declaration mechanism for eligibility must be abolished, and a structured framework must be introduced to ensure the proper allocation of free seats in schools, as mandated under Clause 6 of the 2011 Order.

(v) The Directorate of Education (DOE) must rigorously exercise its authority under Clause 5(e) of the 2011 Order to verify admissions periodically and ensure compliance with eligibility requirements.

(vi) To implement these measures effectively, the DOE shall develop a Standard Operating Procedure (SOP) for income verification and regular monitoring of the eligibility criteria.

IV MINORITY RIGHTS

India, as a secular democracy, guarantees special rights to minorities under the Constitution to protect their identity, culture, and educational institutions. Articles 29 and 30 of the Constitution safeguard the cultural and educational rights of minorities. Article 29 ensures that minorities can preserve their distinct language, script, and culture, while Article 30 grants them the right to establish and administer educational institutions of their choice.The Supreme Court has played a significant role in upholding minority rights. In *T.M.A. Pai Foundation* v. *State of Karnataka*,[54] the court ruled that minorities have the right to establish and administer educational institutions without excessive state interference. In *P.A. Inamdar v. State of Maharashtra*,[55] the court further clarified that the State cannot impose reservations in minority institutions.The high courts have also intervened in cases involving discrimination, denial of benefits, and infringement of minority rights. Courts have upheld the autonomy of minority institutions while ensuring that their administration remains fair and transparent. Judicial interpretations have consistently reinforced the constitutional vision of pluralism, ensuring that minorities enjoy equal rights and protection in India. The judiciary continues to play a key role in balancing minority rights with broader societal and

54 (2002) 8 SCC 481.

55 (2005) 6 SCC 537.

educational policies. The survey displays few important cases in the year 2023 which reinforced minority rights:

Forcing unaided professional institutions to adhere to State-imposed quotas or reservation policies constitutes a serious infringement on their autonomy and rights

In *Secretary Mar Chrysostom College of Education Malankara Avenue* v. *State of Tamil Nadu*[56] the petitioner, an unaided college of education, has filed this writ petition challenging the order issued by the first respondent, which denied its request for minority status based on Clause 8(v) of G.O.Ms.No.270, Higher Education (J1) Department, dated June 17, 1998.

According to the petitioner, the college is owned and managed by the registered trust "Diocese of Marthandam"[57]in Kanyakumari District, which operates 478 institutions. Established in 2006 to provide professional teaching education to the Christian community, the college was recognized by the National Council for Teacher Education (NCTE) – Southern Regional Committee on December 14, 2006, with an annual intake of 100 students. Initially affiliated with Manonmaniam Sundaranar University, the college has been under Tamil Nadu Teacher Education University since 2008. It is self-financed, and its educational agency, Diocese of Marthandam, is entirely administered by Roman Catholic trustees and governing body members. While operating as a Christian Minority Educational Institution, it does not discriminate based on caste, creed, or language.

The petitioner applied for minority status certification through a memorandum submitted to the second respondent on July 11, 2007, which was later forwarded to the first respondent. After submitting the required clarifications, the petitioner did not receive any response. Following continued communication between the college and authorities, the petitioner filed a writ petition[58] seeking a directive for the first respondent to act on its request. The high court allowed the writ petition on December 21, 2012, instructing the first respondent to decide on the application within 12 weeks. However, due to non-compliance, the petitioner filed a contempt petition[59] and while this petition was still pending, the impugned order was issued on 25.11.2013, rejecting the minority status on the grounds that the college had admitted over 50% minority students, allegedly violating Tamil Nadu Government guidelines.[60] The present writ petition challenges this rejection as arbitrary and unconstitutional.

The petitioner argued that the guidelines issued by the State Government in 1998 were formulated much before the Supreme Court rulings in *T. M. A. Pai Foundation*[61] and P. *A. Inamdar*.[62] Since the institution is unaided, the State

56 2023 SCC OnLine Mad 8301.
57 Document No. 123(IV), dated Oct. 23, 1997.
58 W.P.(MD) No. 16853 of 2012.
59 Contempt Petition No. 1208 of 2013.
60 G.O.Ms.No.270, dated June 17, 1998.
61 (2002) 8 SCC 481.
62 (2005) 6 SCC 537.

Government has no authority over the number of student admissions. The petitioner further contended that the government cannot impose a cap on the number of students from the minority community in an unaided minority institution, as the very purpose of granting minority status is to benefit and uplift students from that community. Additionally, it was asserted that the minority status of an institution is determined solely by the composition of its trust/management and not by the religious background of its students. Since the religious composition of students may vary each year, it cannot be used as a criterion for granting minority status to the institution. Instead, the government should encourage higher enrolment of students from the minority community rather than imposing restrictions.

The Additional Advocate General, representing the respondents, strongly argued that the cap on minority student admissions is intended to preserve the institution's minority status. If the admissions exceed this limit, it would be a clear violation of G.O.Ms.No.270, Higher Education Department, dated June 17, 1998. The counsel emphasized that since the petitioner has not challenged this government order, the present writ petition is not maintainable. Additionally, the petitioner has an alternative remedy of filing an appeal, and without exhausting that option, the writ petition cannot be entertained.

Further, the Additional Advocate General asserted that the state government order aligns with the Supreme Court's rulings in *T. M. A. Pai Foundation* and other later cases. He pointed out that the Supreme Court has recognized the state government's authority to verify and determine an institution's minority status under Article 30(1) of the Constitution of India. He argued that the petitioner cannot unilaterally declare itself a minority institution, as only the government has the power to confer such status. Moreover, the State has the right to impose conditions to preserve the institution's minority status and maintain educational standards. In light of these arguments, he urged the court to uphold the impugned order and dismiss the petition.

The Bench analyzed the *Pai Foundation* case[63] and *In Re Kerala Education Bill* case,[64]and concluded that nothing in these rulings supports the State's authority to regulate or control admissions in unaided professional institutions by compelling them to allocate a portion of seats to candidates selected by the State. Such an action would be equivalent to the nationalization of seats, a practice explicitly disapproved in the *Pai Foundation* case. The court emphasized that forcing unaided professional institutions to adhere to State-imposed quotas or reservation policies constitutes a serious infringement on their autonomy and rights. Such appropriation of seats cannot be justified as a regulatory measure for protecting minority rights under Article 30(1) or as a reasonable restriction under Article 19(6) of the Constitution. The judgment further stated that limited State resources for professional education do not justify forcing private institutions—which aim to offer superior education—to admit less meritorious candidates based on reservation policies. Since unaided institutions receive no financial support

63 (2002) 8 SCC 481.

from the State, they have the right to conduct their admissions independently, provided the process remains fair, transparent, non-exploitative, and merit-based. The Bench clarified that neither the majority nor minority opinions in the *Pai Foundation* case support the imposition of seat-sharing quotas or State reservation policies on unaided private professional institutions.

The Bench also referred to and relied on *Ashoka Kumar Thakur* v. *Union of India*,[65] which reaffirmed that the State has no authority to impose quotas or admission percentages in unaided minority professional institutions. These institutions enjoy complete autonomy in student admissions. In the *Ashoka Kumar Thakur* case, the Supreme Court upheld the constitutional validity of the 93rd Amendment, which introduced article 15(5), allowing the State to provide reservations for socially and educationally backward classes, scheduled castes, and scheduled tribes in both aided and unaided private institutions. However, the Parliament deliberately excluded minority institutions from the scope of article 15(5).[66] Thus, it is evident that even after the introduction of article 15(5), the State lacks the power to enforce reservation policies on minority educational institutions. The court observed that the State's insistence on capping minority student admissions at 50% is essentially an attempt to appropriate half of the seats and fill them based on reservation policies, which is not constitutionally permissible.

The granting of minority status to an educational institution is determined solely by the religion of its founders and management, not by the religion of the students enrolled. If minority status were based on student composition, it would fluctuate each year depending on admissions, thereby affecting the institution's status unpredictably. Therefore, setting a maximum limit on minority community admissions as a criterion for conferring minority status is legally unsustainable from any perspective.

The impugned order denying minority status reveals that the sole reason for rejecting the petitioner college's request for minority status was that the admission of minority students exceeded 50% in the previous academic year. Based on above reasoning the court set aside the impugned order and directed the first respondent to grant minority status to the petitioner college as a Christian Minority Educational Institution. However, the court suggested the authorities to verify the current religious status of the trustees or governing board members before issuing the final order if it so desires.

64 [1959]1SCR995.

65 (2008) 6 SCC 1138.

66 Art. 15(5): Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.

The Right to Education (RTE) Act will not be applicable to aided or unaided minority schools

The High Court of Telangana in *Little Flower High School* v. *Gowtham Sagar*[67] while re- affirming *the* rulings of the apex court that Right to Education Act, 2009 will not apply to unaided educational institution ensured that education to a student is not denied.

The case pertains to denial of permission to a student of class III in attending online classes and later denying him to appear in the final exam for lack of attendance. This was done because due to the onset of the COVID-19 pandemic, his father was unable to pay the school fees. Aggrieved by this, the student's father filed a complaint before the Telangana State Human Rights Commission.[68] The school later in its response claimed that the provisions of the Act did not apply to Minority Unaided Educational Institutions. The Deputy Educational Officer in its report[69] submitted that the school's response was irrelevant as per the rules and proceedings on November 30, 2022 and stated that the Act's provisions apply to all schools, including Unaided Minority Institutions, and directed the school to promote the student to Class-IV under Section 16 of the Act.

The school challenged this order[70]while the student filed a writ petition[71] contesting the school's failure to implement the proceedings. A single judge disposed of both writ petitions through a common order, dismissing the school's petition and allowing the student's petition, thereby directing the school to promote the student to Class-IV immediately.

Being aggrieved, the school filed a petition[72] against the order.[73] During the proceedings, the appellant's counsel conceded, stating that, given the peculiar facts of the case, the student would be admitted to Class-IV as a one-time measure. The Division Bench, comprising Chief Justice Alok Aradhe and Justice T. Vinod Kumar noted this submission and directed that the student be promoted to Class-IV and allowed to continue his studies. However, the Bench clarified that this order should not be treated as a precedent, as it was based solely on the concession made by the appellant's counsel in this particular case. Referring cases of apex

67 Writ Appeal No. 657, 661 of 2023.

68 The Commission directed the District Educational Officer (DEO) to take action and submit a report. The DEO, in turn, instructed the Deputy Educational Officer to conduct an enquiry. On 26.09.2022, the Deputy Educational Officer issued a show cause notice to the school, questioning why the student was detained in Class-III in violation of the Act. However, the school did not respond, leading to a reminder notice on Oct.25, 2022. The school claimed that the provisions of the Act did not apply to Minority Unaided Educational Institutions.

69 Report dated Oct 27, 2022.

70 In W.P.No.45920 of 2022,

71 In W.P.No.3372 of 2023.

72 W.A.No.657 of 2023.

73 Order issued in W.P.No.3372 of 2023 and W.A.No.661 of 2023 against the order in W.P.No.45920 of 2022.

court in *Society for Unaided Private Schools of Rajasthan* v. *Union of India*[74] *and Pramati Educational and Cultural Trust*[75] the court decided that the provisions of the Act do not apply to the minority unaided educational institutions.

V ADMINISTRATION OF EDUCATIONAL INSTITUTIONS

The administration of educational institutions in India is governed by a combination of constitutional provisions, statutory laws, and judicial rulings. The Right to Education (Article 21A), Articles 29 and 30 ensure access to education while protecting the rights of minority institutions. The University Grants Commission (UGC), All India Council for Technical Education (AICTE), National Medical Commission (NMC), Bar Council of India and various other councils regulate higher education while state and central education boards oversee school education. The Supreme Court and high courts have also played a crucial role in defining the autonomy of educational institutions and balancing state regulation. Constitutional courts frequently intervene in cases related to fee regulation, admission policies, faculty appointments, and recognition of institutions. Courts have upheld transparency, fairness, and merit-based admissions while preventing excessive government interference.Judicial oversight ensures that educational institutions maintain quality, uphold constitutional values, and function within the legal framework, balancing autonomy with accountability. Some important ruling of the year 2023 are as follows:

The anxiety of the Internal Complaints Committee (ICC) of being fair and swift to the victims of sexual harassment should not end up causing them greater harm

Year 2023 witnessed an important judgment *i.e., Aureliano Fernandes* v. *State of Goa*[76] the Supreme Court of India noted that even a decade after the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act), its implementation remains inadequate.[77] To address this issue, the court issued several directives for its effective enforcement. The POSH Act mandates that all employers with 10 or more employees shall establish an internal committee to handle sexual harassment

74 (2012) 6 SCC 1.

75 (2014) 8 SCC 1.

76 2023 SCC OnLine SC 621.

77 The appellant Aureliano Fernandes commenced his career in the respondent no. 2 – Goa University as a Temporary Lecturer in the Department of Political Science, in the year 1996. An inquiry was initiated against him by the internal complaints committee constituted by Goa University after it received multiple complaints against the Appellant from female students, alleging sexual harassment. Due to his alleged absence in inquiry proceedings the ICC passed an *ex-parte* order against the Appellant and recommended that his act has amounted to grave misconduct and therefore his services be terminated by the University. In view of the gravity of the charges levelled against him, the Appellant was terminated from his services and was disqualified from future employment at the University. This order was challenged in the High Court of Bombay (Goa Bench) which approved the proceedings of the ICC and the subsequent decision of the university. Aggrieved by the high court judgement, Aureliano Fernandes approached the Supreme Court.

complaints and outlines the procedure for conducting inquiries. However, the Supreme Court found that the inquiry in this case was conducted in undue haste, depriving the appellant a fair opportunity to participate, despite absences due to medical reasons. The court ruled that the rushed proceedings violated natural justice, quashed the high court's decision, and directed a fresh inquiry by the internal committee in accordance with due process.

This case highlighted significant shortcomings in the enforcement of the POSH Act. The court emphasized that while the legislation is well-intended, it cannot achieve its purpose of ensuring dignity and respect for women in the workplace without strict compliance and proactive enforcement by both state and non-state actors. The court observed: [78]

> When the legitimacy of the decision taken is dependent on the fairness of the process and the process adopted itself became questionable, then the decision arrived at cannot withstand judicial scrutiny and is wide open to interference. It is not without reason that it is said that a fair procedure alone can guarantee a fair outcome. In this case, the anxiety of the Committee of being fair to the victims of sexual harassment, has ended up causing them greater harm.

Consequently, the Supreme Court issued specific guidelines to strengthen the implementation of the POSH Act.

i. The Union of India, State Governments, and Union Territories must conduct a time-bound verification to ensure that all Ministries, Departments, Public Sector Undertakings, statutory bodies, and institutions have constituted Internal Committees (ICs), Local Committees (LCs), or Internal Complaints Committees (ICCs) in strict compliance with the PoSH Act.

ii.All relevant authorities and organizations must make information regarding the constitution and composition of these committees, contact details of designated personnel, procedures for filing complaints, and relevant rules and policies readily available on their official websites and update them regularly.

iii. Statutory bodies governing professionals (such as doctors, lawyers, architects, engineers, accountants, and bankers), universities, colleges, training centers, and hospitals—both government and private—must conduct a similar verification process.

iv. Authorities, management, and employers must take immediate steps to ensure that IC/LC/ICC members are well-trained in handling sexual harassment complaints, from receiving a complaint to conducting a fair inquiry and submitting reports.

v. Regular workshops, seminars, and awareness programs must be conducted to train committee members and educate women employees and workplace groups about the PoSH Act, Rules, and relevant regulations.

78 *Supra* note 76 at para 74.

vi. NALSA (National Legal Services Authority) and State Legal Services Authorities must create training modules and organize awareness programs for management, employers, employees, and adolescents on the PoSH Act. These programs must be incorporated into their annual calendars.

vii. The National Judicial Academy and State Judicial Academies shall integrate orientation programs, seminars, and workshops into their annual calendars to enhance the capacity of Internal Committees (ICCs), Local Committees (LCs), and Inquiry Committees (ICs) established in High Courts and District Courts. Additionally, they shall focus on drafting Standard Operating Procedures (SOPs) for conducting inquiries under the PoSH Act and its Rules.

viii. A copy of the judgment shall be sent to the Secretaries of all Ministries of the Government of India, who must ensure compliance with the directions by all relevant Departments, Statutory Authorities, Institutions, and Organizations under their jurisdiction. Similarly, the Chief Secretaries of all States and Union Territories must guarantee strict adherence to these directives by all concerned departments. The Secretaries of Ministries and Chief Secretaries of States/UTs shall be responsible for implementing the issued directions.

ix. The Supreme Court Registry shall forward a copy of the judgment to the Director, National Judicial Academy, Member Secretary of NALSA, Chairperson of the Bar Council of India, and Registrar Generals of all High Courts. Additionally, copies shall be sent to professional regulatory bodies, including the Medical Council of India, Council of Architecture, Institute of Chartered Accountants, Institute of Company Secretaries, and Engineering Council of India, for implementation of the directives.

x. The Member-Secretary of NALSA shall forward a copy of the judgment to Member Secretaries of all State Legal Services Authorities. Likewise, Registrar Generals of state high courts shall ensure transmission of the judgment to directors of state judicial academies and principal district judges/district judges in their respective states.

xi. The Chairperson of the Bar Council of India and other apex bodies mentioned in point (9) shall further disseminate copies of the judgment to state bar councils and other relevant state-level councils.

Teaching in an open university may differ significantly from traditional university teaching but teachers/other academic staff in open university are entitled to the same retirement age and career advancement scheme as "teachers"

In a significant case of *T.R. Srinivasan* v. *Indira Gandhi National Open University*,[79] the High Court of Delhi provided relief to four employees of Indira Gandhi National Open University (IGNOU) classified as "other academic staff" by ruling that they were entitled to the same retirement age and Career Advancement Scheme as "teachers."

79 2023 SCC OnLine Del 7828.

The petitioners argued that IGNOU had wrongfully categorized them, leading to disparities in employment conditions, particularly in retirement age, career progression, and seniority. They contended that their responsibilities—including course development, instructional material preparation, project work, and thesis supervision—were identical to those of teachers. Citing statutory provisions under the IGNOU Act, they asserted that their employment conditions should be the same as those of teachers. Additionally, they highlighted previous circulars that had aligned their retirement age with that of teachers and extended the Career Advancement Scheme to them. Alleging discrimination, arbitrariness, and constitutional violations, they sought relief, including continuation of service until the age of 65, back wages, notional promotions, seniority benefits, and post-retirement entitlements.

A Bench of Justice Anup Jairam Bhambhani observed that:

> the petitioners who were members of the Regional Services Division, and were referred to as "other academic staff" to begin with, were subsequently re-designated as "teachers"; and are therefore entitled to the same retirement age and career advancement scheme as "teachers". It must be emphasised, that in the present case, the petitioners are not claiming equivalence to "teachers" based on the role or function that they performed.

The court acknowledged that the petitioners were indeed engaged in teaching, emphasizing that their role involved pedagogy, *albeit* in a format specific to an open university. It further noted that teaching in an open university differs significantly from traditional university teaching, as distance education pedagogy includes activities such as content delivery, student support services, performance evaluation, system development, program assessment, planning, and the creation of audio-visual materials. The court also highlighted that the role of an academic in distance education extends beyond conventional classroom teaching, encompassing responsibilities as a distance educator, subject specialist, and experienced professional.

As a sequitur to the above discussion, the petition is allowed; thereby, holding that all four petitioners are/were entitled to continue in service and superannuate at the age of 65 years.[80]

A writ court cannot assess the validity of the show cause notice or allegations in the chargesheet

80 As petitioners 1 and 2 had retired in 2012 and 2014, respectively, and have now exceeded the age of 65, the court ruled that they are entitled to receive all financial and pensionary benefits, along with full back wages. These benefits should be provided as if they had retired at the age of 65, including entitlements under the university's Career Advancement Scheme. As petitioners 3 and 4 have not yet reached the retirement age of 65, the court directed the university to reinstate them until they attain the prescribed superannuation age. Additionally, it was clarified that they are entitled to all financial, pensionary, and monetary benefits, including full back wages and benefits under the university's Career Advancement Scheme, without any interruption in their service tenure.

This ruling was given by the High Court of Delhi in a Letters Patent Appeal[81] *Ruchika Rai Madan* v. *Directorate of Education*[82]which assailed the judgment dated August 17, 2023 passed by the learned Single Judge in " *Ruchika Rai Madan* v. *Directorate of Education*."[83]

Factual matrix to the extent necessary and relevant is that pursuant to an advertisement issued by the Society for appointment to the post of Principal in the schools run by it, petitioner made an application. After being successful in a rigorous round of interview on May 9, 2015 as well as after verification of her documents, including educational and experience certificates, petitioner was offered appointment[84] and was directed to join duty immediately by reporting to the Director of the Society at the earliest. Due to allegations of false certificate and unauthorised leave in the year 2016, a dispute arose and matter reached to the High Court of Delhi.[85]

The division bench concurred with the learned single judge's view that if the appellant's credentials submitted to the respondent-Society during the appointment process as Principal were genuine, there would be no reason for the appellant to object to an inquiry. The appellant's resistance to such an inquiry, even if based primarily on technical grounds, raises doubts about the authenticity of the documents. However, the bench refrained from making further remarks on the documents to avoid prejudicing either party's case.

Moreover, the appellant's challenge in the writ petition against the suspension order, show cause notice, and chargesheet is generally not maintainable under a writ petition filed under Article 226 of the Constitution of India. The court also noted that a writ court cannot assess the validity of the allegations in the chargesheet, making a challenge to such notices or the chargesheet itself ordinarily untenable. In this regard, reliance was placed on the Supreme Court's judgment in *Union of India* v. *Kunisetty Satyanarayana,*[86] which held that a mere show cause notice or chargesheet does not infringe upon an individual's rights and thus cannot be challenged through a writ petition.

81 Appeal filedunder clause X of Letters Patent Act,1866

82 2023 SCC OnLine Del 5088.

83 W.P.(C) No.1138/2023.

84 Vide letter dated Sep. 11, 2015 in pay band 15600-39100 with Grade Pay Rs.7600/-.

85 The petitioner joined duty on the same day and submitted a joining letter dated Sep.11, 2015. Through a letter dated Nov. 12, 2015, the Society confirmed that the petitioner had reported for duty on Sep.11, 2015. However, disregarding the petitioner's response, the Society terminated her services through an order dated Sep.9, 2016, despite her clarification that any action should be in accordance with DSEAR and that the allegations against her were unfounded. Upon finding merit in the petitioner's claim that the certificates and testimonials she submitted were authentic, the Society issued an order on Nov. 07, 2016, unconditionally revoking the termination and reinstating her with immediate effect. While the dispute over the petitioner's salary and allowances was still unresolved, the Society issued a suspension order on Oct. 19, 2022, followed by a show cause notice on Nov. 16, 2022 and a charge sheet on Jan. 06, 2023, which are now being challenged in the present petition.

86 2006 (12) SCC 28.

Regulating the conditions of service including procedure for disciplinary action would not offend the Article 30 of the Constitution of India even though it does indirectly impact the management of the institution

The High Court of Delhi in *C.S. Clarke* v. *Managing Committee of the Frank Anthony Public School*[87] *w*as tasked with addressing two key questions: *first,* whether Rule 118 of the Delhi School Education Rules, 1973,[88] which mandates the inclusion of a nominee of the appropriate authority[89] in the Disciplinary Committee, applies to unaided minority schools; and *second,* whether Rule 120 of the DSE Rules, which requires approval from the Director of Education for imposing a major penalty, is applicable to such schools.[90]

The court was of the view that the management and administration of an institution encompass various responsibilities, including the oversight of human resources. Disciplinary action against employees is undeniably a management function. While regulations can be established to ensure a fair disciplinary process, it would be impermissible to transfer this authority from the institution's management to an external body. As observed by the Supreme Court in *State of Kerala* v. *Very Rev. Mother Provincial*,[91] no aspect of an institution's management can be taken away and assigned to another body without infringing upon its constitutionally protected rights. However, the State may regulate certain aspects, such as teachers' employment conditions and student welfare, including health and hygiene. Regulations governing service conditions—such as pay scales and disciplinary procedures—do not violate Article 30 of the Constitution, even if they indirectly affect institutional management. That said, the State cannot delegate any core management and administrative functions of a minority institution to an external entity. Human resource management is a fundamental aspect of administration, and providing employees with access to an independent adjudicatory body for redress against unfair disciplinary actions is a substantive right. Denying such a remedy to employees of minority institutions has been held to violate the equal protection clause of the Constitution.

In view of the above, the court expressed its inability to agree that the disciplinary action against the appellant is vitiated on account of a disciplinary committee not comprising of a nominee of the appropriate authority in terms of

87 2023 SCC OnLine Del 5749.

88 'The DSE Rules.

89 In this case, Administrator of the Union Territory of Delhi.

90 The appellant was employed at Frank Anthony Public School, an unaided minority institution. Following an inquiry by the school's Disciplinary Committee, which found him guilty of "grave misconduct," he was dismissed from service. The appellant contends that the inquiry was flawed and his dismissal unlawful, as the Disciplinary Committee was not constituted in accordance with Rule 118 of the DSE Rules. Additionally, he argues that his termination violates Rule 120 of the DSE Rules, as prior approval from the Directorate of Education (DoE) was neither sought nor obtained.

91 AIR 1970 SC 2079.

Rule 118 of the DSE Rules. Hence, the appeal was found unwarranted and the same was dismissed.

VI CONCLUSION

The Survey of Education Law 2023 highlights the evolving legal landscape governing education in India, shaped by significant rulings from the Supreme Court and high courts. The judiciary has reinforced key principles such as inclusive education through affirmative action, the Right to Education, autonomy of educational institutions, minority rights, fee regulation, and reservation policies.Decisions in 2023 have continued to balance state regulation with institutional autonomy, ensuring that educational policies remain aligned with constitutional values of equity, accessibility, and quality. Courts have also played a crucial role in clarifying admission procedures, employment conditions of teachers, and governance structures of both public and private institutions.As education remains a fundamental pillar of social and economic progress, judicial oversight ensures that laws adapt to emerging challenges while safeguarding students' and educators' rights. The rulings of 2023 reaffirm the judiciary's commitment to inclusive, transparent, and accountable education policies, paving the way for continued legal and policy advancements in the sector.

On aspects dealing with inclusive education and affirmative action, constitutional courts reaffirmed the constitutional vision of equity, justice and quality education. In *Veena Vadini Teachers Training* v. *The State of Madhya Pradesh,*[92] the apex court elucidated that while resident-based reservations are legally permissible, an excessive reservation of 75% would result into wholesale reservation. Another bench led by Chief Justice D.Y. Chandrachud in *Arnab Roy* v. *Consortium of NLUs*[93] directed *CLAT* Consortium to ensure that visually impaired candidates are not deprived of necessary accommodations during the CLAT 2023. While High Court of Delhi expressed concerned over the incongruity in the understanding of different departments regarding the mandate under RPwD Act,[94] the High Court of Bombay gave an important ruling on rights of person with disability in *Zill Suresh Jain* v. *The State CET Cell.*[95]

The survey observed a lot of important verdicts dealing with right to education. The bench comprising Justice Aniruddha Bose and Justice Sudhanshu Dhulia in *Devesh Sharma* v. *Union of India*[96] held that any compromise on the 'quality' of primary education would ultimately result in going against the very objective of Article 21A of the Constitution of India and the RTE Act. The High Court of Karnataka[97] ruled that *s*tate cannot regulate fees for private unaided schools,

92 2023 SCC OnLine SC 535.

93 2023 SCC OnLine SC 484.

94 *Court on its Own Motion* v. *Kendriya Vidyalaya Sangathan* 2023 SCC OnLine Del 6993.

95 2023 SCC OnLine Bom 1269.

96 [2023] 11 S.C.R. 167.

97 *Rashmi Education Trust Vidyaniketan School* v. *State of Karnataka* Writ Petition No. 6313 of 2017. DoJ Jan. 5, 2023.

emphasising the importance of considering quality education and personal development while setting fees. The High Court of Delhi in an important ruling[98] while trying to balance the rights of a child to educationwith the rights of the school under the DSER, 1973[99] observed that: "a child cannot be made to suffer and not be allowed to attend classes or barred from taking examinations in the middle of an academic session on the ground of non-payment of fees." The same high court also ruled that right to admit students of their choice by the Private Educational Institutions is subject to an objective and rational procedure of selection.[100] In another case High Court of Delhi [101] ruled that right to education cannot be restricted based on bus routes or area pin codes, especially when such criteria were not mentioned in the admission notification, nor available on the school's website or in the public domain. The High Court of Delhi [102] ruled in another important case that if seats remain available under the EWS/DG quota, the Directorate of Education (DOE) should allocate them to eligible applicants, even if they do not strictly meet the neighbourhood requirement. The High Court of Madras[103] ruled that the State Government is responsible for covering all expenses incurred by Economically Weaker Section (EWS) and Disadvantaged Group (DG) students admitted under the Right of Children to Free and Compulsory Education (RTE) Act. This Court delivered another important ruling[104] and held thatEWS reservation is not merely an enticing promise but a sincere attempt to maintain equitable standards of education for all. The High Court of Madras also ruled that forcing unaided professional institutions to adhere to State-imposed quotas or reservation policies constitute a serious infringement on their autonomy and rights.[105] The High Court of Gauhati in an important verdict[106] directed the Secretary of the Department of School Education to facilitate the admission of 49 children whose applications remain pending under the Right of Children to Free and Compulsory Education Act, 2009, in various schools across Assam. The High

98 *Master Prabhnoor Singh Virdi (Minor Son) through Father Karamjeet Singh Virdi (Father)* v. *The Indian School &anr.* W.P.(C) 584/2023. Decided on Jan. 17, 2023.

99 Delhi School Education Rules, 1973 (in short 'DSER').

100 *Ayan Jorwal (Minor) Through Father Dinesh Kumar Meena* v. *Govt. of NCT of Delhi* W.P.(C) 348/2023 and CM APPL. 1358/2023, Decided on April 17, 2023.

101 *Aahana* v. *Sanskriti School* W.P.(C) 3939/2021 and CM Appl.11847/2021.DoJ 03 July 2023.

102 *Tarun Kumar* v. *The Principal Happy Hours School* W.P.(C) 7953/2023 & CM APPLs. 30622-30623/2023, Decided on May 31, 2023.

103 *M. Suveathan* v.*The State Commission for Protection of Child Rights* W.P. NO. 4615 OF 2022, Decided on Apr. 18, 2023.

104 *Shreya Bhattacharya* v. *Kendriya Vidyalaya Sangathan105 which established and easy and hassle-free education. Master Singham* v. *Directorate of Education Govt. of NCT of Delhi Private School Branch Old Sett: Delhi through Director (Education) and another* W.P.(C) 4006/2021 & CM APPL. 12085/2021.Decided on Dec. 5, 2023.

106 *Secretary Mar Chrysostom College of Education Malankara Avenue* v. *State of Tamil Nadu* 2023 SCC OnLine Mad 8301.

Court of Telangana [107] held that the Right to Education (RTE) Act will not be applicable to aided or unaided minority schools.

Apex court in an important ruling noted that even a decade after the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act), its implementation remains inadequate.[108] The High Court of Delhi [109] while providing relief to four employees of Indira Gandhi National Open University (IGNOU) who were classified as "other academic staff" ruled that they were entitled to the same retirement age and Career Advancement Scheme as "teachers." Another bench of High Court of Delhi also held that a writ court cannot assess the validity of the show cause notice or allegations in the chargesheet.[110] In another important ruling, High Court of Delhi [111]held that regulating the conditions of service including procedure for disciplinary action would not offend the Article 30 of the Constitution of India even though it does indirectly impact the management of the institution.

The survey demonstrates the commitment of our courts emphasizing the need for a rights-based, inclusive, and forward-looking approach to education. As India marches toward becoming a knowledge-driven economy and a global leader, a robust and equitable legal framework for education will remain indispensable for realizing its democratic and developmental aspirations.

107 *We for Guwahati Foundation* v. *The State of Assam & 23* PIL/30/2023, Decided on May 31, 2023.

108 *Little Flower High School* v. *Gowtham Sagar*Writ Appeal No. 657, 661 of 2023.

109 *Aureliano Fernandes v. State of Goa & Others* 2023 SCC OnLine SC 621.

110 *T.R. Srinivasan and Others v. Indira Gandhi National Open University and Others*, 2023 SCC OnLine Del 7828.

111 Ruchika Rai Madan v. Directorate of Education and Others Appeal filedunder clause X of Letters Patent Act,1866

112 *C.S. Clarke v. Managing Committee of the Frank Anthony Public School and Others* 2023 SCC OnLine Del 5749.