RTE in Private Schools

Why in News?

The Bombay High Court recently quashed Maharashtra's rule exempting private schools within one kilometer of government schools from reserving 25% seats for weaker sections as per Right to Education.

Why there is a trend of exempting RTE mandate in private schools?

- **Right to education –** Every child of the age group of ***6 to 14 years*** shall have the right to free and compulsory education in a neighbourhood school till the completion of his or her elementary education.
- It mandated by
  - **Indian Constitution** - *Article 21A* of Fundamental Rights
  - **Legal provision** – The Right of Children to Free and Compulsory Education (RTE) *Act, 2009*.

To know more about Right to Education, click here

- **RTE mandate in private schools** – It is dealt by Section 12(1)(C) RTE Act.
- **Section 12 (1)(C)**- It mandates *25% reservation of seats to children from socio-economically backward sections* in private schools.
- Students admitted under this quota are given *fee concessions*, with the *state government meant to reimburse* private schools for the same.
- **Significance –** It strives to bring parity and equality of opportunity for all children.
- **Exemptions** – The private schools ***within a one km radius of a government or government-aided school*** would not have to set aside 25% of seats for students from disadvantaged backgrounds.
- Instead, students in these neighbourhoods *considered for admission into said government* or government-aided schools first.
- This exemption also applied to private schools established in the future satisfying the requisite criteria.

Previously, Kerala in 2011 and Karnataka in 2018 had also exempted private schools from following the 25% Quota under Right to Education.

- **Reasons for exemption** – Allowing admission to private schools near the vicinity of government or government aided schools *reduce the enrolment in government/ aided schools.*
- Private schools and teachers' organisations have also highlighted that state governments have often *failed to reimburse the fees* for students admitted through this

quota.
    - In 2023, the Maharashtra English School Trustees Association (MESTA) threatened to boycott RTE admissions citing *pending payments of Rs 1,800 crore in reimbursements.*
- **Judiciary** – The Bombay High Court had quashed and set aside the Government of Maharashtra notification of exempting private schools.
- It held that the provision was "*ultra vires (beyond legal authority) of RTE Act, 2009 and Article 21* of Constitution and declared the notification to be 'void'.
- It noted that "Section 12 (1) (c) of the RTE Act casts a duty on every unaided school *irrespective of its distance* from the government/aided schools" and the same is 'unconditional.'
- While state government argued by noting to 'save public money' as it is already spending substantial amounts on expenses for state-run and private schools, the HC noted that the *financial constraint cannot come in the way of statutory mandates.*

What are called as neighbourhood schools?

- **Neighbourhood school** – It is a school *located within the defined limits or area of neighbourhood*, as notified by the state government under the RTE rules.
- It relates to the availability of a school within safe and accessible distance from the habitation where a child lives.
- It means the nearest primary/upper primary school within walking distance from the child's residence.
- **Legal provisions** – Section 3(1), 6, 8(b), 9(b), 10, 12(1)(C) of RTE Act deals with neighbourhood schools.
    - **Central RTE Rules** - It contain the position of the Central Government in regard to neighborhood school which is applicable to Union territories without legislature for opening new schools.
    - **State/UT Rules** – It is applicable in all other states and UT's.
- **Distance parameters** – The central RTE Rules have notified the area or limits of neighbourhood to factor in distance norms of
    - **1 kilometer** – For children in *classes I-V*
    - **3 kilometer** – For children in *classes VI-VIII*
- **Distance relaxation** – In places with difficult terrain where there may be risk of landslides, floods, lack of roads and in general, danger for young children in the approach from their homes to the school.
- **Implementation** – The Government has to ensure availability of neighbourhood schools for all children within ***3 years of the implementation*** of the Act.
- **Importance** – According to RTE Act, it is meant to be a *site for inclusion*, so that the school becomes a *common space for education*, and children's education and schooling does not get differentiated on caste, ethnic group and class lines.
- **Freedom of choice** – The RTE Act does not restrict the choice of the child to seek admission in school which may not be in immediate vicinity, or the neighbourhood of the child's residence.

What lies ahead?

- Establish a streamlined and transparent process for reimbursing private schools for RTE quota students.
- Ensure all schools have basic facilities such as functional toilets, boundary walls, and adequate classrooms.
- Develop a standardized framework for the implementation of RTE provisions to ensure consistent quality of education across all states.

References

1. The Indian Express| Court Quashes RTE exemption of Private School
2. Education.Gov.In| Neighbourhood Schools of RTE Act

