

**IN THE HIGH COURT FOR THE STATE OF TELANGANA  
AT HYDERABAD**

**THE HONOURABLE SMT. JUSTICE JUVVADI SRIDEVI**

**WRIT PETITION Nos.5035 & 13240 of 2015**

**DATED: 24<sup>TH</sup> JUNE, 2026**

**Between:**

Brothers of St Gabriel Educational Society and six others  
...Petitioners

AND

The State of Telangana, rep. by its Principal Secretary, School  
Education Department, Secretariat Buildings, Hyderabad and  
three others  
...Respondents

**COMMON ORDER:**

The Writ Petition No.5035 of 2015 is filed by the petitioners  
seeking the following relief:

*"...to issue an appropriate writ more in the nature of  
Writ Of Mandamus declaring the proceedings of the  
4th Respondent in his RC.No.7987/B6/2014 dated  
11.09.2014 as being arbitrary, illegal, unconstitutional  
and unenforceable to the petitioners 2 to 6 and the  
other institutions being administered by the 1st  
petitioner and in violation of Articles 14 and 30(1) of  
the Constitution of India and in contravention of the  
Ruling of the Honourable Supreme Court reported in  
Pramathi Educational and Cultural Trust Case  
wherein it was held that the provisions of RTE Act  
cannot be enforced to Minority Educational Institution*

*and consequently direct the respondents not to enforce the provisions of RTE Act to the Petitioners-institutions and issue such other Writ or order or direction as deemed fit and proper in the circumstances of the case”*

02. The Writ Petition No.13240 of 2015 is filed by the petitioners seeking the following relief:

*“...to issue an appropriate writ more in the nature of Writ Of Mandamus declaring the proceedings of the District Educational Officers the Respondents 4 and 5 herein in their RC No 7910/C2/2014 dated 16.07.2014 and Rc No.8425/B6/2014, dated 30.07.2014 as being arbitrary, illegal, unconstitutional and unenforceable to the petitioners 2 to 3 and the other institutions being administered by the 1<sup>st</sup> Petitioner and in violation of Articles 14 and 30(1) of the Constitution of India and in contravention of the Ruling of the Honourable Supreme Court reported in Pramathi Educational and Cultural Trust Case where under it was held that the provisions of RTE Act cannot be enforced are Minority Educational Institution and consequently direct the respondents not to enforce the provisions of RTE Act to the petitioner institutions and issue such other writ or order or direction as deemed fit and proper in the circumstances of the case...”*

03. Since the issue involved in both these Writ Petitions is identical and the relief sought arises out of similar proceedings

issued by the educational authorities, both the Writ Petitions are heard together and are being disposed of by this Common Order.

04. Heard Sri Ch.Samson Babu, learned counsel for the petitioners and the learned Government Pleader for School Education appearing for respondents. Perused the record.

05(a). Aggrieved by the impugned proceedings issued by official respondents, whereby all private recognized educational institutions were directed to provide free education to the children of journalists working in Hyderabad District, purportedly under the provisions of the Right of Children to Free and Compulsory Education Act, 2009, the petitioners have filed the present writ petitions.

05(b). Learned counsel for the petitioners submits that petitioners-institutions are minority educational institutions entitled to the protection guaranteed under Article 30(1) of the Constitution of India and that they are also unaided institutions. Learned counsel further contends that the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) was enacted with the object of providing free and compulsory education to children belonging to weaker sections of society.

05(c). It is further submitted that the constitutional validity of the RTE Act was initially challenged before the Hon'ble Supreme Court in the case of *Society for Unaided Private Schools of Rajasthan v. Union of India*. Subsequently, in *Pramati Educational & Cultural Trust v. Union of India*, the Hon'ble Supreme Court held that the provisions of the RTE Act are not applicable to minority educational institutions. Therefore, according to the learned counsel for the petitioners, the impugned proceedings directing the petitioners to provide free education are contrary to the law laid down by the Hon'ble Supreme Court.

05(d). It is contended that journalists do not constitute a specially privileged class entitled to free education for their children, nor has it been shown that they fall within the category of persons living below the poverty line. It is argued that even in respect of institutions to which the RTE Act applies, the obligation to provide free education is limited to a specified percentage of seats and not to all children of journalists. It is further submitted that the question of extending such a benefit is a matter of governmental policy and that the official respondents have no jurisdiction or authority to direct minority educational institutions to

provide free education to all children of journalists studying therein.

05(e). It is further submitted that the respondents has unilaterally issued the impugned proceedings without affording an opportunity of hearing to the petitioners, thereby violating the principles of natural justice, the provisions of the RTE Act, and the law declared by the Hon'ble Supreme Court. Learned counsel submits that the impugned proceedings are liable to be set aside as being arbitrary, illegal, and violative of Articles 14 and 30(1) of the Constitution of India.

05(f). It is further contended that petitioners addressed representations dated 04.12.2014 to the respondents requesting them to intervene and instruct the District Educational Officers of Hyderabad, Rangareddy, and Warangal Districts not to insist upon compliance with the impugned directions, particularly with regard to extending free education to the children of the journalists. Although the said representations were received in the year 2014, no effective action was taken by the official respondents to withdraw the impugned proceedings.

05(g). It is further contended that the impugned proceedings have caused considerable administrative difficulties

to the institutions run by the petitioners, as journalists whose children are studying in petitioners-institutions have refused to pay tuition fees. Any coercive action against such students would adversely affect both the reputation of the institutions and the academic interests of the students. Hence, learned counsel prays that the writ petitions be allowed by declaring the impugned proceedings as illegal and unconstitutional.

05(h). In support of his contention, he relied upon a decision of the Hon'ble Supreme Court in ***Society for Unaided Private Schools of Rajasthan v. Union of India***<sup>1</sup> wherein it was held at Paragraph No.65 that:

*“65. However, the said 2009 Act and in particular Sections 12(1)(c) and 18(3) infringes the fundamental freedom guaranteed to unaided minority schools under Article 30(1) and, consequently, applying the R.M.D. Chamarbaugwalla v. Union of India [1957 SCR 930] principle of severability, the said 2009 Act shall not apply to such schools.”*

05(i). Further, he relied upon a decision of the Hon'ble Supreme Court in ***Pramati Educational and Cultural Trust v. Union of India***<sup>2</sup> wherein it was held at Paragraph No.56 that:

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<sup>1</sup> (2012) 6 SCC 1

<sup>2</sup> (2014) 8 SCC 1

*“56. In the result, we hold that the Constitution (Ninety-third Amendment) Act, 2005 inserting clause (5) of Article 15 of the Constitution and the Constitution (Eighty-Sixth Amendment) Act, 2002 inserting Article 21A of the Constitution do not alter the basic structure or framework of the Constitution and are constitutionally valid. We also hold that the 2009 Act is not ultra vires Article 19(1)(g) of the Constitution. We, however, hold that the 2009 Act insofar as it applies to minority schools, aided or unaided, covered under clause (1) of Article 30 of the Constitution is ultra vires the Constitution. Accordingly, Writ Petition (C) No.1081 of 2013 filed on behalf of Muslim Minority Schools Managers’ Association is allowed and Writ Petition (C) Nos.416 of 2012, 152 of 2013, 60 of 2014, 95 of 2014, 106 of 2014, 128 of 2014, 144 of 2014, 145 of 2014, 160 of 2014 and 136 of 2014 filed on behalf of non-minority private unaided educational institutions are dismissed. All I.As. stand disposed of. The parties, however, shall bear their own costs.”*

06. Learned Government Pleader appearing for the respondents filed a counter affidavit stating that certain journalists had submitted representations to the District Educational Officer, Hyderabad District, alleging that private recognized schools were collecting exorbitant fees at the time of admission of their children and that they were unable to afford such fees as they belonged to economically weaker sections. They, therefore, requested the

authorities to permit their children to avail free education in private recognized schools under the provisions of the Right of Children to Free and Compulsory Education Act, 2009.

07. It is further contended that the Government of India enacted the Right of Children to Free and Compulsory Education Act, 2009 (Act 35 of 2009), which provides for free and compulsory education to all children between the ages of six and fourteen years. The Act extends to the whole of India, except the State of Jammu and Kashmir, as it then existed. The State Government also framed rules in G.O.Ms.No.20, Education Department, dated 03.03.2011, for implementation of the provisions of the said Act. The respondents ultimately admitted in the counter affidavit that the instructions issued in the impugned proceedings were not mandatory in nature and that the said instructions were issued only pursuant to the request made by the Journalists' Associations.

08. Having heard the submissions made by the learned counsel for either side, and upon careful perusal of the record, it is to be seen whether the respondents were justified in directing minority educational institutions to provide free education to the

children of journalists by invoking the provisions of the RTE Act. There is no dispute with regard to the fact that petitioners-institutions are minority educational institutions entitled to the protection under Article 30(1) of the Constitution of India. In *Society for Unaided Private Schools of Rajasthan's case cited supra*, the Hon'ble Supreme Court held that the provisions of the RTE Act, particularly Section 12(1)(c), cannot be applied to unaided minority educational institutions as the same would infringe the rights guaranteed under Article 30(1) of the Constitution. The issue was thereafter authoritatively settled by the Constitution Bench of the Hon'ble Supreme Court in *Pramati Educational and Cultural Trust's case cited supra*, wherein it was categorically held that the RTE Act, insofar as it applies to minority schools, whether aided or unaided, covered under Article 30(1) of the Constitution, is ultra vires the Constitution. The Constitution Bench observed that compelling minority educational institutions to implement the provisions of the RTE Act would interfere with their constitutional right to establish and administer educational institutions of their choice.

09. In view of the aforesaid authoritative pronouncement of the Hon'ble Constitution Bench, this Court has no hesitation in

holding that the provisions of the RTE Act cannot be enforced against the petitioners-institutions, which are admittedly minority educational institutions protected under Article 30(1) of the Constitution.

10. Apart from the above, this Court finds considerable force in the contention advanced on behalf of the petitioners that the respondents lacked jurisdiction to confer a benefit of free education upon a particular class of persons, namely, the children of journalists, in the absence of any statutory provision or governmental policy authorising such action. The material available on record does not disclose any provision under the RTE Act or the Rules framed thereunder empowering the respondents to direct all private recognized schools, much less minority educational institutions, to provide free education to all children of journalists. However, the respondents themselves have admitted in the counter that the impugned proceedings were issued only on the basis of requests made by journalists' associations. Administrative instructions issued merely on the basis of such requests cannot override constitutional protections nor can they create obligations unsupported by statutory authority.

11. This Court also finds merit in the contention of the petitioners that the impugned proceedings were issued without affording any opportunity of hearing to the affected institutions. The directions contained therein have direct financial and administrative consequences upon the institutions. Therefore, adherence to the principles of natural justice was indispensable before issuance of such directions. The failure to do so renders the impugned action arbitrary and unsustainable.

12. In view of the above discussion, this Court is of the considered opinion that the impugned proceedings are arbitrary, without authority of law, contrary to the law laid down by the Hon'ble Supreme Court in above decisions and violative of the constitutional protection guaranteed to minority educational institutions under Article 30(1) of the Constitution of India and the said impugned proceedings are liable to be set aside by allowing these writ petitions.

13. Accordingly, both the Writ Petitions are allowed. The impugned proceedings in Rc.No.7987/B6/2014 dated 11.09.2014, Rc.No.7910/C2/2014 dated 16.07.2014 and Rc.No.8425/B6/2014

dated 30.07.2014 are hereby set aside. There shall be no order as to costs.

As a sequel, miscellaneous applications, if any pending, shall stand closed.

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**JUVVADI SRIDEVI, J**

Date: 24-JUN-2026  
Ksk/khrm