



IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO. \_\_\_\_\_ OF 2026  
@ DIARY NO. 60657 OF 2024

**LUCKNOW PUBLIC SCHOOL, ELDICO AND ANR. ...PETITIONER(S)**

**VERSUS**

**THE STATE OF UTTAR PRADESH & ORS. ...RESPONDENT(S)**

**J U D G M E N T**

1. Delay condoned.
2. This is yet another occasion for us to reiterate the constitutional and statutory obligation of a 'neighbourhood school' to give admission to students forwarded by the State Government without any delay. Such an obligation is consistent with the constitutional philosophy<sup>1</sup>, Section 12 of the Right of Children to Free and Compulsory Education Act, 2009<sup>2</sup>, as well as Rule 8 of the U.P Right of Children to Free and Compulsory Education Rules, 2011<sup>3</sup>. For the reasons to follow, we have affirmed the

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Jayant Kumar Arora  
Date: 2026.04.28  
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Reason:

<sup>1</sup> Article 21A.

<sup>2</sup> Hereinafter referred to as 'RTE Act, 2009'.

<sup>3</sup> Hereinafter referred to as the 'UP RTE Rules, 2011'.

direction of the High Court to grant admission to the respondent without any delay.

3. The facts leading to filing of the present Special Leave Petition are that the respondent no. 5 ('student') applied to the Basic Education Department, State of Uttar Pradesh, for admission into pre-primary class in a neighbourhood school in accordance with the procedure prescribed under UP RTE Rules, 2011 for the year 2024-25. The student was duly selected, and the published list containing her name was sent to the petitioner school for admission into the pre-primary class.

4. On being selected and allotted to the petitioner school, the student approached the school for completing the admission formalities, but she was neither given admission nor permitted to attend the classes on the ground that there is some uncertainty about the student's eligibility. Under these circumstances the student preferred a writ petition<sup>4</sup> praying for a direction to the State and other authorities for granting admission into the petitioner school. High Court allowed the writ petition primarily on the ground that schools cannot sit in appeal over a decision taken by the State Government. The relevant portion of the impugned order is as follows:

*"8. Bare perusal of the Rules would indicate that in Chapter 4 the responsibility of schools and teachers have been provided wherein under Rule 7, the Schools are mandated to ensure that the children admitted in pursuance of Clause (c) of Section 12(1) of RTE Act, 2009 shall not be segregated from other children in the classroom nor shall their classes be held at place entirely*

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<sup>4</sup> WRIT - C No. - 6121 of 2024.

*different from classes held for other children and that such children are not discriminated from the list of the children and record of all such children has to be maintained by the schools. Rule 8 of the Rules of 2011 further provides that the process of admission of children shall be totally transparent and details of such children shall be maintained on a public website. It has further been provided that out of the total applicants, all the children who apply for admission but are not admitted for whatever reason shall be informed in writing with the reasons thereof and further it shall be binding for the school to follow the process of admission prescribed by the State Government from time to time.*

*9. Considering the entire scheme of the Act and Rules made thereunder, it is noticed that once the process of admission is completed and application forms have been duly scrutinized and list is prepared allocating the children the school and the said list being forwarded to the said school, the school has no option except to grant admission to the students.”*

5. There is no gainsaying in stating that the right to education, a fundamental right guaranteed under Article 21A of the Indian Constitution, will remain an empty promise if the mandate of the RTE Act, 2009 is not worked out in its letter and spirit. Under Section 38 of the RTE Act, 2009, States are empowered to notify rules for carrying out the provisions of this Act. Exercising this power, the State of Uttar Pradesh notified UP RTE Rules, 2011, containing various measures for admissions to ‘neighbourhood’ schools – encompassing regulations from the stage of admission to completion of elementary education.

6. The process of admission of children and reimbursement of their education is governed by Rule 8 of the UP RTE Rules, 2011, which is extracted below for ready reference:

**“8. Admission of children and reimbursement of per-child expenditure by the State Government**

*(1) The process of admission of children referred to in clauses (b) and (c) of section 12 (1) shall be totally transparent. The detail of such children applying for admission shall be maintained by the school regularly, which shall include the name, address, sex, caste, date of birth of the child and the name, address, occupation and monthly income of father/mother/guardian, detail of whether child belongs to weaker section or disadvantaged group. Such information shall be made public through website. Out of the total applicants, all the children who applied for admission, but not admitted for whatsoever reason, shall be informed in writing with the reason thereof. **It shall also be binding for the school to follow the process of admission prescribed by the State Government from time to time.***

*(2) The total annual recurring expenditure incurred by the State Government, from its own funds, and funds provided by the Central Government and by any other authority on elementary education in respect of all schools established, owned or controlled by it or by the local authority, divided by the total number of children enrolled in all such schools as on 30th September, shall be the per-child expenditure incurred by the State Government.”*

(emphasis supplied)

7. The mandate of the above Rule is clear. Once the government assesses an application for admission under the 2009 Act, the school shall proceed and be bound by other provisions as laid from time to time. The limited window for the school to reconsider the government’s decision is a conscious choice of the State to avoid delays in securing the children’s right to education.

8. This regulatory framework finds its normative strength in the neighbourhood school concept enshrined under the RTE Act, 2009<sup>5</sup>, which is a deliberate statutory conception to operationalise equality of

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<sup>5</sup> See, generally, Section 12 of the RTE Act, 2009.

status and social integration during a child's formative years. By mandating that schools admit children from weaker and disadvantaged sections to the extent of at least twenty-five percent of class strength, the law seeks to transform the social structure of our society. This model envisages the school as a common civic space that breaks down entrenched barriers of caste, class, and gender, thereby advancing substantive social justice.

9. The obligation of a "neighbourhood school" to admit children belonging to weaker and disadvantaged sections of our society, to the extent of twenty-five percent of the class strength, under Section 12 of the RTE Act, 2009 has the extraordinary capacity to transform the social structure of our society. Earnest implementation can truly be transformative. It is not only a step towards educating young India, but also a substantive measure in securing the preambular objective of 'equality of status'. The *constitutional declaration* of the right under Article 21A, followed by the *statutory mandate* under Section 3 of the Act for free and compulsory elementary education can be realised only with effective implementation of the provisions of the Act. Ensuring admission of such students must be a national mission and an obligation of the appropriate government and the local authority. Equally, Courts, be it constitutional or civil, must walk that extra mile to provide easy access and efficient relief to parents who complain of denial of the right.

10. In *Dinesh Biwaji Ashtikar v. State of Maharashtra & Ors.*<sup>6</sup>, it was held that the consequence of identifying the right to elementary education as a positive right is the recognition of co-relative duties and identification of five duty bearers, being (i) the appropriate government, (ii) the local authority, (iii) the neighbourhood schools, (iv) the parents/guardians, and (v) the primary school teachers. It is important to highlight the obligations and duties of these duty bearers in detail not only for accountability, but also to ensure that they have sufficient support from the Government and the society.<sup>7</sup>

10.1 *The first duty bearer*, is the “appropriate Government”. The duty of the appropriate Government to establish neighbourhood schools is prescribed in Section 6<sup>8</sup>. The financial responsibilities under the Act are shared between the Central and the State Governments under Section 7. Further duties upon establishing the neighbourhood schools are prescribed in Section 8, which inter alia mandate that the appropriate government shall, “ensure availability of a neighbourhood school as specified in Section 6”.<sup>9</sup>

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<sup>6</sup> 2026 INSC 56.

<sup>7</sup> Para 6 of *Dinesh Biwaji Ashtikar* (supra).

<sup>8</sup> **Section 6. Duty of appropriate Government and local authority to establish school** - For carrying out the provisions of this Act, the appropriate Government and the local authority shall establish, within such area or limits of neighbourhood, as may be prescribed, a school, where it is not so established, within a period of three years from the commencement of this Act.”

<sup>9</sup> Para 6.1 of *Dinesh Biwaji Ashtikar* (supra).

10.2 *The second duty bearer*, is the “local authority”<sup>10</sup>. To ensure implementation of the right at the grassroot level, Section 9 obligates the local authority to ensure availability of a neighbourhood school as specified in Section 6 (Section 9(b)), maintain records of children up to the age of fourteen years (Section 9(d)) and also ensure and monitor admission, attendance and completion of elementary education by every child residing within its jurisdiction (Section 9(e)).<sup>11</sup>

10.3 *The third duty bearer*, is the neighbourhood school. Under Section 12, a neighbourhood school is impressed with the responsibility of providing free and compulsory education. Section 12 mandates that the “neighbourhood schools” shall admit in Class I, to the extent of at least twenty-five percent of the strength of that class, children belonging to weaker section and disadvantaged group for free and compulsory education. We will be examining this obligation of the school under Section 12(1)(c) in detail.<sup>12</sup>

10.4 *The fourth duty bearer*, is the Parent. This duty is now constitutionally recognised in Article 51A(k) of the Constitution.<sup>13</sup>

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<sup>10</sup> Section 2(h) -“local authority” means a Municipal Corporation or Municipal Council or Zila Parishad or Nagar Panchayat or Panchayat, by whatever name called, and includes such other authority or body having administrative control over the school or empowered by or under any law for the time being in force to function as a local authority in any city, town or village;

<sup>11</sup> Para 6.2 of *Dinesh Biwaji Ashtikar* (supra).

<sup>12</sup> Para 6.3 of *Dinesh Biwaji Ashtikar* (supra).

<sup>13</sup> Para 6.4 of *Dinesh Biwaji Ashtikar* (supra).

10.5 *The fifth duty bearer*, is the elementary school teacher. There is no human resource or value higher than development of a student's mind and character. Therefore, the elementary school teachers have the most important role in nation building.<sup>14</sup>

11. It is necessary to underscore two foundational constitutional values that Section 12 of the RTE Act, 2009 is designed to articulate and secure. The first, in unequivocal terms, mandates that not less than twenty-five percent of the strength of an entry-level class shall be reserved for and filled by children belonging to “weaker sections” and “disadvantaged groups”, who are thereby guaranteed access to free elementary education. The second is that such children are to be admitted to unaided schools in their neighbourhood, thereby embedding within the statutory framework the principle that the constitutional promise of education under Article 21A is to be realised through common local schools rather than segregated or parallel systems. The legislative choice to implement the right to free and compulsory education through neighbourhood schools is not merely administrative; it is a deliberate constitutional strategy to operationalise equality of status, dignity, and social integration among children in their formative years.<sup>15</sup>

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<sup>14</sup> Para 6.5 of *Dinesh Biwaji Ashtikar* (supra).

<sup>15</sup> Para 7 of *Dinesh Biwaji Ashtikar* (supra).

12. The mandate under Section 12 of the Act must be enforced with conviction and commitment. We have to ensure admission of at least twenty-five percent of class strength in unaided schools with children of weaker and disadvantaged groups. This is certainly a national mission. Effective implementation of the statutory policy will be transformative and, in this regard, each one of us, be it the institution or an individual, be it the Central or the State Governments, Advisory Councils or Commissions are duty bearers. The most important role is of the neighbourhood schools. In this mission, the judiciary also bears the burden to ensure that the process of admission is easily accessible, effective and efficient. Court must also ensure that judicial remedies against inaction or inefficiency are redressed effectively and expeditiously.<sup>16</sup>

13. Effective implementation requires that schools publish available seats well in advance and that any denial of admission be recorded with specific reasons, which must be reviewed by educational authorities within strict timelines to ensure accountability. Ultimately, the success of the RTE legislation depends on ensuring that children's participation in the classroom is evident and meaningful.

14. It is in the above light we find that for schools like the petitioner that may have some disagreement with the selection by the Government, can

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<sup>16</sup> Para 10 of *Dinesh Biwaji Ashtikar* (supra).

make representation to the concerned authority, but they ought not wait for the outcome of such a representation and are mandated to grant admission to the student whose name finds mention in list forwarded to the school in the interregnum. This immediacy is essential to actualise the promise of Article 21A of the Indian Constitution.

15. In view of the foregoing discussion, we are not inclined to interfere with the impugned judgment and order of the High Court. The Special Leave Petition is dismissed accordingly.

16. No orders as to costs.

.....J.  
[PAMIDIGHANTAM SRI NARASIMHA]

.....J.  
[ALOK ARADHE]

**NEW DELHI;  
APRIL 28, 2026.**