

LIST OF DATES

- 1.04.2010 The Right of Children to Free and Compulsory Education Act, 2009 (RTE 2009) comes into effect.
- 27.04.2010 The Ministry of Law and Justice vide Corrigendum dated 27.04.2010 made a correction in the RTE Act by way of deletion of a comma in section 19.
- 12.10.2011 The Punjab Right of Children to Free & Compulsory Education Rules, 2011 were published in the Official Gazette.
- 30.09.2012 National University of Educational Planning and Administration in association with Department of School Education and Literacy published a report entitled 'Elementary education in India: Progress towards UEE' under District Information System for Education (DISE) on school infrastructure.

2012-13

Various newspaper reports confirm the dilapidated state of infrastructure in government in Punjab.

2013

931 private schools shut down for non-compliance with s.18-19 of RTE, 2009; further, 219 private schools in Punjab have been shut down vide order dated 20.08.2013 passed in a matter entitled Balraj Singh v State of Punjab CWP 7388 of 2010 (O & M) by a Division Bench of this Hon'ble Court because of non-compliance with Sections 18 & 19 of the RTE Act r/w Rule 11 & 12 of the Punjab RTE Rules.

Jan 2014

Hence this Writ Petition.

CHANDIGARH

DATED: 21.04.2014 (PRASHANT NARANG) (ANKIT GREWAL)
D-1907/2010 P-923/2012
ADVOCATES

COUNSEL FOR THE PETITIONER

**IN THE HON'BLE HIGH COURT OF
PUNJAB AND HARYANA AT CHANDIGARH**

Civil Writ Petition No. _____ of 2014

MEMO OF PARTIES

IN THE MATTER OF:

PUNJAB PRIVATE SCHOOL ORGANIZATION, Gian Jyot, near
Mahaveer Mandir, Rajpura Town, District Patiala, Punjab
through Secretary General Shri Tejpal Singh.

.....**PETITIONER**

Versus

1. Union of India

Through its Secretary – Ministry of Human Resource
Development
Shastri Bhawan,
New Delhi- 110 001

2. National Commission for Protection of Child

Rights

Through its Chairperson,
5th Floor, Chanderlok Building,
36 Janpath,
New Delhi-110001

3. State of Punjab

Through its Secretary- Department of Primary
Education,

Government of Punjab, School Education Department,
Mini Secretariat, Sect. - 9
Chandigarh-160009
PUNJAB

4. Director General - School Education

Department of School Education, Vidya Bhawan
(Punjab School Education Board), Block E, 5th Floor,
Phase-VIII
Ajitgarh (Mohali) - PUNJAB (INDIA)
Pin-Code. 160062

5. Punjab Commission for Protection of Child Rights

Through its Chairperson
Forest Complex, 4th Tower, 2nd Floor,
Sector-68, Mohali, Punjab

6. Punjab State Advisory Committee

Through its Chairperson
Mini Secretariat, Sect. - 9
Chandigarh-160009
PUNJAB

.....**RESPONDENTS**

CHANDIGARH

DATED: 21-04-2014

(PRASHANT NARANG) (ANKIT GREWAL)

D-1907/2010

P-923/2012

ADVOCATES

COUNSEL FOR THE PETITIONER

Civil Writ Petition under Article 226/227 read with Article 14, 19, 21 and 21A of the Constitution of India challenging the constitutionality of S.18, S.19 and the Schedule of the 'Right of Children to Free and Compulsory Education Act, 2009 (RTE Act)' along with Rule 11 and Rule 12 of Punjab RTE Rules, 2011, with a prayer that this Hon'ble Court may be pleased to declare and strike down S.18-19 and the Schedule of 'the Right of Children to Free and Compulsory Education Act, 2009' along with Rule 11 and 12 of Punjab RTE Rules, 2011 as being ultra vires of Article 14, 19, 21 and 21-A of the Constitution of India.

ALTERNATIVELY, it is prayed that this Hon'ble Court may be pleased to declare that S.18-19 and the Schedule of 'the Right of Children to Free and Compulsory Education Act, 2009' along with Rule 11 and Rule 12 of Punjab RTE Rules apply equally to Government Schools as well as Private Schools.

ALTERNATIVELY, it is prayed that this Hon'ble Court may be pleased to declare S.18-19 and the Schedule of 'the Right of Children to Free and Compulsory Education Act, 2009' along with Rule 11 and 12 of Punjab RTE Rules, 2011 as directory and the provisions for penalties and closure therein as unconstitutional.

It is further prayed that this Hon'ble Court may be pleased to direct the respondents state from enforcing the S.18-19 and the Schedule of 'the Right of Children to Free and Compulsory Education Act, 2009' along with Rule 11 and 12 of Punjab RTE Rules, 2011 against private schools with respect to recognition and penalties therein, till the adjudication of the present writ petition.

MOST RESPECTFULLY SHOWETH:

1. That the petitioner Punjab Private Schools Organisation (PPSO) is an umbrella network of all private associated, affiliated recognized and unrecognized schools in Punjab. PPSO seeks to provide a state

wide platform creating a unified voice for low cost private schools in India, preserve the ecosystem for the low cost private schools through concerted efforts for advocacy with the state government with respect to education policies and acts (e.g RTE), build an enabling ecosystem for the improvement of low cost private schools, enhance the image and voice of low cost private schools through access to media and help them build evidence through systematic linkages with research.

2. That PPSO advocates the immediate concerns of low cost private schools and it works to improve the quality of low cost private schools. Its main objectives are:

- To enhance their image and help them build evidence through systematic linkages with academia;
- To amplify the voice of low cost private schools;
- To conduct workshops and trainings on leadership management, classroom teaching techniques and other quality education modules with low cost private schools;

- To partner with NGOs to implement various models to enhance the quality of low fee private schools;
- To enable school improvement through scientific learning assessments;
- To provide legal aid via a network of lawyers;
- To be an access point for relevant information for low cost private schools.

3. That the Petitioner is being represented through Shri Tajpal Singh who is duly authorized to file, plead and sign on behalf of the Petitioner and swear and verify any affidavit in this regard. True copies of the Certificate Of Filing, Constitution of the Petitioner along with a Board Resolution are annexed herewith as **Annexure P-1 (COLLY)**. The petitioner is acting bona fide in the interest of its member schools.

4. That in 2002, the 86th amendment to the Constitution of India introduced Article 21-A, making the Right To Education a Fundamental Right (which is currently under challenge before the Supreme Court in a batch of writ petitions including W.P. No. 416 of 2012 and

W.P. no. 152 of 2013). Subsequently, the Government began the process of finalizing a Bill to give effect to the said fundamental right. In 2008, the Union Cabinet stamped its seal of approval on the final draft and it was placed before the Rajya Sabha which passed it in July 2009. The bill then proceeded to the Lok Sabha, where it was passed in August 2009 and the Right of Children to Free and Compulsory Act 2009 (hereinafter called the 2009 Act), was notified in the Gazette of India dated 19.02.2010 and was to come into force w.e.f. 1st April, 2010.

5. That the RTE prescribes a timeframe of three years for the establishment of neighbourhood schools, provision for school infrastructure with all-weather buildings and basic facilities (Section 6), and a provision for teachers as per prescribed Pupil-Teacher Ratio (PTR) (30:1) (Section 25 (1)). The deadline for meeting the infrastructure norms as prescribed in the schedule under the Act was reached on 31.03.2013. Further, the RTE Act stipulates that all untrained teachers in the system must be trained within a period of five years from the date of enforcement of the Act. The

rest of the provisions are required to be implemented with immediate effect. The provisions of the said Act had brought in more stringent requirements of recognition and all existing schools were required to submit applications for granting of recognition by the competent authority of the State Government.

6. That as a consequence of the RTE Act the percentage of GDP spent on education increased from 3.34 to 3.8% between 2005-06 and 2010-11 but the number of students in the 5-16 age group who could read a grade 1 text declined from 17.7% in 2006 to 13.4% in 2012. At the elementary level, only 40% of the children in grades 4 and 5 could perform subtraction and over 53% students in grade 5 could not read a grade 2 level text. India ranked 73rd amongst 74 countries that participated in the program for International Student Assessment (PISA) in 2011. A true copy of the PISA report is annexed herewith and marked as **Annexure P-2**.
7. That a large proportion of education spending in India in the past decade has been on improving school facilities and infrastructure, improving teacher salaries

and training, hiring more teachers to reduce the pupil-teacher ratios and expenditure on student benefits such as textbooks and mid-day meals. While these inputs have led to a visible improvement in increasing accessibility and improving school facilities, such as a reduction in the pupil-teacher ratio (PTR), an improvement in the provision of mid-day meals, infrastructure components such as toilets and electricity have not been effective in improving the learning outcomes.

8. That Sections 18 and 19 of the Act provide for the procedure of obtaining the certificate of recognition, and minimum norms and standards to be fulfilled for gaining recognition. Section 18 postulates that after the commencement of the 2009 Act, no school, other than the excepted category, can be established or can function without obtaining a certificate of recognition from the appropriate authority. The appropriate authority shall be obliged to issue the certificate of recognition within the prescribed period if the school fulfills the norms and standards specified under Sections 19 and 25 read with the Schedule to the

2009 Act. In the event of contravention of the conditions of recognition, the prescribed authority can withdraw recognition after giving an opportunity of being heard to such school. The order of withdrawal of recognition should provide a direction to transfer the children studying in the de-recognised school to be admitted to the specified neighbourhood school. Upon withdrawal of recognition, the de-recognised school cannot continue to function, failing which, the de-recognised school is liable to pay a fine as per Section 19(5). If any person establishes or runs a school without obtaining a certificate of recognition, or continues to run a school after the withdrawal of recognition, such person shall be liable to pay a fine as specified in Section 19(5). The norms and standards for establishing or for granting of recognition to a school are specified in Section 19 read with the Schedule to the 2009 Act. All schools which are established before the commencement of the 2009 Act in terms of Section 19(2) are expected to comply with specified norms and standards within 3 years from the date of such commencement. Failure to do so would entail in de-recognition of such school. Relevant

Sections along with Schedule- I are extracted below

:-

Section 18 - No School to be established without obtaining certificate of recognition

- (1) No school, other than a school established, owned or controlled by the appropriate Government or the local authority, shall, after the commencement of this Act, be established or function, without obtaining a certificate of recognition from such authority, by making an application in such form and manner, as may be prescribed.*
- (2) The authority prescribed under sub-section (1) shall issue the certificate of recognition in such form, within such period, in such manner, and subject to such conditions, as may be prescribed:*

Provided that no such recognition shall be granted to a school unless it fulfils norms and standards specified under section 19.
- (3) On the contravention of the conditions of recognition, the prescribed authority*

shall, by an order in writing, withdraw recognition:

Provided that such order shall contain a direction as to which of the neighborhood school, the children studying in the derecognized school, shall be admitted:

Provided further that no recognition shall be so withdrawn without giving an opportunity of being heard to such school, in such manner, as may be prescribed.

- (4) With effect from the date of withdrawal of the recognition under sub-section (3), no such school shall continue to function.*
- (5) Any person who establishes or runs a school without obtaining certificate of recognition, or continues to run a school after withdrawal of recognition, shall be liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues.*

- (1) *No school shall be established, or recognized, under section 18, unless it fulfills the norms and standards specified in the Schedule.*
- (2) *Where a school established before the commencement of this Act does not fulfill the norms and standards specified in the Schedule, it shall take steps to fulfill such norms and standards at its own expenses, within a period of three years from the date of such commencement.*
- (3) *Where a school fails to fulfill the norms and standards within the period specified under sub-section (2), the authority prescribed under sub-section (1) of section 18 shall withdraw recognition granted to such school in the manner specified under sub-section (3) thereof.*
- (4) *With effect from the date of withdrawal of recognition under sub-section (3), no school shall continue to function.*
- (5) *Any person who continues to run a school after the recognition is withdrawn, shall be*

liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues.

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THE SCHEDULE
(Sections 19 & 25 of RTE Act, 2009)
Norms & Standards for a School

Sl. No.	Item	Norms and Standards	
1	Number of Teachers:		
(a)	For first class to fifth class	Admitted children	Number of teacher
		Up to Sixty	Two

		<i>Between sixty-one to ninety</i>	<i>Three</i>
		<i>Between Ninety-one to one hundred and twenty</i>	<i>Four</i>
		<i>Between One hundred and twenty-one to two hundred</i>	<i>Five</i>
		<i>Above One hundred and fifty children</i>	<i>Five plus one Head- Teach er</i>
		<i>Above Two hundred Children</i>	<i>Pupil- teache r Ratio (exclu ding</i>

			Head- teache r) shall not exceed forty
(b)	For sixth class to eighth class	<p>(1) At least one teacher per class so that there shall be at least one teacher each</p> <p>For-</p> <p>(i) Science and Mathematics</p> <p>(ii) Social Sciences;</p> <p>(iii) Languages,</p>	
		(2) At least one teacher for every thirty-five children	
		<p>(3) Where admission of children is above one hundred</p> <p>i. A full time head-teacher;</p>	

		<p><i>ii. Part time instructor for</i></p> <p><i>A. Art Education</i></p> <p><i>B. Health and Physical Education</i></p> <p><i>C. Work Education</i></p>
2.	<i>Building</i>	<p><i>All-weather building consisting of</i></p> <p><i>(i) At least one class-room for every teacher and an office-cum store-cum-Head teacher's room</i></p> <p><i>(ii) Barrier free access</i></p> <p><i>(iii) separate toilets for boys and girls</i></p> <p><i>(iv) safe and adequate drinking water facility to all children</i></p> <p><i>(v) a kitchen where mid-day meal is cooked in the school;</i></p>

		<p>(vi) playground;</p> <p>(vii) Arrangements for securing the school building by boundary wall or fencing.</p>
3.	Minimum number of working days/ instructional hours in an academic year	<p>(i) Two hundred working days for first class to fifth class;</p> <p>(ii) Two hundred and twenty working days for sixth class to eight class;</p> <p>(iii) Eight hundred instructional hours per academic year for first class to fifth class;</p> <p>(iv) One thousand instructional hours per academic year for sixth class to eighth class</p>
4.	Minimum number of working days/ instructional hours in an	<p>(i) Two hundred working days for first class to fifth class;</p> <p>(ii) Two hundred and twenty working days for sixth class to</p>

	<i>academic year</i>	<i>eight class;</i> <i>(iii) Eight hundred instructional hours per academic year for first class to fifth class;</i> <i>(iv) One thousand instructional hours per academic year for sixth class to eight class</i>
5.	<i>Minimum number of working hours per week for the teacher</i>	<i>Forty-five teaching including preparation hours</i>
6.	<i>Teaching learning equipment</i>	<i>Shall be provided to each class as required.</i>
7.	<i>Library</i>	<i>There shall be a library in each school providing newspaper magazines and books on all subjects, including story-books</i>

8.	<i>Play material, games and sports equipment</i>	<i>Shall be provided to each class as required</i>
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9. That, in the initial years of the Act, there appears to be a misconception that Government schools are not required to meet the norms and standards prescribed under the Act only on account of a comma inserted in the wrong place in the RTE Bill when it was first introduced in the Parliament. This has since been corrected and the provision for meeting norms and standards is applicable to all schools.

10. That The Ministry of Law and Justice vide Corrigendum dated 27.04.2010 made a correction in the RTE Act by way of deletion of a comma in Section 19. The contents of the corrigendum is reproduced herein below:

*In the Right of Children to Free and
Compulsory Education Act, 2009 (35 of*

2009), published in the Gazette of India, Extraordinary, Part II, section 1, dated the 27th August, 2009 (issue No. 39), at page 7, in line 15, for "established or recognized, under", read "established, or recognized under".

The aforementioned corrigendum was communicated to all State/ UTs Education Secretaries vide an office Memorandum dated 9.06.2010. A true copy of the aforesaid corrigendum along with the Office memorandum dated 9.06.2010 is annexed herewith as

Annexure P-3.

- 11.** That furthermore, Ministry of Human Resource Development, Government of India. published and released a document entitled 'The Right Of Children To Free And Compulsory Education Act, 2009-Clarification on Provisions' which clarified again that norms and standards are applicable to both Government schools and private schools. Relevant portion of the said documents is reproduced below for ready reference:

Section 18 stipulates that no private school should be established or can function without obtaining a Certificate of Recognition, and that such Certificate of Recognition would be issued to schools that fulfill the prescribed norms and standards. The Act does not have a provision for recognition of Government schools, since that would amount to Government giving recognition to its own schools, however section 19 clearly states that Government schools must meet the requirements of the schedule. Section 19 lays down the norms and standards for schools. Any school, whether Government or private that does not fulfill the prescribed norms and standards shall do so within a period of three years from the date of commencement of the proposed Act.

There appears to be a misconception that Government schools do not require to meet the norms and standards prescribed under the Act on account of the wrong insertion of a comma in the RTE Bill when it was introduced in Parliament. This has since been corrected and

the provision for meeting norms and standards is applicable to all schools, ensuring that these schools also meet the norms prescribed will be monitored by the NCPCR.

A true copy of the said document (date not mentioned on the document) is annexed herewith as **Annexure P- 4.**

12. That Section 38 of the Act confers powers upon the State Governments to carry out the purposes of this Act and in particular, the matters stated under Sub-section (2) of Section 38 of the RTE Act. In pursuance to it, the State of Punjab (herein after 'Respondent No. 3) has framed the Punjab Right of Children to Free and Compulsory Education Rules, 2011 (hereinafter referred to as Punjab RTE Rules 2011), these rules were promulgated by the Government of Punjab and published in the Official Gazette dated 2-11-2012. A true copy of the official gazette is annexed herewith as **Annexure P-5.**

13. That the District Information System for Education (DISE) data of 2011-2012 shows that as of 2012 there were 20,370 Government schools and 3594 Private

schools in Punjab. The enrolment in Government schools was 2,193,899 and the enrolment in Private Schools was 1,026,200 in 2012, whereas the enrolment in Private Schools according to the 2011 data was 918,187, this data shows the increase in enrolment of children in private schools and the growing relevance of private schools in Punjab.

14. That however, the State Government did not make any rule to implement the recognition norms on government schools. Rules 11 and 12 of Punjab RTE Rules deal exclusively with private schools only – *"Every school other than a school established owned or controlled by the State Government or the Local Authority, ..."*.
15. That with the coming into force of the 2009 Act, under the provisions of Section 18 and 19 r/w State Rules thereof, it was incumbent upon every school, other than a school established, owned or controlled by the State Government or the Local Authority, to apply for recognition from such authority as was prescribed under the purview of said Act. In garb of these provisions 931 private schools were shut down; further, 219 private schools in Punjab have been shut

down after the vide order dated 20.08.2013 passed in a matter entitled Balraj Singh v State of Punjab CWP 7388 of 2010 (O & M) by a Division Bench of this Hon'ble Court because of non-compliance with Sections 18 & 19 of the RTE Act r/w Rule 11 & 12 of the Punjab RTE Rules. A true copy of the said order dated 20.08.2013 is attached herewith and marked as

Annexure P-6.

16. That in September 2012, National University of Educational Planning and Administration in association with Department of School Education and Literacy published a report entitled 'Elementary education in India: Progress towards UEE' under District Information System for Education (DISE) on school infrastructure. It is pertinent to mention that according to DISE statistics, many of the Government schools in Punjab are non-compliant with the RTE norms and standards. Some of the Highlights of the Reports regarding Government Schools of Government of Punjab, are as follows:

- More than 23% Government Primary schools have Student-Classroom ratio > 30 in 2012-13.

- Almost 30% Government Upper Primary Schools have student classroom ratio > 35 in 2012-13.
- 28% Primary government schools have a Pupil Teacher Ratio (PTR) greater than the required 30 in 2012-13.
- 4.69% upper primary government schools have a PTR above 35 in 2012-13.
- As many as 2278 (11.27%) Government schools do not have libraries.
- Over 6384 Government schools do not have boys toilets and 3664 schools do not have girls toilets.
- 1010 (5%) Government schools do not have a boundary wall.

A true copy of the aforesaid report dated 30.09.2012 is annexed herewith as **Annexure P-7.**

17. That it is humbly submitted that situations have not really changed in the past one year and no monitoring is being done by any Government authority to check the compliance of these norms and rules by the Government. schools, which can be seen though various reported media articles. It has been reported

in the media that 1042 Government. school buildings in Punjab are unsafe, 22% of Government schools have no desks and 27% of Government schools have a classrooms deficit. Other details are listed as below:

- District Amritsar
 - Total number of Government schools: 195
 - Government schools with desk shortage: 44
 - Government schools with classroom shortage: 188
 - Government schools with no playground: 53
 - Government schools with no toilet/dysfunctional toilet: 45
- District Fatehgarh Sahib
 - Total number of Government schools: 76
 - Government schools with desk shortage: 45
- District Ludhiana
 - Total number of Government schools: 329
 - Government schools with no playground: 74
- District Mansa
 - Total number of Government schools: 102
 - Government schools with desk shortage: 27
 - Government schools with no playground: 27
- District Ropad

- Total no. of Government schools: 91
- Government schools with classroom shortage:
80
- Government schools with no toilets/
dysfunctional toilets: 43
- District Gurdaspur
 - Total no. of Government schools: 247
 - Government schools with desk shortage: 110
 - Government schools with classroom shortage:
8
 - Government schools with no toilets/
dysfunctional toilets: 30

Certain single teacher Government schools have a Pupil-teacher ratio of more than 100, making it impossible for any quality teaching to take place. According to another media report, for 45,119 government primary students in Patiala, only 7401 benches are available. 155 schools out of 470 schools in Patiala do not have any furniture for the students to sit on and they are made to sit on the ground in bone-chilling weather. Further, of the 1.5 lakh-sanctioned posts, 29006 have been lying vacant and these include posts of Principals and headmasters. A true copy of

these media reports is annexed herewith as **Annexure P-8 (COLLY)**.

- 18.** That the RTE Act also delegated functions to statutory authorities such as the National Commission for Protection of Child Rights and State Commissions for Protection of Child Rights in the states, to examine and review the safeguards for the child's rights. Furthermore, the Act also provides for the constitution of the National Advisory Council and State Advisory Council in order to recommend measures for the effective implementation of the Provisions of the Act. Relevant aforementioned Sections are reproduced here, for the ready reference of this Hon'ble Court.

31. Monitoring of child's right to education-

- (1) The National Commission for Protection of Child Rights constituted Under Section 3, or, as the case may be, the State Commission for Protection of Child Rights constituted Under Section 17, of the Commissions for Protection of Child Rights Act, 2005, shall, in addition to the functions assigned to them under that Act, also perform the following functions, namely:-*

- (a) *Examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation;*
 - (b) *Inquire into complaints relating to child's right to free and compulsory education; and*
 - (c) *Take necessary steps as provided Under Sections 15 and 24 of the said Commissions for Protection of Child Rights Act.*
- (2) *The said Commissions shall, while inquiring into any matters relating to child's right to free and compulsory education under Clause (c) of Sub-section (1), have the same powers as assigned to them respectively Under Sections 14 and 24 of the said Commissions for Protection of Child Rights Act.*
- (3) *Where the State Commission for Protection of Child Rights has not been constituted in a State, the appropriate Government may, for the purpose of performing the functions specified in Clauses (a) to (c) of Sub-section (1), constitute such authority, in such manner*

and subject to such terms and conditions, as may be prescribed.

Section 34: Constitution of State Advisory Council

- (1) The State Government shall constitute, by notification, a State Advisory Council consisting of such number of Members, not exceeding fifteen, as the State Government may deem necessary, to be appointed from amongst persons having knowledge and practical experience in the field of elementary education and child development.*
- (2) The functions of State Advisory Council shall be to advise the State Government on Implementation of the provisions of the Act in an effective manner.*
- (3) The allowances and other terms and conditions of appointment of members of the State Advisory Council shall be such as may be prescribed.*

- 19.** That in the Landmark Judgment of *Society for Unaided Private Schools of Rajasthan v. Union of India and Anr.* (2012) 6 SCC 1, vide its judgment dated 12.4.2012, Hon'ble Apex Court of the Country upholding the validity of the RTE Act, 2009 gave various directions, some of which are as follows:

In exercise of the powers conferred upon the appropriate Government under Section 38 of the RTE Act, the Government shall frame rules for carrying out the purposes of this Act and in particular, the matters stated under Sub-section (2) of Section 38 of the RTE Act.

- I. The directions, guidelines and rules shall be framed by the Central Government, appropriate Government and/or such other competent authority under the provisions of the RTE Act, as expeditiously as possible and, in any case, not later than six months from the date of pronouncement of this Judgment.*
- II. All the State Governments which have not constituted the State Advisory Council in terms of Section 34 of the RTE Act shall so*

constitute the Council within three months from today. The Council so constituted shall undertake its requisite functions in accordance with the provisions of Section 34 of the Act.

III. Central Government and State Governments may set up a proper Regulatory Authority for supervision and effective functioning of the Act and its Implementation.

- 20.** That the Hon'ble Supreme Court, therefore, directed the Central Government, the appropriate State Governments and other competent authorities functioning under the RTE Act to issue proper directions/guidelines for its full implementation within a period of six months from the date of the pronouncement of that judgment. This Court also directed all the State Governments to constitute a State Advisory Council within three months from the date of that judgment. Advisory Councils so constituted were directed to discharge their functions in accordance with the provision of Section 34 of the RTE Act and advise the Government. The necessity of constituting a proper Regulatory Authority for effective

functioning of the RTE Act and its implementation was also highlighted.

21. That the State Commission for Protection of Child Rights for the State of Punjab (Hereinafter Respondent No. 3), was constituted vide Notification No. 5/1/2006-1SS/916, dated 15/04/2011, whereas the Fifteen Member State Advisory Committee (Hereinafter Respondent No. 4) u/s 34 of 2009 Act was constituted vide Notification No. 2/4/2010-2Ed7/3344-63 dated 14/06/2010. It is pertinent to mention here that, as per the news reports, the First and only Meeting of the Committee was held on 12/10/2010 i.e almost after three years of the constitution of the committee, which shows their failure to carry out their duties under the Act and Rules. A true copy of the aforementioned Notifications along with the news reports are annexed herein and marked as **Annexure P-9 (COLLY)**.
22. That after the perusal of the DISE reports and aforementioned news reports, it is apparent that Respondent No. 4 and Respondent No. 6 have miserably failed in their duties for proper enforcement and implementation of the Act and Rules. The Norms

and standards as enlisted in the Schedule and penalties as contained in s.19 of the RTE Act, 2009 have been selectively enforced against private schools only, whereas S.18-19 and the schedule to RTE Act, 2009 are equally applicable to government schools as well.

23. That the situation is very unfortunate as far as the learning outcomes are concerned. Almost half the children in Std III in government schools cannot read Std I level text where as more than two-third of private school kids in Std III can read Std I text. 57% of Std III kids in government schools cannot do basic subtraction whereas more than 68% Std III private kids can do that. A true copy of the ASER survey 2013 is attached herewith and marked as **Annexure P-10.**

24. That it is pertinent to mention that the Gujarat RTE Rules present an ideal example to follow as they not only cover government schools expressly but also outsource the assessment process to third party agencies. The relevant portion of Gujarat RTE Rules is reproduced below:-

Please note:

- These norms apply to all schools including those run by state government, local bodies, private aided schools as well as unaided schools.
- The average performance of the school (possibly the percentile score) shall be converted into a scale in which minimum grade shall be defined.
- Existing schools must meet the minimum grade to achieve the recognition criteria. For schools that do not meet the minimum grade, instead of the regular once in 4 year assessments, they shall be assessed the next year also. They shall also be required to come out with an action plan (based on guidelines published by the state, for example having a greater training requirement for their teachers) and if they fail to meet minimum outcomes for 3 years in a row, such schools shall be closed.
- However, it shall be noted that these learning outcomes provide actionable improvement points to schools (unlike the infrastructure norms-that any school that really focuses on improving, shall be able to make the improvement)
- In order to obtain these details, the State may undertake an independent assessment by one or more

professional third-party agencies having expertise and experience in this area. It is expected that more agencies shall develop expertise in this important areas based on this requirement.

- Each agency must be assigned to assess schools of different types (there shall not be separate agency for government schools, separate for private schools, etc.) as this shall be necessary for the assessments to be standardized properly.

- Each school shall normally be assessed every 4th year. However, schools performing very poorly may be required by the competent authority to be assessed more frequently.

The assessment must focus not only on rote learning but 'learning with understanding' or 'usable learning'.

Questions must require children to think and not simply have to recall. Some of them shall be of a type or format which is not typically from the textbook though the content level shall be corresponding to what shall have been learnt by that stage.

A true copy of Gujarat RTE Rules is annexed herewith and marked as **Annexure P-11**.

25. That the present Writ Petition is filed to challenge the following—

- i. Licensure based recognition system infringing on the autonomy of private schools;
- ii. Penalties as given in s.18 and s.19 for being discriminatory, exorbitant and disproportionately excessive;
- iii. Selective enforcement of s.18, 19 of the Right of Children to Free And Compulsory Education Act, 2009 (hereinafter RTE Act) along with Rule 11 and 12 of the Punjab Right of Children to Free and Compulsory Education Rules, 2011 (hereinafter Punjab RTE Rules) against private schools only; and
- iv. Standard and norms in the Schedule of the RTE Act for being arbitrary, by challenging the constitutionality of S.18, S.19 and the Schedule of the Right of Children to Free And Compulsory Education Act, 2009 (hereinafter RTE Act) along with Rule 11 and 12 of the Punjab RTE Rules.

26. That the instant Writ Petition is preferred to challenge the recognition system promulgated by S.18-19 and the Schedule of 'the Right of Children to Free and

Compulsory Education Act, 2009' along with Rule 11-12 of Punjab RTE Rules. The petitioner aggrieved by the aforesaid sections is preferring the present Writ Petition on the following amongst various grounds:

- (I) Because Rule 11 and 12 of Punjab RTE Rules are discriminatory as those enforce recognition norms selectively against private schools only and exempt government schools and are thus violative of Article 14 of the Constitution of India;
- (II) Because S.18, s.19 and the schedule of RTE Act along with Rule 11 and Rule 12 of The Punjab Right of Children To Free & Compulsory Education Rules, 2011 impose unreasonable licensure-based recognition criteria upon private unaided unrecognized schools infringing their autonomy and leading to adverse consequences detrimental to public interest and hence violate Article 19(1)(g) of the Constitution of India;
- (III) Because S.18 and S.19 of the RTE Act impose excessive and harsh penalties for non compliance that are disproportionately restrictive and thus infringe autonomy of private schools in

contravention of Article 19(1)(g) of the Constitution of India;

- (IV) Because the schedule of the RTE Act is also arbitrary and unreasonable as it gives 100% weightage based on input norms and not on learning outcomes for the purpose of school recognition, therefore it lacks any intelligible differentia and has no rational nexus to the object sought to be achieved by the Act and thus it violates Article 14 and Article 19(1)(g) of the Constitution.
- (V) Because Shutting down private schools and forcing poor kids to study in neighbourhood government schools is in violation of personal liberty guaranteed under Article 21 of the Constitution of India and Right To Education guaranteed under Article 21A of the Constitution of India.
- (VI) Because the selective application and enforcement of recognition procedures to only private schools, mandating compliance with input norms, standards and conditions of recognition and not to government schools results in discrimination

between the children studying in private schools vis-à-vis the children studying in government schools and hence violates Article 14 of the Constitution of India

(VII) Because the norms and standards as stated in the Schedule are equally applicable to all schools - private schools as well as public schools.

(VIII) Because there is no provision either in the RTE Act or in the Punjab State Rules that mandates any kind of penalty or enforcement procedures to check compliance with these norms and rules or penalties for government schools for non-compliance and hence there is no provision to give effect to the intention of the legislature that S.18 and S. 19 should apply to both, government schools and private schools.

(IX) Because in the absence of any kind of enforcement of s.18 and s.19 on government schools, it is discriminatory to children studying in government schools, who have no legal recourse in case the government schools do not comply with the prevailing norms and standards.

- (X) Because the absence of any independent third party agencies for assessment and monitoring for govt. schools arise a potential conflict of interest.
- (XI) Because S.18, s.19 and the schedule of RTE Act along with Rule 11 and Rule 12 of The Punjab Right of Children To Free & Compulsory Education Rules, 2011 impose unreasonable licensure-based recognition criteria upon private unaided unrecognized schools infringing their autonomy and leading to adverse consequences detrimental to public interest and hence violate Article 19(1)(g) of the Constitution of India.
- (XII) Because the Hon'ble Supreme Court has rightly held in *TMA Pai Foundation v. State of Karnataka* reported in **(2002) 8 SCC 481** that so far as private unaided educational institutions are concerned, maximum autonomy has to be with the management with regard to administration, including the right to appointment, disciplinary powers, admission of students, the fee to be charged, etc. and that the authority granting recognition or affiliation can certainly lay down conditions for the grant of recognition or affiliation

but those conditions must pertain broadly to academic and educational matters and the welfare of students and teachers. The Hon'ble Supreme Court held that the right to establish an educational institution can be regulated but such regulatory measures must be in general to ensure proper academic standards, atmosphere and infrastructure and prevention of maladministration. The necessity of starting more quality private unaided educational institutions in the interest of general public was also emphasized by the Hon'ble Apex Court by ensuring autonomy and non-regulation in the school administration, admission of students and fee to be charged. The relevant paragraph (at page 549) from *Pai Foundation* Judgment (Per Kirpal, C. J.; for himself and Pattnaik, Rajendra Babu, Balkrishnan, Venkatrama Reddi and Pasayat, JJ.) is reproduced below for ready reference:

"In the case of private unaided educational institutions, the authority granting recognition or affiliation can certainly lay

down conditions for the grant of recognition or affiliation; these conditions must pertain broadly to academic and educational matters and welfare of students and teachers – but how the private unaided institutions are to run is a matter of administration to be taken care of by the management of those institutions.”

It is submitted that the aforementioned Para was quoted and reiterated by Radhkrishnan, J. in his dissenting judgment in *Society for Unaided Private Schools of Rajasthan v Union of India* reported in **(2012) 6 SCC 1**.

- (XIII) Because the aforementioned observations as pronounced by the eleven judge bench in the *Pai Foundation* case are still binding and could not have been overruled by the majority judgment in *Society for Unaided Private Schools of Rajasthan v. Union of India*. The constitutional principles laid down in *Pai Foundation* on Articles 19(1) (g), so far as unaided private educational institutional are concerned, cannot be overlooked and Article 21-A,

s.18 and s.19 have to be tested in light of those constitutional principles laid down by *Pai Foundation* and *Inamdar* because *Unnikrishnan* was the basis for the introduction of the proposed Article 21-A and the deletion of clause (3) from that Article. Interpretation given by the Courts to any Constitutional provision gets inbuilt in the provision interpreted, Article 19(1) (g) in this case.

- (XIV) Because S.18 and S.19 of RTE Act, 2009 imposes a massive financial burden on the private budget schools to comply with infrastructure related norms and standards within a period of three years from the date of such commencement. This burden will either make the schools unaffordable for low income families or result in their shutdown; or will lead to corruption.
- (XV) Because the aforementioned norms and standards seek to micro-manage the day-to-day affairs and thus violate the autonomy of private unaided non-minority schools guaranteed to them under Article 19(1)(g).

(XVI) Because the recognition criteria imposed by RTE Act is a distorted form of excessively restrictive license-permit raaj. It is submitted that such excessive regulatory frameworks have been done away with in other sectors such as telecom, aviation and insurance but education has been all the more tightly regulated without any basis in rationality.

(XVII) Because stringent recognition criteria and penalties will make entry tough and create operational barriers for new schools to start and small schools to sustain themselves, which will lead to a shortage of private schools. It is submitted that private schools are already lesser in number compared to government schools, yet the demand for private schools is high due to the better quality of learning outcomes provided by private schools. However, with such stringent recognition norms, it will be very difficult for new private schools to come up and sustain themselves and consequently, there would be lesser choice for parents to decide which school their child goes to.

- (XVIII) Because the aforementioned sections mandate certain arbitrary and unreasonable input norms thereby either exponentially raising the cost of providing education or making education unaffordable for children belonging to low-income groups studying in private budget schools and therefore are detrimental to public interest.
- (XIX) Because despite the lesser restrictive alternatives to achieve the same regulatory goals, S.18, S.19 and the schedule of RTE Act along with Rule 11 and 12 of Punjab RTE Rules imposes excessively restrictive regulations on private schools resulting in their closure and hence violate Article 19(1)(g) of the Constitution of India;
- (XX) Because the aforementioned input norms are unfeasible to the degree of being prohibitive in effect, thus making education unaffordable for children belonging to low-income groups and some input norms such as all-weather building for schools located in low-income residential areas may be impossible to achieve.

- (XXI) Because the Government could achieve the same objective through lesser restrictive regulations, i.e. rating or certifying schools instead of creating another license-permit Raj for schools. It is submitted that these regulations being unnecessarily restrictive result in License-inspector Raj, i.e. police extortion, bribery and corruption. Arvind Panagariya, a well-known economist and Professor at University of Columbia writes about these recognition norms (entitled "What Right To Education? Failing to meet the prescribed norms, half of the existing schools will lose their recognition", TOI, 6 Apr 2013):-

Like the myriad of our internally contradictory labour laws, all parts of this law [RTE] cannot be simultaneously implemented. Therefore, it is a fair bet that an inspector raj would soon emerge whereby bribes will be extracted for delaying derecognition of recognised schools that do not meet the input norms and for letting unrecognised schools stay open. Of course, the real victims will be the poor, whose children disproportionately populate these schools and

will have to pay higher fees to cover the bribes. Moreover, just as onerous labour laws have discouraged the expansion of labour-intensive manufacturing in the organised sector, the demanding input norms in the RTE Act would discourage the entry of new low-cost private schools. Just as labour laws hurt low-skilled workers by hampering job creation, RTE norms would deprive the poor of quality education.

(XXII) Because instead of license-based recognition norms, minimum level of infrastructure can be ensured among private schools through any of the following alternatives or both:

- I. Pro-active disclosure: Private schools may be asked to proactively disclose their standard of infrastructure so that parents can know in advance the level of infrastructure available and make an informed choice;
- II. Certification: Private schools could be assessed and rated on various parameters through a third party or through a government agency. Such a rating would inform parents and

let parents decide whether they want to admit their children in those schools.

In contrast, private schools have been shut down and many are under threat of closure even though these schools have better learning outcomes in comparison to government schools.

A true copy of chapter-9 entitled 'Occupational Licensure' from Milton Friedman's book 'Capitalism and Freedom' is attached herewith and marked as **Annexure P-12**.

- (XXIII) Because instead of shutting down budget private schools for non-compliance with the impugned norms and standards, these schools could be accredited, certified or ranked as per performance and parents could have the freedom to choose the private schools they want their children to go to. Private schools that are ranked lower would automatically shut down if the parents stop sending their children to those schools and send them to other private schools instead and therefore only better quality schools would survive.

- (XXIV) Because S.18 and S.19 of the RTE Act imposes excessive and harsh penalties for non compliance that are disproportionately restrictive and thus infringe autonomy of private schools in contravention of Article 19(1)(g) of the Constitution of India.
- (XXV) Because the impugned sections don't see the woods for the trees - merely because it is desirable to see all the students studying in schools having great infrastructure and highly qualified teachers, it does not mean it is feasible and efficient for all the private schools or their students/ students' parents to afford all weather building, etc. It is humbly submitted that these private budget schools are proud of being low-cost neighborhood schools providing good quality education to marginalized sections of the society for an affordable fee. Being not-for-profit there is a lack of means or resources to improve infrastructure. A study entitled '*Priorities for Primary Education Policy in India's 12th Five year Plan*' by Karthik Muralidharan, NCAER-Brookings India Policy Forum 2013 reviews literature on

causes of high learning outcomes and correlates them with infrastructure. The same has been annexed herewith as **Annexure P-13.** With regard to school infrastructure, it reviewed two studies - as per the first study (Muralidharan, 2013), there was *"no correlation between changes in average village-level school infrastructure (between 2003 and 2010) and changes in enrolment in government schools, though they do find a small positive effect on the number of students attending school"*. The study also found *"no correlation between changes in average village-level school infrastructure and either teacher absence or student test scores, even though as it found significant improvements in almost all measures of school infrastructure."* The other study (Borkum, He and Linden, 2010) reviewed in this paper the impact of a school-library program in Karnataka that found no correlation between the infrastructure index of the school and measures of student test-scores gains.

With regard to Pupil-Teacher Ratio, the aforementioned paper summarized the existing research in the following words:

These estimated impacts are modest in magnitude, and given the high cost of class-size reductions, it may not be very cost effective to aim to improve test scores by reducing class sizes. Thus even a 20% reduction in pupil-teacher ratio (which is a very expensive intervention) would not yield large test scores gains (around 0.05 standard deviation/ year) and would be considerably less cost effective than achieving the same class-size reduction using contract teachers (Muralidharan and Sundararaman 2013) or introducing modest amounts of performance linked bonuses (Muralidharan 2012; see section 3.3.4).

(XXVI) Because the schedule of the RTE Act is also arbitrary and unreasonable as it gives 100% weightage based on input norms and not on learning outcomes for the purpose of school

recognition, therefore it lacks any intelligible differentia and has no rational nexus to the object sought to be achieved by the Act and thus it violates Article 14 and Article 19(1)(g) of the Constitution.

- (XXVII) Because the real objective of the Act is to improve the child's learning outcomes which is evident from the Statement of Objects and Reasons of the Act. The legislature has taken note of the humungous quality deficit in the learning achievement in the 'Statement of Objects and Reasons' of the Act. Relevant portions of the Statement of Objects and Reasons of RTE Act are reproduced below for ready reference:

STATEMENT OF OBJECTS AND REASONS

The crucial role of universal elementary education for strengthening the social fabric of democracy through provision of equal opportunities to all has been accepted since inception of our Republic. The Directive Principles of State Policy enumerated in our

Constitution lay down that the State shall provide free and compulsory education to all children up to the age of fourteen years. Over the years there has been a significant spatial and numerical expansion of elementary schools in the country, yet the goal of universal elementary education continues to elude us. The number of children, particularly children from disadvantaged groups and weaker sections, who drop out of school before completing elementary education, remains very large. Moreover, the quality of learning achievement is not always entirely satisfactory even in the case of children who complete elementary education.

(XXVIII) Because the input based norms may be necessary but are not sufficient conditions for ensuring a child's learning outcome; thus assigning 100% weightage to input-norms without any scope for learning achievement assessment, as a licensure condition for opening or running a school is unreasonable and vague.

(XXIX) Because the State Government should mandate only those requirements or norms that are known

to be both effective and feasible; norms that are ineffective and unfeasible should not be mandated and those that are effective/ efficient or only feasible should be adopted with great care, taking into account evidence from research studies as well as geographical and socioeconomic factors.

(XXX) Because the aforementioned input norms are unfeasible to the degree of being prohibitive in effect – many of them would escalate the cost of education by four to six times thus making education unaffordable for children belonging to low-income groups and some input norms such as land, building and classroom size norms for private schools located in low-income residential areas may be impossible to achieve.

(XXXI) Because the Gujarat RTE Rules assign only 15% weight age to input-based norms and rest 85% to learning outcomes, thereby according quality of education its due importance. It is submitted that clearly, by way of the aforementioned provisions, the Gujarat government has taken cognizance of the reality that private schools even though lacking in infrastructure norms do provide better

quality education to low-income masses and shutting them down for the lack of infrastructure would be in violation of the objectives of the Act.

While in Gujarat there has been notable focus and efforts on enrollment, and have brought a fare share of success for the primary education, concern for learning outcomes and quality provided in primary education has been addressed by various enhancement programmes for learning improvement. It is for strengthening the quality outcomes; the government of Gujarat launched a programme called Gunotsav, or 'Celebrating Quality'. Therefore Gunotsav is defined as an accountability framework for quality of primary education, which includes learning outcomes of children as well as co-scholastic activities, use of resources and community participation. A true copy of the Gujarat Gunotsav webpages is annexed herewith and marked as as **Annexure P-14**.

(XXXII) Because the Closure of private schools for non-compliance with resource intensive norms and

standards would frustrate the very intention of the RTE Act and the parents' right to choose school for their wards and would be violative of Article 21 and Article 21-A.

(XXXIII) Because the closure of private schools would be violative of Article 21 and 21-A of the Constitution for two reasons:

- a. In addition to non-compliant private schools, many government schools are also resource deficit and non-compliant. It is a harsh fact that there is no adequate capacity to absorb all children in compliant schools;
- b. Aforementioned provisions violate Article 21 of the parents by depriving them of the choice of school they wish their child to go to.

(XXXIV) Because the existing government schools are not enough to cater to the students, if the non-compliant private schools are also closed down, swathes of children, especially those belonging to marginalized sections of society will not be able to avail education. In fact, many of the government

schools are non-compliant and maintain poor infrastructure and have high Pupil-Teacher Ratio.

(XXXV) Because the direct consequence of the enforcement of these aforementioned provisions would be the closure of hundreds of private unrecognized schools resulting in thousands of children being deprived of education. As submitted above, government schools are far too inadequate to absorb all students and provide universal enrolment. Therefore, the enforcement would lead to unintended outcomes contrary to the benign objects of the Act.

(XXXVI) Because the aforementioned provisions which are unjust, unreasonable and unfair, violate Article 21 of the parents by depriving them of choice of school they wish their child to go to. The result of the provision would be that the parents will be forced to send their children to inferior quality government schools instead of better quality private low-cost schools. Relevant excerpts from the works of Murray N. Rothbard entitled "Education: Free and Compulsory" is reproduced below for ready reference (at p.9-10):

The key issue in the entire discussion is simply this: shall the parent or the State be the overseer of the child? An essential feature of human life is that, for many years, the child is relatively helpless, that his powers of providing for himself mature late. Until these powers are fully developed he cannot act completely for himself as a responsible individual. He must be under tutelage. This tutelage is a complex and difficult task. From an infancy of complete dependence and subjection to adults, the child must grow up gradually to the status of an independent adult. The question is under whose guidance and virtual "ownership" the child should be: his parents' or the State's? There is no third, or middle, ground in this issue. Some party must control, and no one suggests that some individual third party have authority to seize the child and rear it.

It is obvious that the natural state of affairs is for the parents to have charge of the child. The parents are the literal producers of the

child and the child is in the most intimate relationship to them that any people can be to one another. The parents have ties of family affection to the child. The parents are interested in the child as an individual, and are most likely to be interested and familiar with his requirements and personality. Finally, if one believes at all in a free society, where each one owns himself and his own products, it is obvious that his own child, one of his most precious products, also comes under his charge.

The only logical alternative to parental "ownership" of the child is for the State to seize the infant from the parents and to rear it completely itself. To any believer in freedom this must seem a monstrous step indeed. In the first place, the rights of the parents are completely violated, their own loving product seized from them to be subjected to the will of strangers. In the second place, the rights of the child are violated, for he grows up in subjection to the unloving hands of the State,

with little regard for his individual personality.

[...]

27. That the following law points involved in the present Civil Writ Petition are:-

- I. Whether the present writ petition in the nature of PIL is maintainable under Article 226/227 of the Constitution of India?
- II. Whether the norms and standard provided under Section 9 and Schedule of the RTE Act 2009 with Rule 11 and Rule 12 of Punjab RTE Rules 2011 applied equally to Government Schools?
- III. Whether unreasonable licensure-based recognition criteria provided under S.18, s.19 and the schedule of RTE Act along with Rule 11 and Rule 12 of The Punjab Right of Children To Free & Compulsory Education Rules, 2011 imposed upon private unaided unrecognized schools infringing their autonomy and leading to adverse consequences detrimental to public interest and hence violate Article 14 and Article 19(1)(g) of the Constitution of India?
- IV. Whether Shutting down private schools and forcing poor kids to study in neighbourhood

government schools is in violation of personal liberty guaranteed under Article 21 of the Constitution of India and Right To Education guaranteed under Article 21A of the Constitution of India?

- V. Whether the Rule 11 and 12 of Punjab RTE Rules are discriminatory for selective enforcement of recognition norms against private schools only is in violation of Article 14 of the Constitution of India?
- VI. Whether non-compliance of norms and standard provided under the RTE Act, by Government Schools within period prescribed under the Act is in violation of Article 21 and 21-A of the Constitution of India?
- VII. Whether the gross negligence on the part of respondents to ensure basic facilities such as toilet and drinking water in Government School is in violation of Article 21 of the Constitution of India?
- VIII. Whether the Punjab RTE Rules 2011 are ultra vires of the Central Act and Rules as no procedure to check compliance and penalties for Government Schools is not provided under the Rules?

IX. Whether the non-compliant Government Schools are liable to penalties prescribed under the RTE Act equally to other private schools?

28. That a representation/memorandum on behalf of petitioner & i-justice was sent to the Minister of Education, State of Punjab, with copy to all the respondents, dated 03/02/2014. No response was given by the respondent authority on the same even after 3 months of the representation. The copy of representation is annexed herein and marked as **Annexure -P-15.**

29. That the Petitioners have no other alternate efficacious remedy other than filing the present Petition.

30. That the Petitioners have not filed any other similar petition either in this Hon'ble Court or before the Hon'ble Supreme Court or before any other High Court.

PRAYER

In view of the facts and circumstances stated above, it is prayed that this Hon'ble Court in the interest of Justice may be pleased to: -

- i. Strike down s.18-19 and the Schedule of 'the Right of Children to Free and Compulsory Education Act, 2009' along with Rule 11 and 12 of Punjab RTE Rules, 2010 as being violative of Article 14, 19, 21 and 21-A of the Constitution of India;
- ii. Declare that s.18-19 and the Schedule of 'the Right of Children to Free and Compulsory Education Act, 2009' along with Rule 11 & Rule 12 of Punjab RTE Rules apply equally to Government Schools as well AND declare the provisions for penalties and closure therein as unconstitutional;
- iii. Issue necessary direction(s) to all the respondents to frame guidelines for rating and ranking based on comprehensive criteria including learning outcome of all schools in their jurisdiction including Government schools or certify third parties to accredit, rank, rate or certify all schools across *Punjab* ~~Delhi~~;
- iv. Declare S.18-19 and the Schedule of 'the Right of Children to Free and Compulsory Education Act, 2009' along with Rule 11 and 12 of Punjab RTE Rules, 2011 as directory and the provisions for penalties and closure therein as unconstitutional.

- v. Pass order for costs of this petition; AND/ OR
- vi. Pass such further and other orders as the Hon'ble Court may deem fit in the circumstances of the present case may require.
- vii. To dispense with the filing of certified copies of the documents appended as annexure P-1 to P-15
- viii. To dispense with the services of advance notices upon the respondents as per rules and orders of the Hon'ble High Court;

Interim Prayer

- ix. Pray for restraining all the Respondents to arbitrary enforcing the s.18-19 and the Schedule of 'the Right of Children to Free and Compulsory Education Act, 2009' along with Rule 11 and 12 of Punjab RTE Rules, 2010 against private unaided schools in respect of recognition, penalties, closure therein, during the pendency of the present Writ petition;

PETITIONER

THROUGH COUNSEL

CHANDIGARH

Date: 15.04.2014 (PRASHANT NARANG) (ANKIT GREWAL)

D-1907/2010 P-923/2012

ADVOCATES

COUNSEL FOR THE PETITIONER

VERIFICATION:

Verified that the contents of the present writ petition from paras no.1 to & 28 are true and correct to my knowledge whereas the legal averments are made in Para no. 29 & 30 are believed to be correct being based on the advice of the counsel. No part thereof is false and incorrect and nothing has been kept concealed therein.

CHANDIGARH

DATED: 15.04.2014

PETITIONER