

**PETITION TO HONBLE MINISTER OF HUMAN RESOURCES DEVELOPMENT
GOVT OF INDIA**

MAY 6 2015

Dear Madam,

The Right to Education Act 2010 after its promulgation has resulted in a very undesirable situation on the ground. The law which should have ideally restricted itself to the public schooling domain unfortunately is threatening to wreck the private sphere. The legal pronouncements such as the latest judgment in *Pramati Edu Society & Ors vs Union of India* (May 2014) has even exempted aided minority schools from the act.

The law has problems at the conceptual level. The “Right to Education” is put forward as a judicially enforceable legal right – but one that can be asserted against private individuals and entities. The appeal is in the imagery of a poor servant child rubbing shoulders with this masters children. However, this is ultimately about vanity – because not all “poor” children can be accommodated in this manner. So there is a lottery envisaged where a tiny fraction of kids are picked to satisfy the need for vanity. Besides except in the most high end schools this is not even a valid distinction, they draw students from working classes that are much more bunched together.

To make matters worse, the judicial doctrines in India have evolved to a peculiar point where minorities (non Hindus) are practically granted immunity from any regulation, except those related to public safety, contracts, and syllabi. The UPA govt enshrined this by passing the 93rd Amendment which over ruled TMA Pai (which granted autonomy to private higher education and also parity between minority management and Hindus). Even if the education sector is not supposed to be commercial, it is nevertheless a competitive one. Both non minorities and minorities draw students from the same population. Combine the two threads above – that of asserting positive rights against private entities and the minority exemption – you have a wholly unstable law.

Honest efforts to implement this law arent working in state after state. The law which is flawed at conceptual level is in addition extremely poorly drafted. Key issues such as the all important issue of cross subsidy are papered over. The exact definitions and rationale for so called “disadvantaged” and “economically weaker” are ambiguous. What happens when a EWS fortunes change or if a paying student falls on harder times ? Would the cross subsidy still flow ? On the other hand the penalties are minutely stipulated – 1Lakh fine and 10,000 per month for flouting this or that provision. The new Maharashtra Govt fumble over the issue of Pre-KG admissions is a case in point. You may also recall earnest efforts in Delhi Nursery Admission lead to a 6 month turmoil in 2014 – resulting in sleepless nights and dozens of litigation until a point of fatigue.

Your government is rightly skeptical of international think tanks, NGOs, and education activists. In fact, we even have an umbrella organization of 10,000 education NGOs. They are trying to preserve the RTE in some form or another. There are many reports of them filing court cases on behalf of free seat aspirants. We are afraid the tighter the law is implemented the faster the Hindu non-minorities will exit this sector.

Lost in all this is the important issue of equitable access. There are many ways to solve that but the twin pillars of equality before law and the avoidance of cross subsidy is even more important. Equitable access can be achieved in other ways. One way is to allow school managements to retain their autonomy over nominating 'disadvantaged' and to use the RTE seats as a scholarship or voucher – so that the kids pay the balance. Another option is to restrict RTE in private schools only when there are no government or aided schools in the vicinity.

Ultimately sectarianism (religious discrimination) in education must be removed in this country. No community has the right to be established *by the state* as the preferred educationalists no more than any community has the right to be established as preferred engineers or doctors or actors or sportsmen.

I represent thousands of highly informed social media personalities and also have representations from various parents and schools. This is a burning problem and we have full trust and will extend all possible help to you to mitigate it.

We are also following your key program – the New Education Policy. We are confident that a fresh look at the education sector which is long overdue has the best chance under your leadership.

Thank you

(on twitter as @realitycheckind)
(and thousands of concerned citizens on social media)