



HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 26785 of 2026

St. John S School, Babhanauti, Pachwal

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Gaurav Tripathi
Counsel for Respondent(s)	:	C.S.C.

Court No. - 38

HON'BLE VINOD DIWAKAR, J.

1. Ms. Apeksha Sachdev, learned Advocate, holding brief of Shri Gaurav Tripathi, learned counsel for the petitioner, seeks a short accommodation on the ground that the arguing counsel is in some personal difficulty.

2. In view of the submissions made by Shri Gaurav Tripathi, learned counsel for the petitioner, as noted in the previous orders. The contentions raised by Shri Anoop Trivedi, learned Additional Advocate General, a larger issue has emerged concerning the opportunities available for the education of children belonging to economically weaker sections and socially disadvantaged groups.

3. The short adjournment pressed for is allowed. In the meantime, the State is directed to file a comprehensive affidavit in response to the contentions raised by the petitioner with respect to the applicability of the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter, "the RTE Act"), and with respect to the resolve of the State Government to secure quality education for children belonging to economically weaker sections and socially disadvantaged groups.

4. The issue that arises concerns the enforcement of the right conferred on every child to free and compulsory elementary education in an unaided private school not receiving any aid or grant from the appropriate Government or local authority — to admit in class I, the children belonging to weaker sections and disadvantaged groups including a child with disability, and severe disability or multiple disability in the neighbourhood, and to provide them free and compulsory elementary education till its completion.

5. It has been brought to the notice of this Court that certain private educational institutions recognised by the State Government, run and established within its territorial jurisdiction, are reluctant to admit children, and to forgo the fees and other charges ordinarily levied by them. In this connection, the correctness of the allegation is a matter upon which no opinion is expressed at this stage, and the affidavit called for hereinafter will enable the position to be ascertained.

6. Private primary schools in Uttar Pradesh are recognised within the framework of the Uttar Pradesh Basic Education Act, 1972. Under Section 2(1)(b) of that Act, "basic education" means education up to class eight imparted in schools other than High Schools or Intermediate Colleges, and the expression "basic schools" is to be construed accordingly. Section 2(1)(d-1) defines a "Junior Basic School" as a basic school in which education is imparted up to class five, and Section 2(1)(d-2) defines a "Junior High School" as a basic school in which education is imparted from class six to class eight. The Uttar Pradesh Board of Basic Education, constituted under Section 3 of the Act, grants recognition to private schools imparting basic education in the State, and the Rules governing recognised basic schools have been framed in exercise of the power conferred by Section 19(1) thereof.

7. So far as schools affiliated to the Central Board of Secondary Education, the Council for the Indian School Certificate Examinations, or any other Board are concerned, it is learnt that the State Government issues a No Objection Certificate enabling such schools to be established and to function within its territorial jurisdiction. Under the CBSE Affiliation Bye-Laws, 2018, a "No Objection Certificate" is a letter issued by the appropriate authority of the Education Department of the State in respect of a school situated within that State, for affiliation of the school to the Board. Schools of the categories specified therein — including private schools established by societies registered under the Societies Registration Act, 1860, or under State enactments governing educational, charitable or religious societies, and companies registered under Section 8 of the Companies Act, 2013 having education as one of their objects — are required to submit a formal prior No Objection Certificate to the effect that the State Government has no objection to their affiliation.

8. It follows that a school affiliated to the CBSE or the CISCE and imparting elementary education within the State is subject to the obligations imposed

by the State Government in the same measure as any other school, and its affiliation to a Board other than the State Board affords it no exemption therefrom.

9. The State is directed to file a comprehensive affidavit setting out, district-wise:

- (i)** a list of all private primary schools, aided as well as unaided, established and functioning within the territorial jurisdiction of the State of Uttar Pradesh, irrespective of the Board to which they are affiliated, the information in respect of basic schools being collated through the Basic Shiksha Adhikari concerned and, in respect of High Schools and Intermediate Colleges, through the District Inspector of Schools concerned;
- (ii)** the number of students enrolled in each such school, shown separately for the Junior Basic School stage, the Junior High School stage, the High School stage and the Intermediate stage.

10. The State shall further furnish, school-wise and for each of the last five academic sessions, in respect of all private schools, aided and unaided, established and functioning within its territorial jurisdiction, irrespective of the Board to which they are affiliated:

- (i)** the number of children in fact admitted thereunder;
- (ii)** the number of children allotted to a school by the competent authority whose admission was declined or not effected, together with the reasons recorded, if any;
- (iii)** the number of complaints received alleging the charging of capitation fee or the adoption of a screening procedure contrary to the State's education policy, and the action taken thereon.

11. The schools affiliated to the CBSE, the CISCE and any other Board shall extend cooperation to the Basic Shiksha Adhikari and the District Inspector of Schools concerned in furnishing the details called for hereinabove. It is clarified that the information is called for to enable this Court to obtain a complete picture, that no opinion has been expressed upon the conduct of any school, and that nothing herein shall be acted upon to the prejudice of any institution save after notice and in accordance with law.

12. The Registrar (Compliance) shall transmit a copy of this order forthwith to the Principal Secretary, Basic Education, Government of Uttar Pradesh; and to the Director of Education (Basic) and the Director of Education

(Secondary), Uttar Pradesh, Prayagraj, for compliance.

13. A copy of this order be also sent to the Central Board of Secondary Education (CBSE) at its regional office in Prayagraj and the Indian Council of Secondary Education, having office at Fatehuyllaganj, P.O. Thakurdwara, District Moradabad, Uttar Pradesh for reference and necessary compliance.

14. List as fresh on 15.09.2026 at 2:00 p.m.

August 25, 2026

Anil K. Sharma

(Vinod Diwakar,J.)