

**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD****R/WRIT PETITION (PIL) NO. 25 of 2024**

MOHAMAD IMRAN SHAIKH

Versus

STATE OF GUJARAT

Appearance:

MR.VISHAL J DAVE(6515) for the Applicant(s) No. 1

NIPUN SINGHVI(9653) for the Applicant(s) No. 1

MS HETAL G PATEL AGP for the Opponent(s) No. 1

**CORAM: HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE  
SUNITA AGARWAL**

and

**HONOURABLE MR. JUSTICE ANIRUDDHA P. MAYEE****Date : 23/04/2024****ORAL ORDER****(PER : HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE SUNITA AGARWAL)**

1. This is a wholly misconceived Public Interest Litigation [*PIL* for short] filed by the petitioner who claims to be a businessman and social worker and Vice-President of the religious organization and NGO, to assail the Government Resolution dated 4.8.2020 which prescribes the standards of operating procedure for complying with the provisions of the Right of Children to Free and Compulsory Education Act, 2009 [*RTE Act, 2009* for short] read with the Rules namely, the Right of Children to Free and Compulsory Education Rules, 2012 framed by the State of Gujarat. It was argued before us that the Clause-3 of the Government Resolution dated 4.8.2020 runs contrary to the provisions of Section 12(c) of the RTE Act, 2009 inasmuch as, it provides for computation of 25% upon deduction from the total strength of the students of Standard-1 admitted in the last academic year. The contention is that

because of raising of age for admission in Standard-1 from minimum 5 years to 6 years, there has been huge gap in number of students admitted in the previous academic years than the last academic year, i.e. 2022-2023, and the same gap would be there in the current academic session, i.e. 2024-2025. The submission is that the number of seats allotted to the students under the RTE Act, 2009 in 25% quota would be negligible in the private schools in the State of Gujarat, for the above noted facts. The assertion in the writ petition is that due to decline of seats/admission based on last academic year, the interest of the poor children in the State in the current academic session 2024-2025 would be seriously hampered.

2. Further contention is that in the last year, the admission procedure was conducted for total 82,853 seats in 9,873 private schools, out of which 52,395 students were admitted at the end of the three rounds of admission. The result is that 44% of the total seats under RTE have been decreased last year.

3. All submissions with regard to the data as narrated in the writ petition are hypothetical and there is no research or collection of data as to the number of children belonging to the poor strata of society, who would be deprived of by taking admission in a private school under 25% quota, if the contention of the petitioner is accepted that due to gap on account of increase in age, lesser number of children would get admission in the current academic session. Moreover, the petitioner has straight-away approached this Court by means of a PIL without bringing this fact to the knowledge of the competent authority.

Coming to Clause-3 of the Government Resolution dated 4.8.2020, pertinent is to note that for calculation of 25% of the number of students under the RTE, the criteria for consideration of total number of students admitted in the last academic session cannot be said to be arbitrary or irrational by any stretch of imagination, inasmuch as, there cannot be a definite data of the students to be admitted in the current academic year.

4. It may further be noted that the second part of Clause-3(1) provides that 25% deduction is to be made as per the maximum strength of 40 students per class, but for any class, when the strength of the students is less than 40, actual number of students in the class concerned will be considered.

5. This computation of 25% is strictly in compliance of provisions of Section 12(c) of the RTE Act, 2009 which provides for school's responsibility to admit children belonging to weaker section and disadvantaged group in the neighborhood for providing free and compulsory education to them, to the extent of atleast 25% of the strength of that class.

6. Number 40 which is the maximum strength for a class, cannot be taken as a fixed number for computation of 25% admission under the RTE.

7. As noted above, there is nothing on record which would demonstrate as to the prejudice caused to any of the children belonging to the weaker section of the society. The instant petition has been filed at the verge of commencement of

admission process in the schools in the State of Gujarat and seems to be a result of preempting the whole issue.

8. For the aforesaid, we do not find any substance in the writ petition. The same is accordingly, dismissed.

9. However, a liberty is granted to the petitioner to carry out a proper research to collect the data and initiate action only in case there is an eventuality of deprivation of admission to sizable number of children belonging to weaker section and disadvantaged group of the society who are fulfilling norms of admission, in the neighborhood schools. In the meantime, it is open to the petitioner to file representation before the competent authority.

**(SUNITA AGARWAL, CJ )**

**(ANIRUDDHA P. MAYEE, J.)**

KAUSHIK D. CHAUHAN