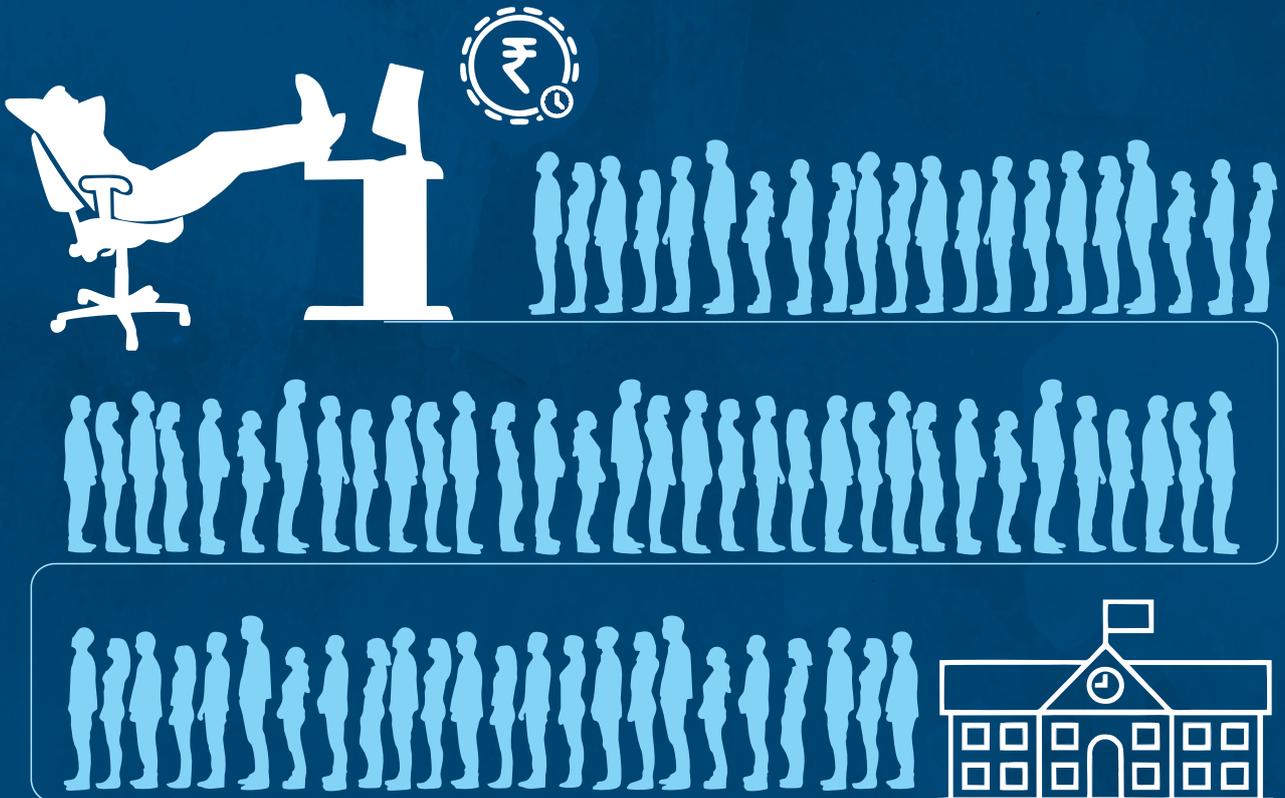


REIMBURSEMENTS UNDER RTE SECTION 12(2)

TOO LITTLE, TOO LATE



Reimbursements under RTE Section 12(2)
Too Little, Too Late

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6 papers, 12 weeks, 16 research interns, Zoom, Google Drive, and some fire in the belly! That's what it took this publication to fathom the depths of why private schools don't get reimbursed in time.

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This year, Researching Reality breaks new paths. First, we picked a single theme and approached it from a variety of methodologies. Kudos to the research team— Anirudh Agarwal, Anirudh Goel, Arjun Krishnan, Jayana Bedi, and Simranjyot Kaur,- for handholding the interns and co-creating the papers. Second, we got external experts to review the content. Thanks to Priyamvada Tiwari, Abhinav Singh, Archit Puri, and particularly Venkata Hemanth Pothula for sharing their valuable comments with the contributors.

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Prashant narang

Prashant Narang - Centre for Civil Society - 22 October 2021

Foreword

Noble intentions, patchy enforcement!

This sums up the status of Section 12 of the Right of Children to Free and Compulsory Education (RTE) Act 2009 that requires private unaided schools to reserve 25% of their entry-level class strength for the EWSDG children. The Act has healthy aims of affirmative action, but a number of issues including weak accountability for timely implementation and chronic lack of funds at the state level have clouded this well-intentioned initiative. It is easy to lay the blame at the door of the private schools, for not doing their part. But as a leading think-tank, CCS has picked up this issue to investigate why private schools have been slow to be a part of this huge social engineering initiative.

This compendium offers a multidimensional take on how reimbursements for inclusive education envisioned by the government plays out in the K-12 sector. We conducted an extensive review of existing research, analysed the law and economics behind reimbursements, dissected the formula for per-child expenditure, studied the ease of claiming reimbursements, captured stakeholder perceptions, and examined High Court judgements pertaining to the implementation of Section 12(2).

Many critical issues were unearthed; The formula for per-child expenditure used by the government uses total enrolments as a variable, a number that is often over-reported. The amount earmarked for books, uniforms and other supplies is arbitrary, inadequate, and often, not reimbursed at all. The schools surveyed in Delhi also reported that they received their reimbursements 2-3 years after filing claims!

Such challenges call for urgent redressal, especially when the law offers no remedy against the denial or delay in reimbursement and, no deadline for processing claims or provision for interest to be paid in case of delays.

This research comes at an opportune time, especially in the backdrop of recent shifts in the K-12 policy landscape. The Kasturirangan Committee in 2019 clearly raised the need to revisit Section 12 of the RTE given its implementation challenges. The Expert Committee constituted by the Delhi Commission for Protection of Child Rights (DCPCR) on the RTE fee reimbursement process submitted its report in 2020 and highlighted CCS' recommendations on transparency and time-bound process. This compendium lays down the foundation for deliberating on this policy and shines a light on the difficulties faced by private schools in India.

My gratitude to Team CCS for this valuable contribution to keeping the embers of liberty burning brightly in India through evidence-based research and outreach. A special shout-out to the bright young minds of the Researching Reality interns for their hard work and dedication to the cause. All this would not have been possible without the unflinching support of the Friedrich Naumann Foundation, South Asia who have been our long-standing patrons. I sincerely hope that this remarkable compendium and research paves the way for an improved and more accountable regulatory framework for private schools and the quality education in India.

Lakshmi Sampath Goyal

Lakshmi Sampath Goyal
CEO - Centre for Civil Society

List of Abbreviations

BEO	Block Education Officer
BPS	Budget Private Schools
CAG	Comptroller and Auditor General of India
CAL Lab	Computer Aided Learning Lab
CEO	Chief Education Officer
CSS	Centrally Sponsored Schemes
CWD	Children with Disabilities
CWSN	Children with Special Needs
DBT	Direct Benefit Transfers
DDA	Delhi Development Authority
DDE	Deputy Director of Education
DDPI	Deputy Director of Public Instruction
DE	Director of Education
DEE	Director of Elementary Education
DEO	District Education Officer
DoE	Directorate of Education
DSME	Department of School and Mass Education
EWS/DG	Economically Weaker Section and Disadvantaged Groups
GNCTD	Government of National Capital Territory of Delhi
GSDP	Gross State Domestic Product
IT	Information Technology
MCD	Municipal Corporation of Delhi
MDMS	Mid-day Meal Scheme
MGNREGA	Mahatma Gandhi National Rural Employment Guarantee Act
MHRD	Ministry of Human Resource Development
NCERT	National Council of Educational Research and Training
NCF	National Curriculum Framework
NCPCR	National Commission for the Protection of Child Rights
NFSA	National Food Security Act
NISA	National Independent Schools Alliance
NSS	National Sample Survey
OBC	Other Backward Classes

OSC	Out of School Children
PAB	Project Approval Board
PLPST	Private Land Public Schools Trust
RTE	Right to Education Act, 2009
RTI	Right to Information
SC	Scheduled Caste
SE	Students' Entitlement
SG	Operation, Administration and Maintenance cost
SMC	School Management Committees
SSA	Sarva Siksha Abhiyan
ST	Scheduled Tribe
TD	Teachers' Professional Development
TS	Teachers' Salary
U-DISE+	Unified District Information System for Education
UT	Union Territory
ZP	Zilla Parishad

Introduction

In 2009, Parliament of India passed the Right to Education (RTE) Act. Section 12(2) of the RTE Act requires Government to reimburse all private unaided schools for reserving 25 per cent of their entry-level seats for children from Economically Weaker Section and Disadvantaged Groups (EWS/DG). Private unaided schools are reimbursed to the extent of per-child expenditure incurred by the State or the actual amount charged from the child, whichever is less.

But significant implementation challenges mar this attempt to expand inclusion. In 2019-20, reimbursements for over 3.11 lakh students in 12 states were not approved (Central Square Foundation 2020). Difficulties and delays in the admission process due to administrative errors and absent records of children also hamper the proper execution of the provision (Bhattacharjee 2019a and Sarin, Dongre, and Shrikant Wad 2017). This leaves private schools, especially budget private schools that charge monthly fees of INR 1000, in a precarious position.

This year for the annual Researching Reality internship, we onboarded 16 interns and explored the issue of reimbursements under Section 12(2). We approached the topic in six parts:

1. *The story so far*: we conducted an extensive review of the existing research on reimbursements under Section 12(2) and their implementation.
2. *Law and economics behind reimbursements*: we analysed the reimbursement provision for legal safeguards and the interests, incentives, and information to understand the challenges and constraints stakeholders likely face during enforcement.
3. *Arithmetic for per-child expenditure*: we analysed the formula used by the Government of NCT of Delhi to arrive at its per-child expenditure, and the other components of education, like school bags and textbooks, that are separately reimbursed by some state governments. We also studied the implications of the existing formula on concerned stakeholders
4. *Ease of claiming reimbursements*: we compared the *de jure* process of reimbursements in Delhi with that of Madhya Pradesh, Odisha, and Karnataka. Based on interviews of school principals and state officials, we learnt the process on the ground and identified bottlenecks.
5. *Stakeholder perceptions on claiming reimbursements*: we captured how stakeholders perceived the reimbursement process, critical decisions they took as a result, and their interactions with one another.
6. *Legal issues regarding reimbursements*: we analysed all the judgements pertaining to the implementation of Section 12(2) from 11 High Courts in India

The implementation of Section 12(2) of the RTE Act leaves a lot to be desired. In the long run, reforms aimed at making the government accountable, increasing choice for parents and students, and reducing administrative burden for schools will allow for a prosperous system that can provide higher quality education. In the short run, efforts should focus on making reimbursements less cumbersome and more transparent for all involved.



The Story So Far

A Review of Literature on Section 12(2)

Alysa Abbas, Zainab Akhtar, Amaan Asim, and Anirudh Agarwal

Introduction

The Right of Children to Free and Compulsory Education (RTE) Act, 2009 is ambitious. It aims to universalise education for all children between the ages of 6 and 14 in India. As per Unified District Information System for Education (U-DISE +) estimates, this number is 23,68,17,000 in 2021.

To achieve the objective of universal primary education, it is essential to work with schools in the private sector to augment government capacity. Section 12 of the RTE elaborates upon the extent of private schools' responsibility toward children. Specifically, it states that private unaided schools shall mandatorily admit children from Economically Weaker Section and Disadvantaged Groups (EWS/DG) in class I or earlier (if the school starts from Kindergarten/Nursery). The strength of EWS/DG children must be at least one-fourth of the total strength of the student body in that class, and the concerned private unaided school shall provide these children with free and compulsory primary education. Section 12(2) entitles schools to get a reimbursement from the government for the children admitted under this section. This is either equal to the per-child expenditure incurred by the state government on education or the actual amount the private unaided school charges, whichever is less.

This paper engages with the literature on Section 12(2) of the RTE Act. It examines several related aspects, like the calculation and notification of per-child cost by state governments and union territories.

First, the paper explains how the Union government and state governments finance the reimbursement amount. This revealed difficulties in the funding process for implementing Section 12(2)—for instance, the rejection of reimbursement claims made by state governments. The paper then moves toward understanding the interaction between private unaided schools and state governments, given that the latter manages the final reimbursements. Specifically, it describes the procedural inefficiencies in the process of claiming reimbursements by schools, complexities in state RTE rules, and delays or inadequacies in the amount reimbursed. The following section is devoted to understanding the inefficiencies in reimbursements, specifically that of the underutilisation of the reservation and inadequate reimbursements. In the penultimate section, we look at the issues around per-child cost. These areas form an integral component of the procedural apparatus for Section 12(2). Finally, we summarise the gaps in the literature, indicating areas for future research.

Standing on the Union's shoulder: Union-State funding relationship for reimbursements

Literature on sections 12(1)(c) and 12(2) of the RTE has focused on the role of the Union in disbursing funds for the scheme and the issues of inadequate and delayed reimbursements. However, it is important to note states' contribution towards elementary education budgets since it helps understand the state's reliance on the Union. For instance, while more than two-thirds of Bihar's total expenditure on primary education is sponsored by the Union, it is less than 15 per cent in Maharashtra.

Though states rely on funds from the Union to finance RTE reimbursements, the impact of Section 12 on state financing is often marginal as it contributes relatively less to the education budgets of some states. For instance, in Karnataka, it is less than two per cent of the education budget for primary and secondary education (Krishnaswamy and Prasad 2018). In Gujarat, it is less than 0.5 per cent of the state's expenditure on elementary education (Sarin, Dongre, and Shrikant Wad 2017).

The Union and state jointly fund reimbursements under the RTE. The government notified the ratio of Union to state funding as 50:50. However, this is now 65:35. States in the North-Eastern Region have a 90:10 ratio. The Union funds the state's requests against expenditure incurred.

Until 2018, the transfer of RTE Reimbursements from the Union to the states was under the budget head of Sarva Shiksha Abhiyan (SSA). Post-2018, SSA was clubbed with the Rashtriya Madhyamik Shiksha Abhiyan and Teacher Expenditure to form the joint head of 'Samagra Shiksha Abhiyan'. After the government's increased emphasis on achieving the goals of RTE, SSA emerged as the major head under which the Union spent money on education. Between 2014-15 to 2017-18, four of eight surveyed states reported a drastic increase in funds provided through the scheme, indicating an increase in RTE expenditure. (Bordoloi et al. 2020a).

State proposes, Union disposes: why?

The data until 2019-20, 10 years after the enactment of the RTE, shows that a total of 15 states have sought funds from the Union to implement Section 12 of RTE.¹

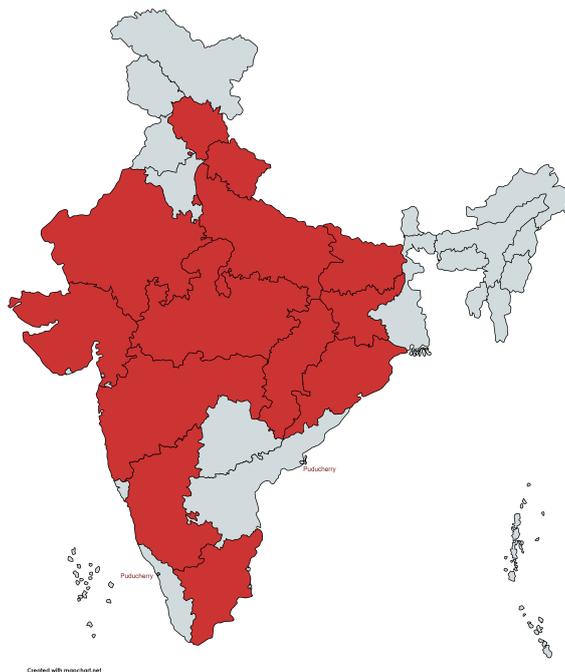


Figure 1.1: States which sought funds from the Union for Section 12(2)

The approved reimbursement claims are significantly lower than the requests. Between 2014-15 and 2017-18, a difference exists between states filing claims and receiving money. In 2017-18, all the 13 states that filed for reimbursements with the Union received partial or full reimbursement (Verma et al. 2018). In the case of Delhi, reimbursement claims have been filed consistently, but these are either reimbursed partially or not at all (Verma et al. 2018).

One of the reasons for discrepancy between filed and approved claims is that one of the sub-headings under the RTE transfers is the "reimbursement fund". The reimbursement claim of each state gets approved by the Project Approval Board (PAB) of SSA. The approval of these claims is

1. As per Lok Sabha Unstarred Question No. 2165.

conditional upon SSA norms. Due to the difference between the RTE derived SSA norms and the state RTE rules, reimbursement claims are either partially approved or disapproved entirely (Verma et al. 2018). For instance, the SSA budget only covers reimbursement of classes 1-8 (Verma et al. 2018). Therefore the onus to provide reimbursement for pre-primary classes lies on state governments.

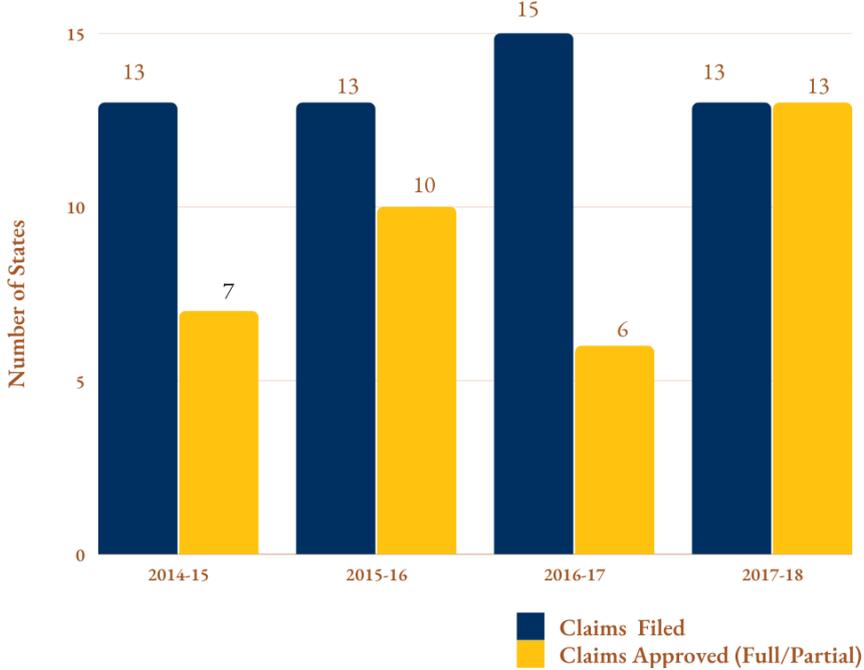


Figure 1.2: Variation in reimbursement claims filed and approved over the years (Adapted from: Verma et al. 2018)

Unfortunately, state governments often do not comply. While Maharashtra rules stipulate 25 per cent reservation in pre-primary classes, reimbursement was reportedly not provided by the state government (Sarin, Dongre, and Shrikant Wad 2017).

There are other grounds for non-approval as well. These include state governments failing to notify the per-child costs to the Union and submitting incomplete documents. Furthermore, specifically in the case of Delhi, combining requests from previous academic years has led to partial reimbursements. Other reasons for rejection include applying for reimbursements on anticipated expenditure instead of actual expenditure, and partial or non-disbursement by the state government to schools (Verma et al. 2018).

Non-disbursal of funds on part of the state government is reasonable grounds for the PAB to reject reimbursement claims, but there is a lack of transparency (Verma et al. 2018). As a result, it is not clear if rejection of claims occurs only due to field issues like delays by private schools in sending their reimbursement claims, or due to other reasons.

As a result, private unaided schools are trapped in a vicious cycle wherein their existing dues are not cleared by the state government leading to the state’s reimbursement claims being rejected, thus, further impeding the reimbursement process (Verma et al. 2018).

Few takers for free seats

Another issue to discuss is the underutilisation of funds allocated under Section 12(1)(c). Data from Karnataka (2012-13 to 2015-16) highlights that less than 5 per cent of students are admitted under the RTE instead of the mandated 25 per cent. The authors point such underutilisation of the RTE reservation results from “parental choice or bureaucratic apathy” (Krishnaswamy and Prasad 2018 p105). Though it is unclear what this means specifically, the literature attributes the underutilisation arising due to parental choice to two accounts. First, parents differentiate between high quality and low quality private schools and don’t necessarily prefer private schools over government schools. Second, benefits like the Mid-Day Meal scheme (MDMS) incentivises parents to choose government schools (Verma et al. 2018).

In another situation, as highlighted in the audit report of the Government of NCT of Delhi, INR 104 crore was allocated to the Directorate of Education (DoE) for reimbursements during 2011-16 (Comptroller and Auditor General of India 2017). During this period, however, only 90,262 children were admitted—against the 1,45,142 that should have been. Hence, as shown in the figure below, 26 per cent of the total fund was not spent.

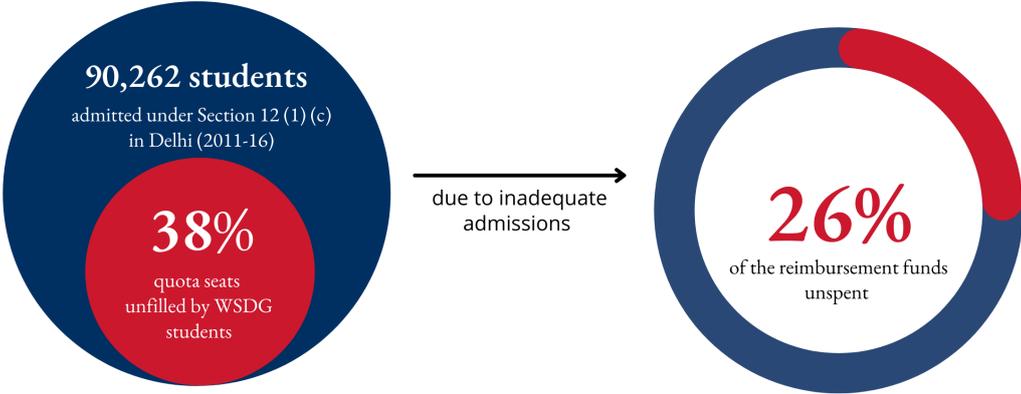


Figure 1.3: Effect of inadequate RTE admission on Delhi’s reimbursement fund
(Adapted from: Comptroller and Auditor General of India 2017)

Here, the failure to ensure adequate admissions by both the government and the schools, either due to poor quality of private schools or apathy on part of the government to ensure compliance, led to underutilisation of reimbursement funds. In 2018, out of the 1,145 schools, approximately 67 per cent of schools had a shortfall of up to 11 per cent, in admitting students under the EWS/DG category; the remaining schools had a shortfall exceeding 12 per cent (National Commission for Protection of Child Rights 2018). A recent report by the Government of NCT of Delhi reconfirmed that although 1,155 schools have been recognised, only 668 schools have received applications under the Section 12 of the RTE (Government of NCT of Delhi 2019).

Delhi Schools Claims Filed For Reimbursement

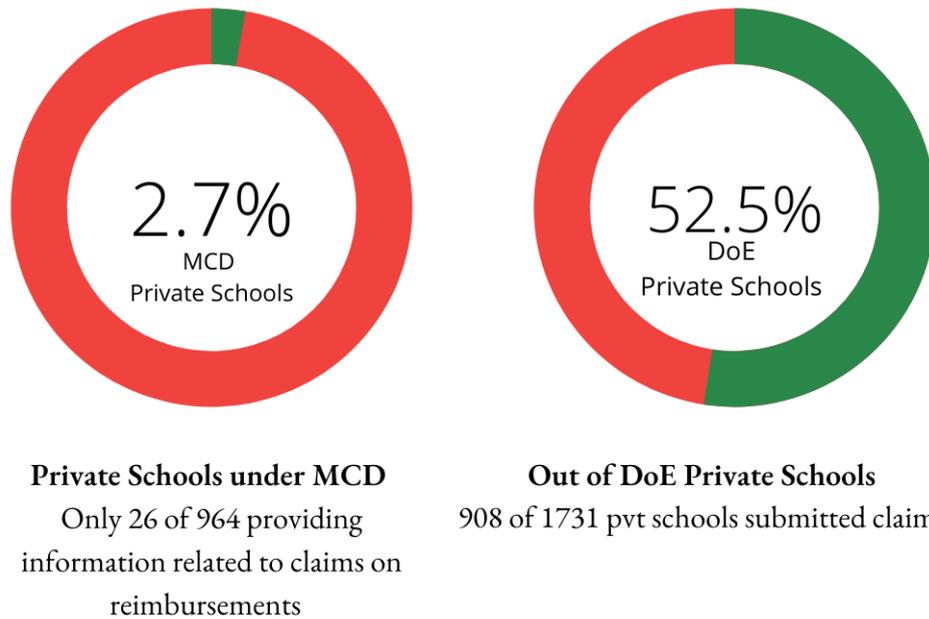


Figure 1.4: Effect of inadequate EWS/DG admission on Delhi's reimbursement fund

The veiled and the mysterious: reimbursement process for schools

Issues also arise in the procedure of reimbursing private schools. One such issue pertains to the delays in the reimbursements to private schools. While private schools have frequently raised this issue, only some state governments, like Rajasthan, have provided the reasons as to why these delays occur. For instance, during the PAB meetings of Delhi and Karnataka provided no information related to delays (Government of India 2020a; Government of India 2020b).

In Rajasthan, the PAB committee observed that the state had prolonged finalising proposals of fee reimbursement under Section 12(2). Since the reimbursement proposals themselves were late, the reimbursements to private schools were also delayed. The data provided by the state revealed that the number of schools not reimbursed increased significantly between 2016 to 2019. Hence, the committee recommended the government delineate a cut-off date for finalising the fee proposals (Government of India 2020c).

Additionally, the committee also noted that the state was resolving the delays in reimbursement by addressing specific field issues. Four such reasons were listed in the report, “mechanism for physical verification by the private schools and re-verification by District Education Officer (DEO); resolving issues of Aadhaar data of students; fixing timeline for sending claims by private schools and online linking of bank accounts of private schools” (Government of India 2020c).

The report did not elaborate on the exact problem. For instance, one reason mentioned is “issues with the Aadhaar data of students”. Here, it is not clear whether the problem pertained to collecting the data, compiling the data, or some other reason (Government of India 2020c).

Pennies instead of Pounds: Inadequate reimbursements

How do schools feel about the low reimbursements?

The RTE Forum report highlighted that some schools found the reimbursed amount to be low (Taneja et al. 2014). However, the report did not indicate whether these schools were high-fee or low-fee schools. As shown by Geeta Kingdon (2017), private schools in India are not a homogeneous category. She benchmarked private schools fee levels against the state per capita income, minimum wage of daily labourers, and the per-pupil expenditure in private schools. She concluded that “most private schools in India can be considered low fee in the precise sense that their fee is below the government’s per pupil expenditure in its own schools”.

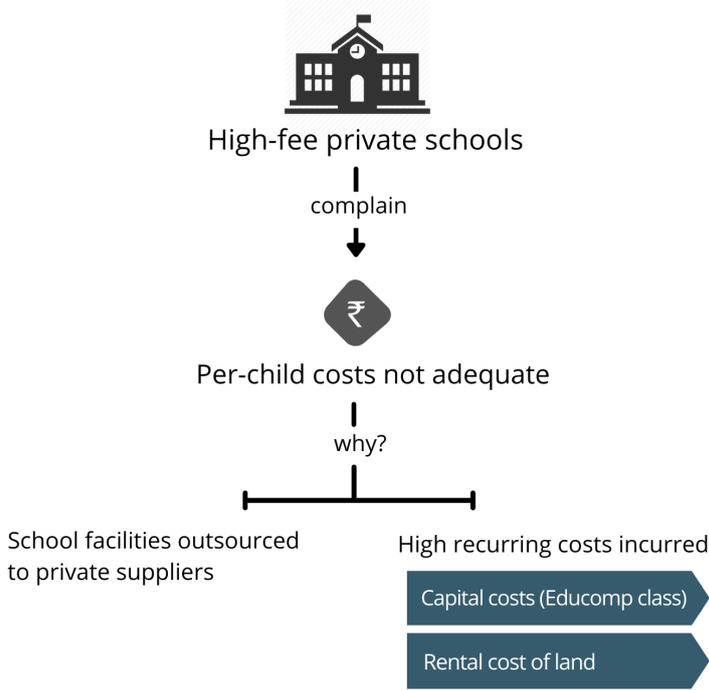


Figure 1.5: Reasons for inadequacy of per-child costs in high-fee school (Adapted from Jha et al. 2013)

This suggests that high-fee private schools raise claims of inadequate reimbursement since a substantial difference exists between the per-child costs notified by states and the actual expenditure incurred by the school. Other authors have also put forth this argument (Yadav and Singh 2020b and Verma et al. 2018). High-fee schools are primarily dissatisfied with the per-child costs, which comprises the government’s recurring expenditure. Thus, per-child costs are insufficient for around 20 per cent of private unaided schools in India, which incur relatively high recurring expenditure (Kingdon 2017).

Given the inadequate reimbursement amounts for some schools, the School Management Committees (SMCs) of a Bangalore school highlighted the reasons why the per-child costs were insufficient to cover the expenses incurred. They opined that most school facilities (uniforms, books, extracurricular activities) were outsourced to private suppliers. The high recurring costs incurred on facilities, like building infrastructure, were the reason for inadequate reimbursements.

Since it was not possible to hike the fees of the fee-paying students, the management noted they had to recover the deficit from parents of EWS/DG students (Jha et al. 2013).²

The existing literature does not extensively cover the experience of low-fee schools and reimbursements. However, an explorative study of private unaided schools in Delhi and Bangalore provides some insights (Mehendale, Mukhopadhyay, and Namala 2015). The study surveyed unaided low-fee private schools that acknowledged that the reimbursed amount was higher than their fees, confirming Kingdon's analysis in part. However, the main problem for these schools was the non-revision of the per-child expenditure rate (Mehendale, Mukhopadhyay, and Namala 2015). Ideally, the state government should frequently revise the per-child costs.

Disregard for capital costs of schools

A consistent complaint of schools regarding reimbursements is the failure to consider the capital expenditure incurred, like expenditure on computers and infrastructural changes made to accommodate EWS/DG students. The government calculates per-child costs based on its recurring expenditure and thus foregoes these capital costs that schools incur (Jha et al. 2013). Although Section 12's focus is reimbursement of recurring expenditure, the other sections of the RTE emphasise infrastructural requirements for schools to be recognised. However, the funding for this has not been factored in the RTE. There is an implicit assumption that schools would have the necessary capital to meet the capital expenses incurred. This especially affects the lowest-fee schools. (Noronha and Srivastava 2014).

However, the increased burden on the DoE without a significant increase in staff since the enactment of the RTE has led to laxity in ensuring compliance of schools with infrastructural requirements. (Mehendale, Mukhopadhyay, and Namala 2014). Thus, schools that don't fulfil infrastructure criteria still accept admissions under the RTE and subsequently receive reimbursements. There is no linkage between fulfilling infrastructural requirements and recognition due to lax compliance monitoring (Mehendale, Mukhopadhyay, and Namala 2014). The government does not compensate the schools that undertake infrastructural changes to accommodate EWS/DG students because reimbursements are on recurring expenditure.

Free entitlements are mandated by state but not reimbursed

Rule 5 of the model Ministry of Human Resource Development (MHRD) rules makes the state government responsible for ensuring that students admitted under section 12(1)(c) receive certain entitlements. The entitlements mentioned are books, writing materials, uniforms, and special learning and support material for Children with Disabilities (CWD). However, some state governments, like Madhya Pradesh, do not mention the free entitlements under Section 12(1)(c). (Tucker and Sahgal 2012).

Even among states that mention these entitlements, few state governments reimburse these expenses. The 'State of the Nation Report' shows that only six state governments elaborate on the requirements and the reimbursement process for these. West Bengal lists two items— study material and uniforms—to be reimbursed to schools. Uttarakhand and Arunachal Pradesh mention that the reimbursement for the specified items has a price cap. In Uttarakhand, items listed are uniforms, textbooks and Mid-day Meals, while in Arunachal Pradesh, these include uniforms, textbooks, notebooks, transport, stationary etc. Similarly, Gujarat rules provide the cost for uniforms to be

2. Private schools also operate under strict fee regulation norms which vary from state to state

covered but at the government's rate (Sarin, Dongre, and Shrikant Wad 2017). In Rajasthan, not all the entitlements specified are to be reimbursed according to the RTE rules. While textbooks, writing materials and learning support for CWD are specified as entitlements, only textbooks are to be reimbursed. Since textbooks are included in the recurring costs, they are covered in the per-child costs (Sarin, Dongre, and Shrikant Wad 2017).

However, many state governments do not indicate if they will reimburse entitlements. This causes ambiguity about who ultimately has to finance the entitlement. Moreover, variations in entitlements to be reimbursed determine if reimbursements will be adequate to cover expenses, especially in high-fee private schools.

In the paper 'Unpacking India's Right to Education Act', the author analysed RTE rules of Karnataka and Delhi (Persaud 2015). While Rule 5 of Karnataka's RTE rules enumerates the free entitlements for EWS/DG students (including books, uniforms, and writing materials), Rule 6 delineates the areas under which EWS/DG students should not be discriminated against by schools. The author observed that while Rule 6 prohibited discrimination against ICT/library facilities, co-curricular programmes and sports, these were not included in Rule 5.

A similar case can be observed in the Rajasthan rules. The rule states that it is the responsibility of schools to ensure that EWS/DG students are not discriminated against entitlements and facilities like textbooks, uniforms, library and ICT facilities, co-curricular activities and sports. However only textbooks are reimbursed. These examples illustrate that private unaided schools are mandated by the government to provide certain entitlements to EWS/DG students without being guaranteed reimbursements for the same.

Hence, the state government provides no incentive for private schools not to charge additional fees for these categories. A qualitative study in Bangalore showed some schools did indeed collect computer fees or smart class fees from parents of EWS/DG category students (Jha et al. 2013).

In the same study, researchers also found that only tuition fees for EWS/DG students were waived, while additional expenses like school uniform and textbooks were borne by the parents (Jha et al. 2013). An exception were three schools within the study's sample which provided free books and uniforms. Nevertheless, this example indicates that absence of reimbursements for entitlements ultimately shifts the burden of payment on the parents.

While textbooks are part of the recurring costs, they are still charged. The accounts provided by SMCs suggest that at least some of the schools surveyed were high-fee schools, based on Kingdon's definition, but this is not mentioned in the study (Jha et al. 2013). This may explain why textbooks would have been charged, to cover the inadequate per-child costs for high-fee schools.

Relationship between inadequate reimbursements and underutilisation of 25 per cent reservation

Reimbursement claim arises only if the admissions under Section 12(1)(c) are taken in the first place. As highlighted in the earlier section, in Bangalore, freeship households had to incur non-fee expenditure (Jha et al. 2013). This was also observed in Delhi. Additionally, households able to afford the out-of-pocket expenditure were content with the fee exemption, whereas for others, these additional costs discouraged them from accepting admission altogether (Noronha and Srivastava 2014). Since the notified per-child costs fail to cover the non-fee expenses incurred in private schools, the ultimate burden of this expenditure, in some instances, is borne by parents

of EWS/DG category students. This acts as a disincentive for many eligible students to take up admission under Section 12(1)(c), pointing to a causal link for underutilisation of the 25 per cent reservation— the inadequacy of the per-child cost compared to the actual expenditure incurred in private schools. Interviews with parents of EWS/DG category students in Delhi also highlighted the issue of freeship households incurring high out-of-pocket expenditure, not only on extracurricular activities but also in procuring essentials like uniforms/books from “exclusive vendors” (Sarin and Gupta 2013). This linkage between Section 12(1)(c) and 12(2) is reflected in the figure below.

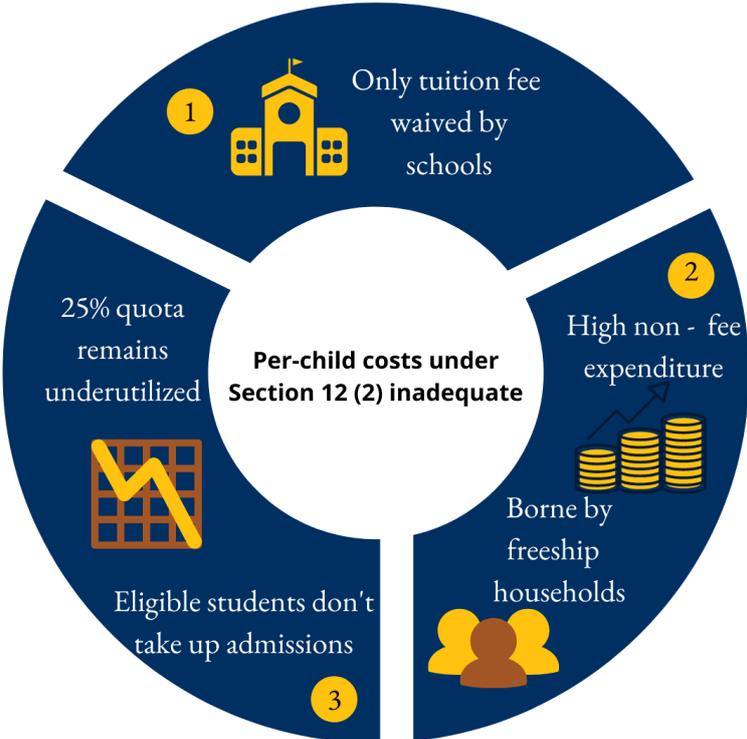


Figure 1.6: Per-child expenditure under Section 12(2) inadequate (Adapted from: Jha et al. 2013 and Srivastava and Noronha 2016)

Moreover, as expenses increase in higher classes, many EWS/DG category students drop out. This was observed in Srivastava and Noronha’s (2016) study in Karampur (Delhi), which showed that enrollment in private schools declined substantially in class 4-8 due to rise in fees and other expenses compelling households (both freeship and non-freeship) to shift to government schools.

Parent and management experiences unite on the issue of reimbursements, as both feel the RTE falls short on covering all expenditures incurred when educated in private schools. In several schools, parents incur additional costs on the internet and transportation, which are essential to the student’s academic interests (Sarin and Gupta 2013). This expenditure does not count optional extra-curricular activities which only further the ‘social distance’ that is created amongst students (Sarin and Gupta 2013). School managements echo parent concerns while also highlighting that the burden is transferred to fee-paying students, who end up bearing these costs. (Taneja et al. 2014 and Mehendale, Mukhopadhyay, and Namala 2014). Parents of fee paying students corroborate the same experience of increasing fee burden. In addition to this, delayed reimbursements and cumbersome paperwork have deterred schools from fully embracing the Act (Taneja et al. 2014). This indicates that opaque criteria for calculating per-child cost and delays in reimbursements disincentives school managements from implementing Section 12(1)(c) in the first place.

The CAG audit report of Delhi also points out that 36 per cent of seats under EWS/DG category were not filled in private unaided schools. Correspondingly, lower admissions led to lower reimbursements (26 per cent of the funds for reimbursements remained unutilised) (Comptroller and Auditor General of India 2017). It was found that between 2013 and 2016, only 20-26 per cent of Section 12 seats were filled (Bhattacharjee 2019a). Consequently, the reimbursements were lower than the funds allocated.

The building blocks of per-child costs

Almost all states adopt the section on per-child expenditure from the model MHRD rules. The rules suggest calculating per-child expenditure by dividing the total recurring expenditure incurred in government-run schools by the number of students enrolled. However, state RTE rules are silent about the methodology for calculating recurring expenditure. Additionally, some states do not specify whether the per-child cost is calculated based on the recurring expenditure of the government or the actual fees charged by private schools, the committee responsible for calculating per-child expenditure, or when the government must reimburse the school (Tucker and Sahgal 2012). For instance, in Karnataka and Delhi, no provision to ensure timely review of reimbursed amounts is present (Persaud 2015). These details are provided in the table below.

Table 1.1: Variations in state rules

Rule	States defining	States not defining
Basis of calculating per-child costs	Andhra Pradesh, Rajasthan, Bihar, Maharashtra	Himachal Pradesh, Madhya Pradesh
Committee responsible for calculating per-child cost	Andhra Pradesh, Rajasthan	Madhya Pradesh, Bihar, Maharashtra
Timeline for providing reimbursements	Andhra Pradesh, Rajasthan, Madhya Pradesh	Bihar, Maharashtra, Himachal Pradesh

While variations in state rules are an obvious outcome of our federal structure, greater detail in drafting them is required to avoid ambiguity (Tucker and Sahgal 2012).

Another point of disparity between states is the difference between notified costs and the actual costs of reimbursement. The RTE Act states that the amount reimbursed would be either on the notified per-child costs or the actual school fees, whichever is lower. This provision makes states have a significant difference between the intended reimbursement (based on notified costs) and the actual reimbursement. In Uttarakhand, a gap of approximately INR 12,000 exists between these costs on a per-child basis. The trend is consistent in other surveyed states, barring Gujarat, wherein the amount notified and amount disbursed is the same, indicating a lack of consideration of actual school fees (Sarin, Dongre, and Shrikant Wad 2017). The study reaffirms Noronha and Srivastava's (2014) study that shows schools which have regularly charged fees that are nominal and below the notified costs may be incentivised to provide seats under RTE. These findings suggest that the category of schools admitting students under RTE are low-fee private schools, and provide education at a lower per child cost as compared to government schools.

State governments which have implemented the mandate of Section 12(1)(c), have not elaborated on the formula for calculating per-child cost, nor elaborated on the expenses which are to be included under ‘recurring expenditure’ (Sarin, Dongre, and Shrikant Wad 2017). On top of that, some states have notified an upper-limit for per-child reimbursements, seemingly arbitrarily (Kingdon and Muzammil 2018). States like Uttar Pradesh have not specified whether the upper limit for reimbursement equals the calculated per-child cost in government schools. Other states, like Tamil Nadu and Delhi, have explicitly mentioned that the upper limit for per-child reimbursement is equal to the per-child costs being incurred by government schools in these states.

Moving on to how often the notified costs are calculated and revised, some states haven’t revised the upper-limit for reimbursement, while some, like, Uttarakhand and Delhi, have revised it multiple times. According to the data presented in Kingdon and Muzammil (2018), the declared upper-limit for reimbursement per-child by the states ranged from INR 2,351 per-month in Tamil Nadu to INR 450 per-month in Uttar Pradesh (for 2018-19). The Uttar Pradesh government has not revised this amount since 2013 despite estimates that the actual amount per-child expenditure in Uttar Pradesh is roughly INR 3,064 (Kingdon and Muzammil 2018).

Table 1.2: Declared upper-Limit of reimbursement to private schools (per-child) under the RTE in 2014-15 and 2018-19 in INR

State	Annual Reimbursement Per-child 2014-15 (a)	Annual Reimbursement Per-child 2018-19 (b)	Monthly Reimbursement Per Student 2014-15 (a)	Monthly Reimbursement Per-child 2018-19 (b)
Tamil Nadu	23,805	28,206	1,984	2,351
Meghalaya	27,451	27,451	2,288	2,288
Delhi	14,280	19,176	1,190	2,225
Himachal Pradesh	19,111	19,111	1,593	1,593
Maharashtra	13,474	17,329	1,123	1,444
Uttarakhand	10,320	16,560	860	1,380
Karnataka	11,848	16,000	987	1,333
Rajasthan	16,595	15,029	1,383	1,252
Bihar	5,580	5,580	465	465
Uttar Pradesh	5,400	5,400	450	450

This table facilitates a comparison between the declared upper limit for reimbursement and the actual amount that states governments incur. For instance, if Uttar Pradesh incurs INR 3,064 per month in government schools, then it is grossly inadequate to declare INR 450 as the upper limit for reimbursing private schools. Out of the eight states for which data is available, six have upper-limit reimbursement amounts lower than the per-child expenditure in the government schools.

Some studies have attempted to estimate per-child expenditure for a sample of states and UTs. The objective of this exercise is to compare the estimated per-child expenditure with the notified per-child costs by the state or, in lieu of it, the upper-limit notified toward per-child reimbursement. The normative resource requirement study done by Bose, Ghosh and Sardana (2017) finds that

Table 1.3: Gov. funded schools' per-child expenditure 2014-15

State	Annual Per-child Expenditure	Annual Per-Pupil Expenditure	Annual Per-child Expenditure	Monthly Per-child Expenditure	Monthly Per-child Expenditure	Monthly Per-child Expenditure
Andhra Pradesh	14,087			1,174		
Bihar	5,298	6,249	5,929	442	520	494
Chhattisgarh	16,151		16,099	1,346		1,342
Gujarat	17,106	41,806		1,426	3,483	
Haryana	27,163			2,264		
Himachal Pradesh	39,343			3,279		
Jharkhand	8,020		8,979	668		748
Karnataka	16,914		17,751	1,410		1,479
Madhya Pradesh	11,927	12,663	14,384	994	1,055	1,199
Maharashtra	14,712		16,502	1,226		1,375
Orissa	9,367	10,317	11,630	781	860	969
Punjab	9,142	17,158		762	1,430	
Rajasthan	19,391		17,600	1,616		1,467
Tamil Nadu	14,229	38,252	20,427	1,186	3,188	1,702
Uttar Pradesh	13,102	21,815	18,348	1,092	1,918	1,529
West Bengal	7,001			583		
India (major states)	11,523	23,492	16,053	1,091	1,958	1,338
MEAN						

‘even with minimal norms’ there is a vast under-spending by state governments for recurring expenditures. The same study gives a comprehensive formula for calculating recurring expenditure in schools.

Required Recurring Expenditure for School = Teacher Salary + Teachers’ Professional Development + Students’ Entitlements + Operation, Administration and Maintenance cost + Mainstreaming of Out of School Children + Inclusive education for Children with Special Needs

This gives us a clearer picture of the normative requirements of school expenditure by the government. MDMS expenditures are not listed under the formula because different states keep MDMS expenses under different budget heads. For instance, in Delhi and Tamil Nadu, the expenses are listed under the ‘Nutrition’ head. In some states, these are listed under Rural Development heads. Using this formula and then making comparisons across states, the study finds out that, except for Tamil Nadu, “the required expenditure per-student is short of the normative requirement”.

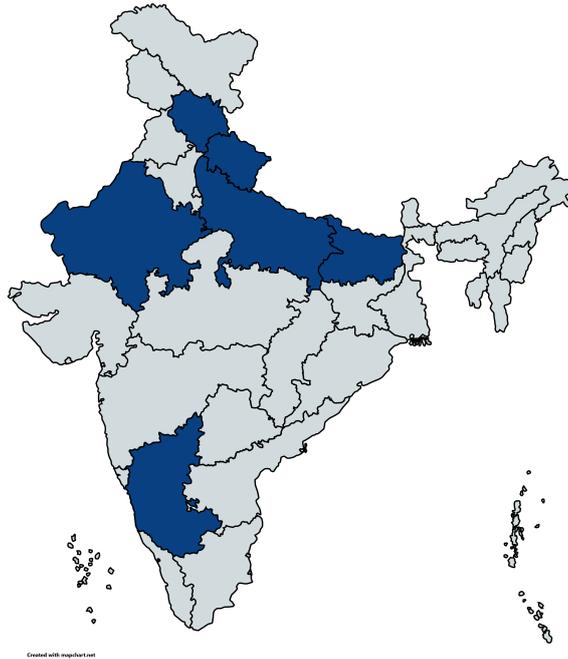


Figure 1.7: States that have upper-limit reimbursement amounts lower than the per-child expenditure in government schools

Summing up: the gaps in literature

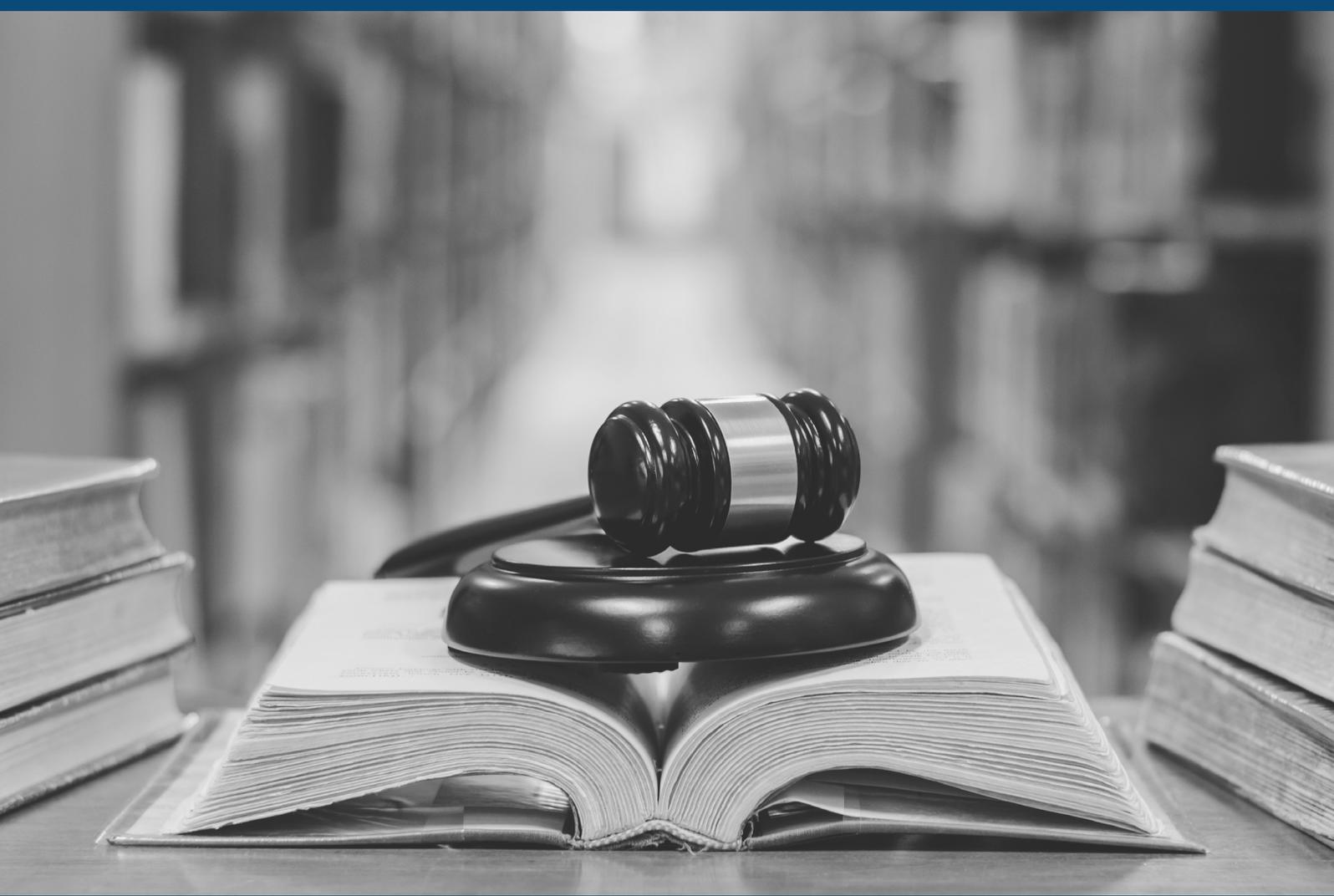
This literature review attempts to understand the state of reimbursements under Section 12 of the RTE in India. While presenting the conclusion of our work, we must keep in mind the intent of Section 12(2). Private sector schooling is a sizable part of the Indian education system. The RTE, which is ambitious in its objectives, must have provisions for collaborations with private schools to achieve its aim of social inclusion. Reimbursing the private unaided schools for admissions under the EWS/DG category represents the mechanism for fulfilling this intent. Our primary focus of inquiry has revolved around the responsibilities of the state.

We have identified that existing literature covers issues surrounding the rejection of claims made by state governments for reimbursement funds. When viewed under the context of the financial relations between the Union and the state governments for RTE, the greater burden for implementation falls upon the states. However, their financial health can vary drastically, which makes them dependent upon the Union for funds. While it may not be obvious, this financial framework has created inefficiencies, as reflected in the relatively low number of states who have submitted claims for reimbursements. There is scope to study the impact of a robust financing relation on timely and adequate reimbursements under RTE Section 12(2).

While inadequate reimbursements is a problem by itself, it is aggravated by the underutilisation of the EWS/DG category admissions 12(1)(c). We have highlighted the literature on both issues separately and in relation to each other. But there is a need for more studies involving field surveys that involve all key stakeholders — school management, parents of both EWS/DG category and fee-paying students, and the state governments.

Finally, there is substantial literature to ascertain serious problems with calculating per-child costs in government schools. A more significant issue arises with the unavailability of relevant information

in the public domain by respective governments. This has been covered in the literature, and we can only add there should be greater public pressure toward this set of issues. A good question for further study in this area would be regarding the experiences of low-fee and high-fee private schools across the country regarding reimbursements. There have been small-scale studies, but more extensive studies shall help gauge the variability in the scope of the problem. It is also pertinent to note that COVID-19 and the shift towards online education exacerbated these problems.



Robbing Peter to Pay Paul

Law and Economics of Section 12(2)

Niket Khadgawat, Adarsh Vasudeva, and Prashant Narang

Introduction

The Parliament passed the Right to Education Act (RTE) in 2009, with the aim of creating social equity in access to education in India. Section 12(1)(c) of the RTE mandates all non-minority private unaided schools to reserve a minimum of 25 per cent seats for Economically Weaker Section and Socially Disadvantaged Groups (EWS/DG) in their neighbourhood at the entry level paid for by the state. By obligating private schools to open their doors to EWS/DG students, legislators hope to erode barriers to social integration. Research has shown that there are gains to be realised in such an attempt at desegregation; that is, poorer students are able to learn better in a private school (A.Mickelson 2002 and Goyal 2009), and richer students become more pro-social and empathetic by being in the vicinity of their less-privileged classmates (Rao 2019).

Reimbursement is compensation in disguise

The RTE mandate to reserve 25 per cent of seats in unaided private schools for EWS/DG children is an exercise of eminent domain.¹ This mandate is different from other reservation laws for two reasons:

1. It applies to private institutions,
2. It does not let schools charge the reserved category students.

It is not mere reservation; it is reservation cum freeship. Reservation under RTE is, therefore, expropriation because it obligates the school owners to do more than what they owe to the state. Although Section 12(2) calls the payment a reimbursement, the amount is not actual. It is pegged at the per-child expenditure in public schools, or actual price, whichever is lower. Hence, for many private schools, the amount would be lower than their fee. The payment, then, is compensation in disguise, not a reimbursement.

Common law requires an aggrieved party that has had their property expropriated to be compensated promptly and fairly. It disallows dispossession without furnishing compensation. The failure to pay promptly violates the rights of the aggrieved party (Cooley and Lane 1904). Since reservation of seats in private schools is akin to expropriation, promptness in payment to schools has to be an essential condition under the RTE.

Promptness and other safeguards in the RTE Act to check discretion

Section 12(2) neither mentions a timeline nor mandates promptness for reimbursement. The only guidance the RTE has for a public official is about the calculation of reimbursement amount. The amount should be the “per-child-expenditure incurred by the State, or the actual amount charged from the child, whichever is less.” Other important details like payment frequency, timelines, criteria for rejection or delay, and remedy against delayed or no reimbursement are missing in the provision. The phrase “in such manner as may be prescribed” will take care of these details. The word “prescribed” as defined in Section 2(1) of the RTE means as prescribed by rules. Section 38(2)(d) of the RTE delegates the power to frame rules for reimbursement to state governments.

1. Eminent domain is the government’s power to take away private property for a public purpose.

Reimbursement is a quasi-judicial exercise of power. A public official will apply their judgment to the claim and decide whether a school deserves reimbursement. Per the principles of administrative law, a law must provide public officials with a set of criteria to make such a determination. A law must not allow public officials to determine the claims on their own without any guidance from the elected representatives. Additionally, it must have other safeguards like reasoned rejection and hearing before the decision. These safeguards act as checks against misuse of bureaucratic discretion. In the absence of safeguards, a public official may not decide the claim at all or may take a long time. Another possibility is a false rejection of the claim. These safeguards are, therefore, in the interests of transparency and accountability.

Delhi has come out with its state rules for reimbursement under Section 38(2)(d) of the RTE. We analysed Section 12(2) of the RTE and the Delhi RTE Rules for these safeguards against discretion.²

Table 2.1: The status of safeguards under the RTE Act and the Delhi RTE Rules

Safeguards	Present under RTE-12(2)	Present under Delhi RTE Rules/Circulars
Guidance	No (<i>for rule-making on approving reimbursement claims</i>)	Yes (<i>Guidelines available for the flow of the reimbursement process</i>) No (<i>for the physical inspection and calculation of per-child expenditure</i>)
Time-bound process	No	No
Appeal (<i>against the calculation of per-child expenditure or extent of reimbursement in individual cases</i>)	No	No
Penalty on public officials or payment of interest in case of delay	No	No
Obligation to convey reasons for rejection in writing	No	No
Pre-decisional hearing/show-cause notice before rejecting the claim	No	No

2. Circular No- DE.18-11/10/2017-18/RTE/Plg. (Circular)/429-431, Dated- 26 February, 2021.

For other issues, courts favour a prompt and timely payment

Since the statute offers no remedy for delayed reimbursement, we look for judgments on delayed compensation in similar cases.

The Supreme Court awarded interest on compensation in case of land acquisition even when the provision of interest was absent in the statute (*Satinder Singh v Amrao Singh*). The Court observed that in case of compulsory deprivation, one is entitled to the immediate payment of compensation. If not paid immediately, then interest must be paid. Similarly, the Gauhati High Court has held that “the payment of interest is imperative ... to compel the authority to pay the compensation promptly, otherwise, there would be considerable delay in making payment of compensation” (*Deputy Commissioner, Kamrup v Sansita Kaibarta and Others*). In case of land expropriation under a statute, the owner is entitled to interest on the principal sum awarded from the date of taking away the possession unless expressly excluded by the statute (*Privy Council in Inglewood Pulp and Paper Co. Ltd. v New Brunswick Electric Power Commission*).

The Supreme Court, in *Pundlik Jalam Patil (dead) by LRS v Executive Engineer, Jalgaon Medium Project*, observed: “prompt and timely payment of compensation to the land losers facilitating their rehabilitation/resettlement is equally an integral part of public policy”. Hence, the government departments must perform their duties with diligence and commitment.

In *Swaraj Abhiyan v Union of India*, the issue was the delay in payment of wages and compensation to beneficiaries under the Mahatma Gandhi National Rural Employment Guarantee Act, 2005. The Supreme Court emphasised the prompt payment to be “in furtherance of the rule of law”.

Gauging the 3Is: Interest, Incentives and Information

To study the implications of a legal provision, we must first understand the system to which it is applied and the actors it regulates. This helps us address the grievances of stakeholders and contextualise the problem at hand, both of which are imperative for proposing an alternative.

Education through schooling directly involves three stakeholders—the state, the private school owners, and parents. These stakeholders can be considered ‘rational’ in a theoretical economics context. That is, they have clear preferences and a proclivity for making optimal choices. We present an interest, incentive, and information analysis of these stakeholders and study how they function under the provisions of Section 12 of the RTE.

How is Section 12 implemented: After schools declare the number of seats available, parents identify the schools in their neighbourhoods where they would like their ward to study. They are allowed to choose up to five schools. Oversubscribed schools carry out a lottery to determine which students they admit. Schools cannot deny admission once the eligibility criteria, as mandated by the government, are satisfied. (Dongre 2016). Reimbursements are made once the child has been enrolled and has completed a portion or an entire year of schooling. For example, Rajasthan reimburses schools in two instalments.

Private schools: The paper categorises private schools based on the fee they charge. Low-fee private schools charge fees less than the notified reimbursement amount, and high-fee private schools charge a fee greater than the reimbursement amount.

Public officials: In most states, the department of school education that runs public schools also regulates private schools. Since private schools and public schools are direct competitors in the

market for schooling, these public officials working in the department regulate their competitors (MHRD, Government of India 2020). Every student who enrolls in a private school is choosing it over a free government school that also offers other free amenities like mid-day meals, uniforms, and shoes. Hence, bureaucrats are circumspect about the proliferation and success of private schools as it causes the decline of their own influence.

EWS/DG Parents: Contrary to popular perception, parents of the EWS/DG category are not only from economically weaker sections of society. Some states allow scheduled castes and scheduled tribes regardless of income criteria. But regardless of paying capacity, these parents are exempt from paying any fee. Further, caste may be difficult to verify and easy to forge. This may be relevant for the implementation of reservation, but is it relevant to reimbursement? It is. EWS/DG parents with paying capacity are not likely to complain if they need to pay for non-tuition costs like transport charges or extracurricular activities.

Ruling Party: Politicians wish to maximise votes. Since EWS/DG parents are a bigger voting bloc than private schools, politicians are likely to care more for their interests. This, coupled with the fact that private schools are competitors of the public department (there is no impartial regulator), would make private schools likely to get a raw deal from both the department (public officials) and politicians. Apart from votes, election financing matters for politicians. That may drive change.

Table 2.2: Interests, incentives and information among stakeholder

Interests: what outcomes do stakeholders envisage for themselves?					
	High-Fee Private Schools	Low-Fee Private Schools	Parents	Public officials	Ruling Party
<i>Time of Reimbursement</i>	Since the rest of the students pay in advance, most schools would want the fee reimbursed at the beginning of every month/quarter.	Since the rest of the students pay in advance, most schools would want the fee reimbursed at the beginning of every month.	Delays in reimbursement would make schools reluctant or hostile to EWS/DG category admissions. As a result, parents would prefer a timely reimbursement.	Public officials would want to reimburse only after due verification, even if it takes a long time.	Delay may warrant government intervention which allows the ruling party to exert influence over private schools.
<i>Quantum of payment</i>	<ul style="list-style-type: none"> • They would prefer an or as close as possible to what other parents pay. • At the very least, the fee should not be below the costs. 	The fees for many budget schools would already be less than the per-child costs incurred in public schools. Hence, they may not find the notified amount problematic.	Parents of EWS/DG category students would like the quantum of payment to be higher so they are not an charged additional amount by the school.	In most states, the same department that runs public schools also regulates private schools. Given this, private schools are their competitors. Public officials are unlikely to have an empathetic on the reimbursement amount. Budget allocation is a zero-sum game. Higher allocation to reimbursement may mean lower allocation to public schools.	Revising the per-child cost formula may cost the state dearly, and hence is unlikely, unless it ensures a lucrative increase in vote share for the ruling party.
<i>Non-tuition fee</i>	The government should cover the entire fee of the school, including non-tuition related expenses.	The government should cover the entire fee of the school, including non-tuition related expenses.	The government should cover the entire fee of the school, including non-tuition related expenses; if the government does not, then the schools would pass the buck onto them and ask them to pay.	Given the ambiguity in the law, it is unlikely a public official would allocate any budget to non-tuition fee related expenditure unless there is a court order or a clear political mandate.	Likely to pass the burden to the private sector and wait for the schools to lobby against it so that they would also benefit by obliging parents and schools, and gain electoral support.

	High-Fee Private Schools	Low-Fee Private Schools	Parents	Public officials	Ruling Party
Incentives: what motivates the stakeholders to act the way they do?					
<i>Time taken to reimburse</i>	<ul style="list-style-type: none"> A parent generally pays the fee, either monthly or quarterly, in advance. Ex-post reimbursement after six months or more that is subject to red tape, would make high-fee private schools averse to claiming reimbursement. Given the uncertainty and delay in reimbursement, the school would pass the financial burden to the fee-paying children. 	If the ex-post reimbursement is at least certain, low-fee private schools would not mind implementing the provision.	<i>Not applicable</i>	<ul style="list-style-type: none"> Public officials would likely favour an annual cycle of reimbursement, or in best cases, a half-yearly cycle rather than a monthly or quarterly one, to minimise their workload. A benevolent public official would prolong verification whereas a malevolent public official would delay deliberately to extract rent from school owners. Delay may allow the department to earn an interest on the money retained in its bank account. The RTE does not mandate any safeguards like a fixed timeline for reimbursement. Given that the rules were to be drafted by public officials to whom the rule would apply, there is unlikely to be any deterrence. The best case scenario may be timelines and appeals. 	Systemic reform may alleviate the need for political intervention. Hence, the ruling party may not initiate any systemic reform until private schools lobby for it.

	High-Fee Private Schools	Low-Fee Private Schools	Parents	Public officials	Ruling Party
<i>Quantum of payment</i>	<ul style="list-style-type: none"> Reimbursement amount, if below what other students pay, may discourage high fee schools from implementing the provision. If the amount is less than their break-even cost, it would make most high-fee private schools averse to the provision. Higher the gap between the fee and the notified amount, the lower the likelihood of schools claiming reimbursement, provided the enforcement is strict. 	<ul style="list-style-type: none"> Since the fee of a low-fee private school, by definition, is lower than the notified amount of reimbursement, it would readily implement the provision, assuming the reimbursement is certain. Some low-fee schools may even be inclined to extend the reservation beyond 25 per cent, given the law mentions ‘minimum 25 per cent’. A higher gap between the school fee and the notified amount may tempt some low-fee private schools to hike their fee for everyone to the level of notified amount. 	<i>Not applicable</i>	<ul style="list-style-type: none"> Public officials are unlikely to <i>suo moto</i> revise the quantum of reimbursement periodically. They would wait for a clear political mandate or a court order. Since the law pegs the reimbursement amount at the per-child expenditure in a public school, that is, recurring costs incurred in public schools for the calculation of reimbursement amount, the formula may not include interest on land, and other amenities or facilities made available by high-fee private schools. Hence, the notified amount is likely to be low. 	No clear legal mandate on periodic revision would create the need for lobbying and political intervention. Ruling party would create committees to revise the amount “at the request of private schools” and revise it just before the election.

	High-Fee Private Schools	Low-Fee Private Schools	Parents	Public officials	Ruling Party
Information: whether a stakeholder has access to information required for maximising its interests					
<i>Time taken to reimburse</i>	A school would need information on: <ul style="list-style-type: none"> • how to apply for reimbursement, that is, format and guidelines; • when to apply, that is, timelines; • possible objections in the filled form. Ideally, the objections should be conveyed to the schools at one go. 	A school would need information on: <ul style="list-style-type: none"> • how to apply for reimbursement, that is, format and guidelines; • when to apply, that is, timelines; • possible objections in the filled form. Ideally, the objections should be conveyed to the schools at one go. 	A school may want to inform the parent about non-payment or the delay in payment; however, a parent's right is not dependant to the delay in reimbursement.	<ul style="list-style-type: none"> • RTE does not clearly mandate transparency in the reimbursement process. • In the absence of a legal mandate, public officials would not <i>suo moto</i> bring transparency to make themselves accountable. • A public official would want to make amply sure that a school has enrolled and retained the EWS/DG children, and that the school is treating those children equitably. This would not be viable given the thin state capacity. 	A digital portal being a more tangible evidence of good governance is more likely than concrete safeguards to ensure transparency and accountability.
<i>Quantum of payment</i>	Schools have no way to find out the veracity of the actual per-child expenditure in government schools.	Schools have no way to find out the veracity of the actual per-child expenditure in government schools.	<i>Not applicable</i>	<ul style="list-style-type: none"> • The actual per-child expenditure in public schools may also signal poor value for money of public schools, so public officials may not disclose the actual amount to look efficient. • Keeping the amount low also saves money on reimbursement. 	Ruling party would be largely indifferent towards increasing the quantum of payment unless the school owners are a strong enough lobby.

	High-Fee Private Schools	Low-Fee Private Schools	Parents	Public officials	Ruling Party
Overall					
<i>Outcome</i>	<ul style="list-style-type: none"> Some schools would try to implement the provision if the enforcement is not strict; if enforcement is strict, they may change their status to minority educational institution. Some schools would implement and lobby with the ruling party to revise the notified per-child expenditure, and file litigation for timely reimbursement. Some schools may implement, but not claim reimbursement and instead cross-subsidise; some may pass the non-tuition expenditure to EWS/DG parents. 	<ul style="list-style-type: none"> Most schools would implement; they would lobby hard with the ruling party to revise the notified per-child expenditure, and file litigation as an association for timely reimbursement. Most will try to hike the fee as close to the notified amount as possible subject to competition and fee regulation law. 	<ul style="list-style-type: none"> EWS/DG Parents would find themselves under pressure to pay for non-tuition fee expenditure; Fee-paying parents would face fee hikes as a result of cross-subsidisation; would also lobby for fee control laws and file litigation against fee hikes. 	Public officials would divert the attention from the delay to private schools not admitting EWS/DG children, not providing books and uniforms, and fee hikes. They would highlight some instances of fake records to justify delays.	<ul style="list-style-type: none"> Ruling party may vilify private schools. Address the issues of private schools when lobbied and just before election.
<i>Impact</i>	<ul style="list-style-type: none"> Fee hikes for fee-paying students. Few non-minority run schools are likely to be established as compared to pre-RTE numbers. 	Fee hike for fee-paying students.	Less choice, more spending.	State capacity is thinner than ever with more responsibilities and workload.	Push stringent regulations like a fee regulation law to 'discipline' private schools

Scouting for Solutions

A public official is interested in detailed verification and a school is interested in prompt reimbursement. While all the other students pay the fee in advance, for 25 per cent of children the payment is likely to materialise after one year in the best case scenario, or not at all, in the worst case. Lower-than-actual amount and the expropriatory nature of the reservation provision further discourages compliance, thereby making verification more pressing.

Two options are available.

Option I: Ex post payment + robust administrative safeguards + deemed compliance

1. Have a set of timelines for submission of records and processing of reimbursement.
2. In states where the public officials prepare and forward the list of students to the schools, the department could switch from verification to a complaint-based system. It means, to assume compliance and not verify unless an EWS/DG parent files a complaint with the department against the school. The department could inform the parents about their rights at the time of forwarding the list to schools.
 - 2 a) Alternatively, verification should be subject to the following safeguards: (i) allow objections to be raised at one go; (ii) no document should be asked from a school that the department already has or supposed to have; and (iii) have a deadline for verification.
3. Pay reasonable interest if reimbursement is delayed.

Option II: Direct benefit transfer using e-RUPI³

1. Switch to direct benefit transfer. Let the parent pay the service provider (school). This would save verification and enforcement costs. Delay in issuing a voucher is unlikely since parents are a relatively large vote-bank compared to private schools. It would be politically unwise to delay payments; hence, politicians would ensure smooth provision of vouchers by improving state capacity.
2. Use technology to issue digital vouchers. e-RUPI allows a purpose-specific and person-specific cashless payment. Since e-RUPI cannot be transferred to another person or be converted to cash, it cannot be misused or diverted for an unintended purpose. Parents do not need to have a bank account or a specific mobile app. The payment can be made through a QR code or an SMS based e-voucher. It enables digitisation of offline transactions. The state level department can issue an e-RUPI to a parent through an intermediary like the bank. The bank would authorise the redemption of the voucher against the same purpose.
3. Since schools will receive an ex-ante payment, their incentives will be changed as well. Most schools, if not all, would be incentivised to treat EWS/DG children well.

3. The authors thank Amit Chandra for pointing us in this direction



Crunching the Numbers

Arithmetic of Per-child Expenditure

Vibhu Agiwal, Ritika Susarla, and Anirudh Goel

Introduction

Section 12(1)(c) of the Right to Education (RTE) Act, 2009 mandates private unaided schools to reserve a minimum of 25 per cent of their seats at the entry-level for children from the Economically Weaker Section and Disadvantaged Groups (EWS/DG). Union and state governments reimburse unaided private schools either the “per-child expenditure borne by the state government in its own schools, or the fees charged by the private schools, whichever is lower.” Per-child costs form the basis for reimbursement to private schools and play an essential role in achieving social inclusion under RTE Section 12.

The RTE Act creates a legal responsibility for private unaided schools; it imposes a cost on them by mandating the reservation of 25 per cent of seats for students in the age group of 6-14 years. In the absence of this mandate, these seats could have been used by private unaided schools to generate revenue. Under Section 12(2) of the RTE, the government is liable to reimburse private schools for forgoing this opportunity.

As of January 2019, only 15 states and Union Territories (UTs) had notified the Union government of their per-child costs for reimbursement (MHRD, Government of India 2011). Moreover, there were variations in the numbers reported by different states and limited clarity on the methodology used to calculate the amount. These variations in the calculation of per-child costs, along with incomplete and delayed reimbursements, tend to impose additional costs on either the EWS/DG category students or private schools. This could be the underlying reason for a 4 per cent decline in the participation rate of private unaided schools under Section 12(1)(c) of the RTE (Bhattacharjee 2019b; Verma et al. 2018).

Though private school students perform better on tests, evidence on their efficiency in achieving learning outcomes is mixed. Muralidharan and Sundararaman (2015) found that private schools were able to achieve similar test scores in math and language with lower spending and 32 per cent less time spent on instruction, in comparison to government schools. Meanwhile, Chudgar and Quin (2012) found that the private school benefit was insignificant if adjusted for socio-economic factors. Despite this mixed evidence, private schools play a crucial role in achieving the RTE’s objective of providing free and compulsory elementary education to children despite socio-economic barriers. However, this objective cannot be met without a proper methodology for calculating and reporting per-child costs for reimbursement. This warrants a deeper analysis into the intricacies of per-child cost calculations.

Despite the need for such analysis, information on per-child costs and the process used to arrive at these costs is scant and inaccessible. The calculation of per-child cost needs to be more transparent. A key factor in ensuring accountability and efficiency of public schemes is public deliberation. This forms part of our motivation to study per-child costs.

Our paper examines: (i) how the Government of National Capital Territory (NCT) of Delhi arrives at its per-child expenditure, and (ii) the components of the per-child cost formula across states. It concludes with a discussion on implications for stakeholders and policy recommendations.

The magic formula: how per-child expenditure is calculated

Reimbursement given to private schools equals the actual fee charged by the concerned school from its students, or the per-child expenditure on education incurred by the government—whichever is lower. The Government of NCT of Delhi calculates this per-child expenditure by dividing the

“total annual recurring expenditure by the government, whether from its own funds or the funds provided by the Union Government, or any authority on elementary education, on schools referred to in clause 2(n)(i)¹ of the RTE Act, by the total number of students enrolled in all such schools”. Restating the above mathematically:

Per child expenditure = Total annual recurring expenditure on elementary education by the government / Total enrollment in government run schools

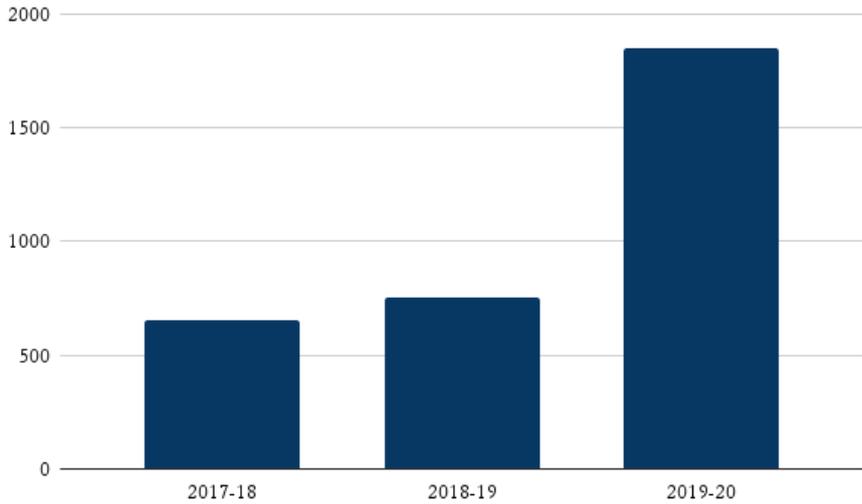


Figure 3.1: Number of schools that received reimbursements against RTE admissions. (Adapted from Delhi Education Department)

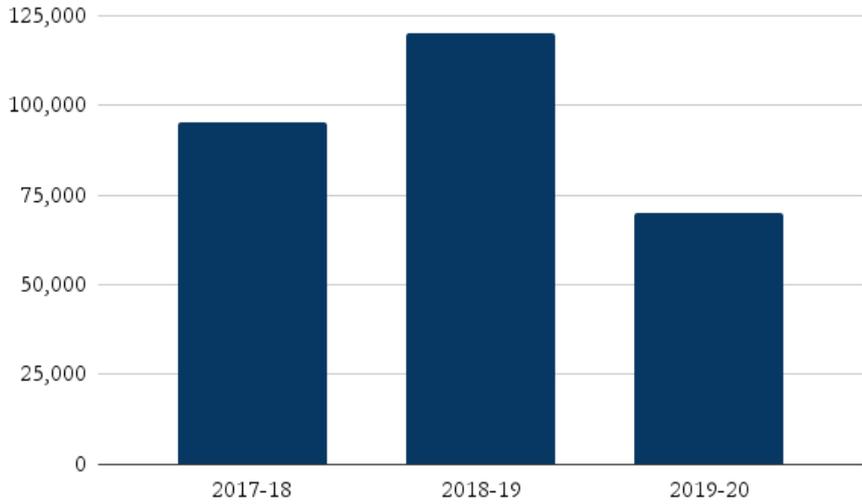


Figure 3.2: Number of children in Class I and above for whom reimbursements were made. (Adapted from Delhi Education Department)

¹. Schools referred to under Section 2(n)(i) of the RTE Act include schools established, owned or controlled by the appropriate government or a local authority.

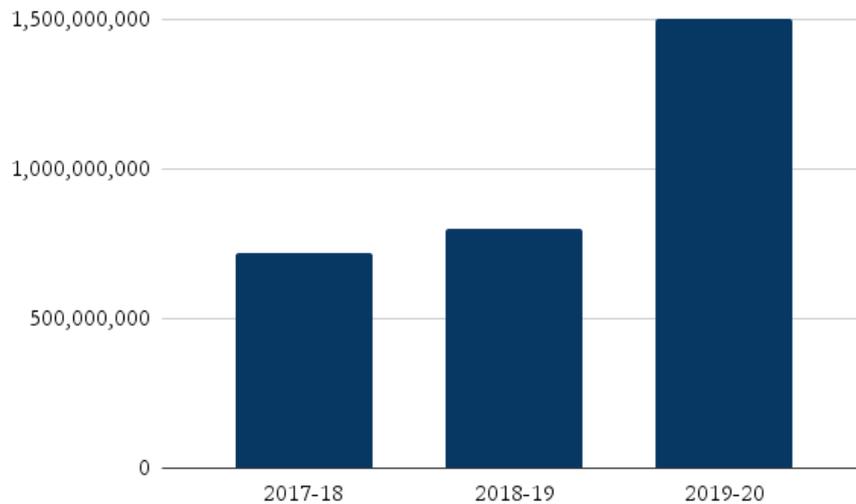


Figure 3.3: Total amount reimbursed to schools (including nursery classes), in INR.
(Adapted from Delhi Education Department)

The per-child statistic, therefore, is a measure of the average recurring expenditure incurred on all students of ages 6-14 receiving elementary education in government schools. This has several implications. First, per-child costs can vary significantly based on enrollment and student population in a state, even if public expenditure on education remains the same. Following from this formula, a decrease in enrollment in government schools increases the per-child costs, even if the total recurring public expenditure and the cost of inputs remain unchanged. However, government schools often have the incentive to over-report their enrollment numbers as it helps them avail more grains for mid-day meals, scholarship money for Scheduled Caste/Scheduled Tribe (SC/ST) students, cloth for school uniforms, and more teacher appointments. For instance, the Comptroller and Auditor General of India (CAG) found that the Unified District Information System on Education (U-DISE+) public enrolment data for Uttar Pradesh and Bihar was inflated by 20 per cent and 38 per cent respectively (Datta and Kingdon 2021). Thus, total enrollment is not a reliable factor to calculate the per-child expenditure in public schools.

Moreover, factors that affect the denominator—that is, total enrollment—may be unrelated to those affecting the numerator—that is, public expenditure on education. Yet they are factored in while determining the per-child cost. The per-child cost changes even without any change in expenditure on teacher salaries or other inputs like playgrounds and school buildings.

Though the per-child cost is the basis for reimbursement to private schools, the expenditure and enrollment in private schools might vary significantly, and may be unrelated to that of government schools. Using the government per-child cost as the basis for reimbursing private schools may not necessarily cover the costs incurred by private schools in providing education to EWS/DG students. Insofar as the fund sharing for reimbursements is concerned, since 2016 the ratio has been 60:40 between the Union and the states. The ratio is 90:10 for North-Eastern and Himalayan states, and 100:0 for UTs without legislatures (Verma et al. 2018).

The formula and methodology used to identify per-child expenditure for a particular state or UT is decided by the state government or governing authority. States have established government committees with secretaries of education and finance departments, and the State Director for the Sarva Siksha Abhiyan (SSA) for this purpose. In states like Andhra Pradesh and Rajasthan,

representatives from private unaided schools are also made part of the committee to decide on the per-child cost. These committees convene annually, typically in December, to decide the per-child calculations and costs for the following academic year.² As per the information provided by states, nine have revised their per-child cost at least once during the last three years. The Union government in various meetings, like State Education Secretaries conference, Joint Review Missions, and Project Approval Board Meetings, has been advising state/UT governments on implementation of the Section 12(1)(c) of the RTE Act 2009 (MHRD, Government of India 2019).

Components and inter-state variations

Public expenditure on education, as shown in Figure below, consists of two broad categories—capital expenditure and recurring expenditure. Capital expenditure, or planned expenditure, includes expenditure on infrastructural inputs like construction of classrooms, school buildings, toilets, libraries, laboratories, boundary walls, dining halls, ramps, and playgrounds, among others (Bose, Ghosh, and Sardana 2020).

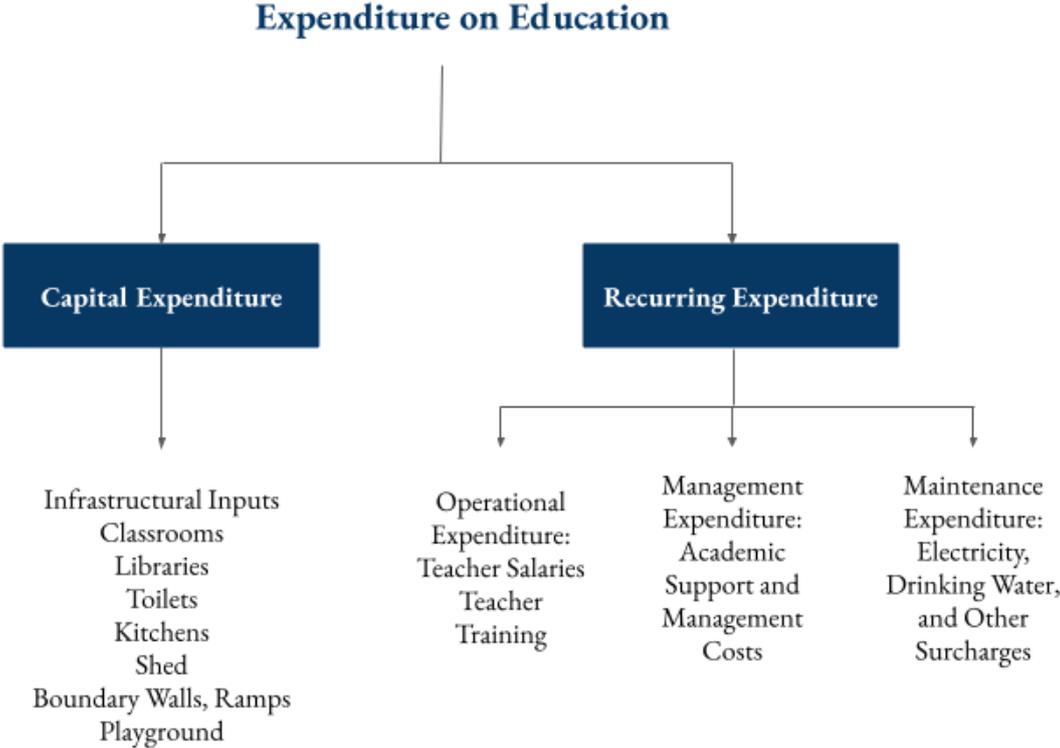


Figure 3.4: Components of public expenditure on education (Adapted from Bose, Ghosh, and Sardana 2020)

Recurring expenditure, or non-planned expenditure, comprises the costs incurred by the government on operation, management, and maintenance of existing schools. School-level recurring costs include teacher salaries and teacher training, provision of uniforms and textbooks to students,

2. Annual meetings do not imply that the amount is updated each time they meet. For instance in Delhi, for the last two years, the per-child costs have remained the same.

and the mid-day meal as per the National Food Security Act (NFSA), 2013. Recurring expenditure also includes annual charges, which comprise expenses on maintenance and repairs of the school building, laboratory consumables, school events, cost of conducting examinations, expense on library facilities, maintenance of computers and software, medical care, and electricity and water charges (MHRD, Government of India 2014). As evident from the Figure below, teacher salaries constitute the largest proportion of recurring expenditure on education. Only recurring expenses are accounted for in per-child cost calculations.

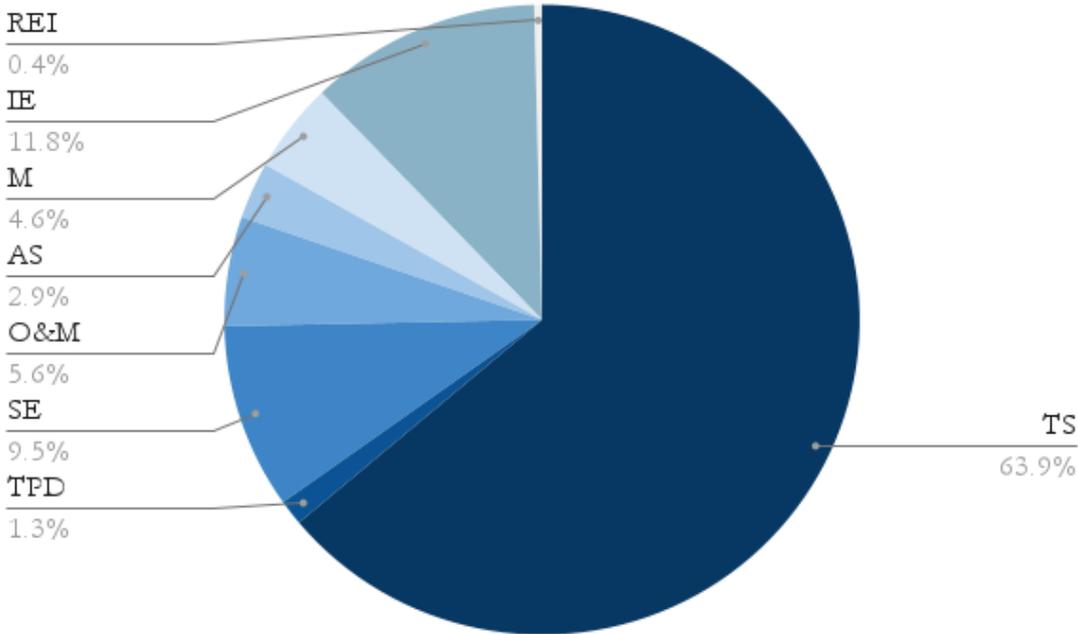


Figure 3.5: Composition of Recurring Cost, all India (in-per cent).

TS-Teacher Salary, TPD-Teacher Professional Development, SE-Students’ Entitlement, O&M-Operation and Maintenance Including Others, AS-Academic Support, M-Management, IE-Inclusive Education (Scholarship, Residential School, Mark up cost including bridge course for OSC and facilities for children with special needs), REI-Reimbursement.
 (Adapted from Bose, Ghosh, and Sardana 2020)

Since per-child costs and the methodology used for calculation is determined individually by states, several inter-state variations exist. Individual states include different components of recurring expenditure on education in the calculation of per-child costs. This, to some extent, explains the variations in per-child costs reported by states. The exclusion of some key components of recurring expenses, like textbooks and uniforms, from the per-child cost calculation shifts the burden of these costs to EWS/DG category students (National Commission for Protection of Child Rights 2018).

The table below shows the variation in the official per-child costs across states.

Table 3.1: Per-child costs across states in 2019
(Adapted from MHRD, Government of India 2019)

State	Annual per-child cost (in INR) in 2019
Delhi	26708
Chandigarh	16440
Uttarakhand	16596
Uttar Pradesh	5400
Rajasthan	13945
Maharashtra	17670
Gujarat	13000
Karnataka	16000
Jharkhand	5100
Odisha	12602
Chattisgarh	7650-12650
Bihar	6569
Tripura	21138
Madhya Pradesh	4419

Though many states do not include uniforms, textbooks, mid-day meals, etc., in the calculation of their per-child cost, some of them reimburse the schools separately for these goods and services.³ This provision becomes critical to realise the objective of RTE, since the absence of these goods and services in a school can lead a child to drop out of the school.

The components of education expenditure that each state reimburses to private unaided schools varies significantly. The table lists select states and the reimbursements provided by them to private unaided schools for select goods and services.

3. State governments do not provide reimbursement for these goods and services as part of per-child costs under RTE, but under various other state-level schemes. For example, West Bengal provides transfers for textbooks, uniforms, shoes, bags etc., as part of its state government schemes, but not under RTE rules, unlike many other states considered in the table below.

Table 3.2: Components of recurring expenditure reimbursed by different state governments
(Adapted from Bordoloi et al. 2020b)

State	Textbooks	Uniforms	Transport	Mid-day Meal	Writing Materials, School Bags, Shoes
Andhra Pradesh	✓	✗	✗	✓	✓
Arunachal Pradesh	✓	✓	✓	✗	✓
Assam	✓	✓	✗	✗	✓
Delhi	✓	✓	✗	✗	✓
Bihar	✓	✓	✗	✗	✓
Chattisgarh	✓	✓	✗	✗	✓
Goa	✓	✓	✗	✗	✓
Gujarat	✓	✗	✗	✗	✗
Haryana	✓	✓			✓
Himachal Pradesh	✓	✓	✗	✗	✓
Karnataka	✓	✓	✗	✗	✓
Maharashtra	✓	✓	✗	✗	✓
Meghalaya	✓	✓	✗	✗	✓
Nagaland	✓	✓	✗	✗	✓
Punjab	✗	✗	✗	✗	✗
Sikkim	✗	✗	✗	✗	✗
Uttarakhand	✓	(For girls and SC/ST boys)	✗	✓	✗
Uttar Pradesh	✓	✓	✗	✗	✗
West Bengal	✗	✓	✗	✗	✓
Tamil Nadu	✓	✓	✓		
Kerala	✓	✓	Transport and Residence, if applicable	✗	✓

Why is there a stark variation in reimbursements across states?

As is clear from the tables, there is immense variation amongst states in terms of the per-child costs they declare as well as the extra components reimbursed. This section of the paper further explores the reasons behind this variation across states.

Political factors drive variations

The Sakia Committee Report (1997)—first tabled in the Indian Parliament in 2002—suggested that “provision of other incentives like free school uniforms, cash incentives, scholarships, and so on, could be left to the discretion of the states subject to economic capacities and priorities of the respective state governments.” Besides reimbursement to schools as per Section 12(2), states also provide other forms of reimbursements, like uniforms and stationery stipends, to students from the SC and ST category.

Prima facie, the states’ choice of components for reimbursement and the absolute amount of per-child costs seems arbitrary. For other ‘rights-based’ schemes like Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA), Social Security for Unorganised Workers Act, 2008, and NFSA 2013, state-level political factors have been responsible for variation in state government spending. The common theme that the RTE shares with these schemes, along with the period of launching, is that these schemes are also ‘rights-based’ and the state government is responsible for securing these rights (Deshpande, K, and Tillin 2017).

However, other such ‘rights-based’ schemes involve a direct interaction and exchange of goods between the state and the citizens. For example, MGNREGA offers wages directly to beneficiaries and NFSA offers women maternity benefits in cash. However, this direct interface or exchange of goods is absent in the RTE since per-child costs are reimbursed to private schools and not the people (voters) directly. This hypothesis of political factors driving inter-state variation merits more inquiry and opens up future scope of research.

Purse strings matter

Per-child expenditure contextualises total government expenditure on education in terms of total enrollment in the state. In doing so, it reflects the quantum of financial resources available for each child enrolled in government or government-aided schools in that state (Bordoloi et al. 2020b).

A state’s budgetary allocation towards education reflects the priority that elementary education takes in the state economy. The relative priority that elementary education takes varies across states, as reflected in the proportion that education comprises in the Gross State Domestic Product (GSDP). This may also explain the variation in the reimbursement provided to private unaided schools across states.

States like Maharashtra and Tamil Nadu, with “higher per-capita national state domestic product, spent lower shares of GSDP on education” (Bordoloi et al. 2020b). In such states, the increase in per-child costs are likely to be driven by a fall in total enrolment in government schools rather than an increase in total expenditure. States like these might also be reimbursing private unaided schools (for provision of certain goods and services) under other schemes instead of RTE.

States are increasingly bearing a greater share of the burden of financing elementary education. Public elementary education is financed by many sources including state budgetary resources, state education schemes, and Centrally Sponsored Schemes (CSSs) like the SSA. In addition to contributing between 10 to 40 per cent of funds for the SSA, the primary vehicle for implementing the RTE Act, states contribute between 81 to 95 per cent of funds for school education from these budgetary sources (Bordoloi et al. 2020b).

Fiscally rich states like Maharashtra and Tamil Nadu are less dependent on CSSs, and are able to contribute a significant amount towards education from their own budgetary resources. Whereas,

fiscally weak states, like Bihar and Rajasthan, are more dependent on CSSs for reimbursements under RTE (Bordoloi et al. 2020b). Fiscal resources and dependence on CSSs are factors that may contribute to variation in per-child expenditure across states.

If you pay peanuts...

In economics, if the marginal costs borne by a rational agent for an act or a decision are greater than the marginal benefits for the same act, they simply do not undertake that act. In other words, the rational agent is disincentivised from doing that act. This simple analogy is extended in this section to explain why stakeholders in the reimbursement process,⁴ particularly parents from EWS/DG backgrounds, are disincentivised from sending their children to school. The central argument is that the financial costs and efforts (marginal costs) that stakeholders (parents and schools) bear are more than the reimbursements (marginal benefits). The section begins with some empirical evidence from the National Sample Survey (NSS) data and the Delhi Economic Survey to establish the above argument, and ends with implications of the evidence.

We find that only 4-5 per cent of the schools received reimbursements in recent years.⁵ There are various reasons for poor reimbursements: implementation hassles like registration for EWS/DG seats or dealing with school authorities and bureaucrats, time and educational constraints of the parents themselves, and the opportunity cost of time spent by students on education.⁶

The following table shows the average expenditure incurred by a household in Delhi on education in private unaided schools and correspondingly the per-child costs for the same age levels, in the year 2017-18.⁷

Table 3.3: Average expenditure of a household in delhi in private unaided schools, and corresponding per-child cost. (Adapted from NSS Data)

	Expenditure by Households in 2017-18	Per-Child Costs for 2017-18
Pre-Primary	16,622	N/A
Primary	19,315	19,176
Upper-Primary/Middle	24,040	19,176

4. Some scholars, Sen and Dreze (2013) in particular, have highlighted the immense benefits and positive spillover effects that education has on an individual and the society as a whole. To take one of their arguments, educated people are more likely to make informed choices simply because literacy brings more awareness to people about markets and the contexts in which they make a choice. Not only is education good for instrumental reasons, but also as an end in itself, and they, along with many other scholars, explore the ‘end in itself’ argument in fair detail. They are correct to the extent that educating people has several spillover benefits, but only in the long run. In the short run, however, to think that stakeholders take into account such long run effects, with all the uncertainty that accompanies it, might not be a correct theoretical observation.

5. For 2017-18 and 2018-19; based on the authors’ calculation

6. By opportunity costs, we mean the benefits, or employment opportunities, or anything else a student may be forgoing in the time they spend in school.

7. These are schools that eligible to receive reimbursements by the government. The figure is from NSS’ 75th round in 2017-18. The NSS report also adds another limitation to this data, “It may be noted that the design of this survey was not aimed at estimating population” (National Statistical Office 2017). This criticism is important since we are statistically inferring trends about the population from the sample. However, other qualitative studies also corroborate that parents have to incur several non-tuition fee costs on education.

As can be noted, the per-child costs are consistently lower than actual per-child expenditure incurred by households. Therefore, the extra burden does fall upon other stakeholders (the schools and the parents).

Although this data is just for one year, stakeholder studies suggest that per-child costs almost always fail to meet the actual cost incurred by the stakeholders, both schools and parents (Sarin, Dongre, and Shrikant Wad 2017; Bose, Ghosh, and Sardana 2020).

The economic impact of this extra-cost—that is, the difference between actual costs and per-child reimbursement—affects both stakeholders differently. Some states have passed on their extra expenditure to private schools, who in many cases, pass it on to the fee-paying students by hiking their fees. This can be inferred from the fact that as of 2019, nine states have enacted stand-alone statutes to regulate collection of fees after the introduction of RTE (Anand and Roy 2020). While the students fee-paying students end up paying the extra costs in form of fee hikes, students from EWS/DG category also, in some states, end up paying transportation costs, and other non-tuition fees.

Conclusion

Per-child costs are the mainstay of the RTE reimbursement process. However, the process of calculating the per-child costs and methodology is opaque, with very limited information on this available in the public domain. Per-child expenditure gives us the average recurring expenditure on public elementary education in a state. States use the government-calculated per-child cost as the basis to reimburse private schools for the expenses incurred on students from the EWS/DG categories studying under the 25 per cent reservation under the RTE Act.

Although governments reimburse private schools for the expenses incurred on EWS/DG students, the amount reimbursed is often based on the government mandated costs, which is often much lower than the costs actually incurred by the private schools. Some states also do not reimburse schools for all the components of recurring expenditure, shifting the burden of these costs either to the schools or to the parents of EWS/DG students. This defeats the RTE's objective of social inclusion.

Per-child costs have been increasing over the years but in most cases, this increase has been driven by a decrease in government school enrollment rather than an increase in recurring expenditure on education.

To encourage more participation of private schools in the 25 per cent reservation of the RTE, the government must develop a more robust and transparent framework of per-child cost calculations, update the costs regularly, and reimburse the schools based on actual cost incurred to educate EWS/DG students. The current process inadequately reimburses private unaided schools which could potentially discourage them from admitting EWS/DG students.



Ease of Claiming Reimbursement

A Process Audit in Delhi

Shreyaa Balachandran, Aarushi Gupta, Kanika Kaur, and Arjun Krishnan

Introduction

The Right to Education Act (RTE), 2009 aims to ensure that all children in India receive access to elementary education, irrespective of their economic background. The Act mandates that private unaided schools reserve 25 per cent of their seats at the entry-level for children from the Economically Weaker Section and Disadvantaged Groups (EWS/DG). The government reimburses schools for these seats under Section 12(2) of the RTE.

In 2018-19, Delhi reported massive delays in reimbursement, with schools having to approach the Supreme Court and issue a writ of mandamus in October 2020 to demand the release of dues (Indian Express 2020). Schools claimed that the lack of funds impeded their ability to carry out repairs and other infrastructural developments.

Government's poor reimbursement record disincentivises schools from admitting EWS/DG students since they have to incur the costs of free education, uniforms, and textbooks. The Bright Spots Report (2019), noted the same and stated that "reluctance to implement reservation is because of the delays in reimbursement". Government officials, however, claim that it is the schools' inability to file the claims on time that results in delays.

This paper aims to throw light on the reasons behind reimbursement delays through a process audit. Broadly, it studies the process that private unaided schools need to undertake to receive their reimbursement under Section 12 of the RTE. The process audit consisted of two phases: i) identification of the *de jure* process, and ii) analysis of the *de facto* process. The *de jure* process refers to how the Act, rules, and government circulars, define the process. To map this, we went through Directorate of Education (DoE) circulars, Government of National Capital Territory (NCT) of Delhi. Following this, we compared Delhi's reimbursement process to that of Madhya Pradesh, Odisha, and Karnataka. The *de facto* process, on the other hand, refers to how the process works on the ground. This was examined based on interviews with school representatives, and officials at various levels in the DoE. Our two-part study identifies variations between the *de jure* and *de facto* processes, as well as the bottlenecks in the existing mechanism, and recommends policy changes to improve the system's efficiency.

What is the process on paper?

This section outlines the *de jure* process for reimbursement in Delhi, identifies gaps in the published information, and delineates best practices from the three different states studied. This information was based on circulars found on the DoE website. On average, each year had one circular briefly describing the timelines and processes for reimbursement.

How does Delhi reimburse schools?

Every school across India has to maintain a separate bank account to receive the reimbursement amount (Government of NCT of Delhi 2011). Schools in Delhi have to follow six steps to receive reimbursements. These steps, however, see some variation each year.

First, private schools enter the details of students admitted under the EWS/DG category onto the online module. In addition to entering details regarding the EWS/DG students, schools must also enter their complete address, the actual recurring expenditure of the school per-child per-month, and the amount that is charged by the school per-child per-month. Second, schools submit a duly

signed copy of the online report to the Deputy Director of Education (DDE) in their zone for processing. Additionally, schools need to submit an undertaking that textbooks, writing materials, and uniforms would be provided free of cost to the EWS/DG category students.

Subsequently, the concerned DDE zone authorities conduct a physical inspection to check the accuracy of data entered onto the online reimbursement module, and submits a report on the same. If there are variations between the data reported and the status found through physical inspection, the data is rejected. Private unaided schools are required to correct and resubmit the data through the online module.

The zonal officers then forward this data to the DDE to process the claims. Subsequently, the per-child expenditure incurred by the private unaided schools is reimbursed as per rates approved by the finance department.

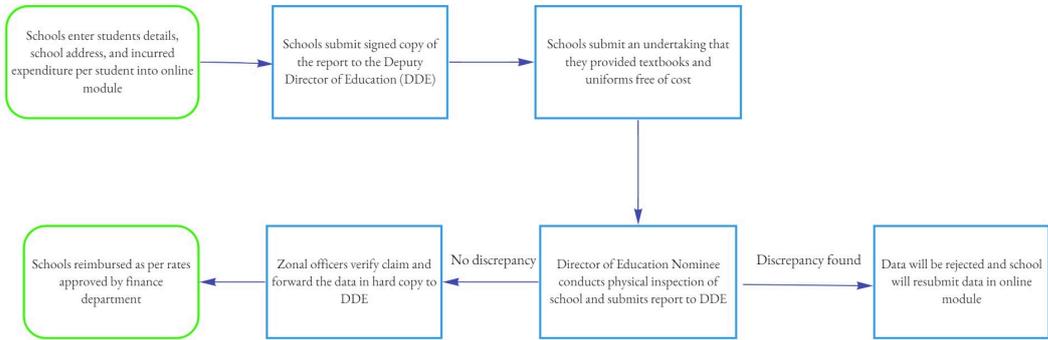


Figure 4.1: *De jure* reimbursement process in Delhi

Does the process vary year to year?

We observed a general lack of consistency in the details of the process across circulars. There were frequent changes in the timeline of as long as six months. However, the circulars from 2018-19 onward have not mentioned any dates or deadlines.

Further, even after the process shifted online in 2012-13, some circulars continued to mention an ‘advisory’ statement and required hard copy submissions. Hard copies are submitted either to the local DDE or the DoE (Government of NCT of Delhi 2017 and 2021).¹ Physical inspection of online data is required only in some years. The circulars do not mention what a school is required to do if there is a variation in the data submitted online and the physical inspection. These circulars assume that its audience is already well-acquainted with the reimbursement process, since consecutive circulars only mention changes from the previous year.

We also observed some variations in the circulars (Government of NCT of Delhi 2013). These changes are not incremental improvements and continue to lack specific guidelines, reimbursement amounts, and deadlines. Frequent changes in the reimbursement process might also result in schools inadvertently submitting incorrect documents and risking their reimbursement claims. This is especially true for smaller schools that cannot afford a dedicated staff for the reimbursement process.

1. This requirement varies from year to year.

We observed the following challenges in the circulars passed across years:

1. They do not provide schools with a deadline for uploading their information onto the online portal.
2. They do not provide an estimated timeline on when schools are likely to be reimbursed.
3. There are certain inconsistencies across different years, with different aspects of the process being eliminated and added without explanation. For instance, the date of submission of claims changes year on year.
4. They do not elaborate on how to navigate the online portal and fill in the requisite details or what schools must do in case they fill the incorrect information.
5. The Circular dated 26 February, 2021 does not provide any update on how physical inspections and other aspects of the process will be completed in the midst of the pandemic.

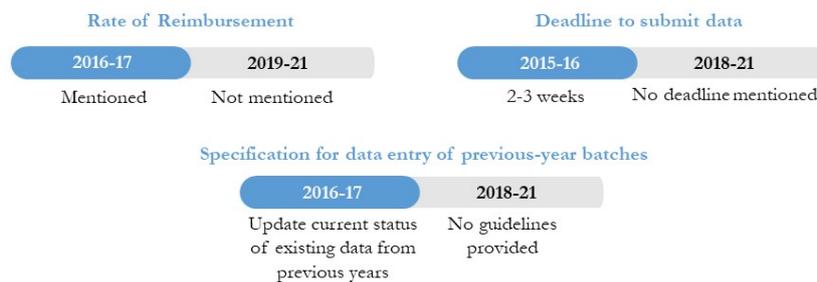


Figure 4.2: Variations in circulars across six years
(Adapted from Government of NCT of Delhi 2013, 2017, 2021)

How do other states reimburse schools?

This section compares the *de jure* reimbursement process in Delhi with three other states: Odisha, Madhya Pradesh, and Karnataka. The comparison helps identify best practices and develop recommendations to improve and streamline the process in Delhi. We chose these three states because they have transparent processes and dedicated websites for reimbursement.

Unlike states such as Karnataka, the Government of NCT of Delhi reimburses schools in lump sum according to fund availability. This could cause a liquidity problem for schools in case of delays. For many budget schools, reimbursements under Section 12 form an important part of their annual

income. In addition, states that reimburse schools in instalments explicitly mention the month when the schools should expect reimbursement. This is absent from Delhi’s circulars and this could hamper the school’s functioning. For instance, a school facing a cash crunch today would adopt a very different approach if it expected an inflow of funds in the coming month, as opposed to one facing uncertainty on receipt of funds.

Odisha: more steps, but more guidance and transparency

The circular released by the Department of School and Mass Education (DSME), Government of Odisha, pertaining to the implementation of Section 12(2), provides details on the complete procedure of EWS/DG admissions and reimbursement (Government of Odisha School and Mass Education Department 2014). It is broken up into stages and lays out all the details required by schools, government officials, students, and parents to complete the process. The document first outlines the prerequisites to begin the process—that is, norms for the eligibility of schools and the capacities the government is required to build. These prerequisites are consistent with the ones required under the RTE Act.

In February 2021, the government of Odisha started an online portal dedicated to admissions and reimbursements under Section 12 of the RTE , seemingly in response to the COVID-19 pandemic. The website, called RTE Paradarshi, is meant to make the process more transparent. It offers stepwise instructions and Frequently Asked Questions for schools, parents, and government officials, in English and Odia. While the website does not provide a time frame of reimbursement, it mentions that the schools would be reimbursed after the admission process. However, the portal is less than a year old, and no judgment can be made until this academic year is over.

Odisha’s RTE reimbursement process has more steps than Delhi’s. Soon after the enactment of the RTE Act, Odisha made its entire process available online, and has maintained sections on its reimbursement website guiding all the stakeholders to help them transition seamlessly to the online portal.

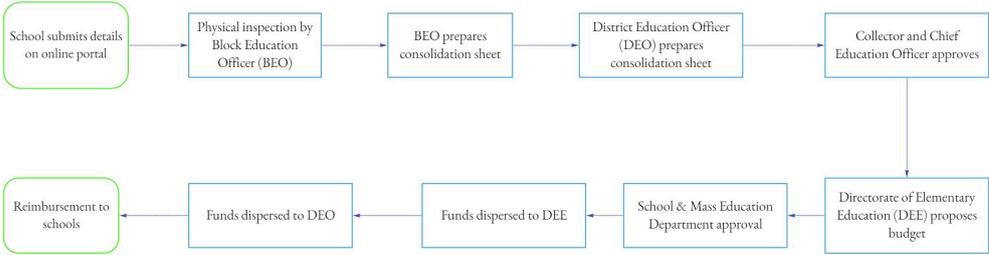


Figure 4.3: *De jure* process in Odisha

Madhya Pradesh: clearly defined deadlines

Madhya Pradesh has a separate portal for the RTE Act where the government uploads circulars with all the details for claiming reimbursement under section 12(2). Once a school files the claim, the appointed nodal officer inspects the claim and issues a certificate in the school’s name stating that all details entered in the proposal are accurate and verified. The proposal is then submitted to the District Education Officer (DEO), who processes all the claims, and then files a request with the State Education Office for transfer of funds (Government of Madhya Pradesh 2018).

Unlike Delhi, Madhya Pradesh specifies deadlines for each step of the process. However, it also postpones the deadlines every now and then. Apart from the basic details that every state asks, Madhya Pradesh also asks for a host of other details, like the attendance and pass percentage of students.

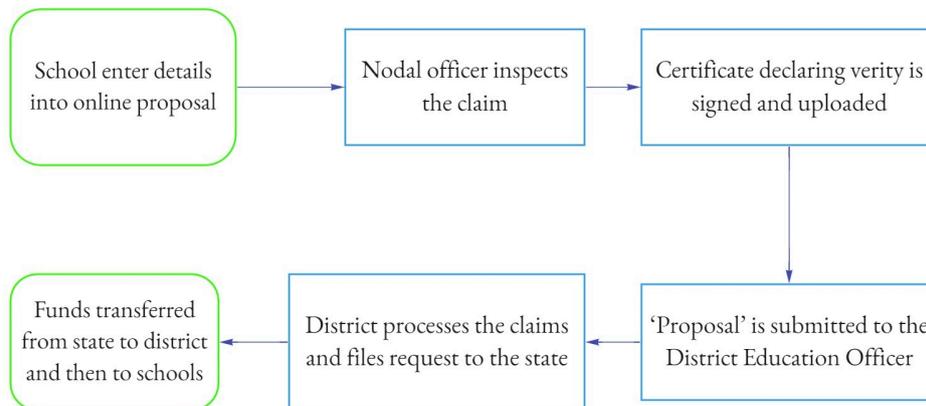


Figure 4.4: *De jure* process in Madhya Pradesh

Karnataka: detailed training and edit options for data

Karnataka, too, has a separate portal for reimbursements, wherein the process of inputting information online is explicitly mentioned. The portal provides training manuals, in both English and Kannada. Reimbursements are made in two installments— the first in September and the second in January.

All information about the online portal as well as the option to file for an appeal on the previous year’s claim is available readily on the website, in both English and Kannada. However, regular updates about the process and details are only available through circulars written in Kannada.

While Karnataka has a fixed timeline for reimbursements, Delhi has no such timeline. Further, Karnataka has an appeal software which allows schools to edit the details submitted, while Delhi requires schools to re-submit the whole form to make revisions. Karnataka also has an online training video for using the website portal, which Delhi does not. Circulars in both Karnataka and Delhi are available only in one language, with the former being more accessible to schools since it is written in the local vernacular. Circulars in Delhi are written in English.

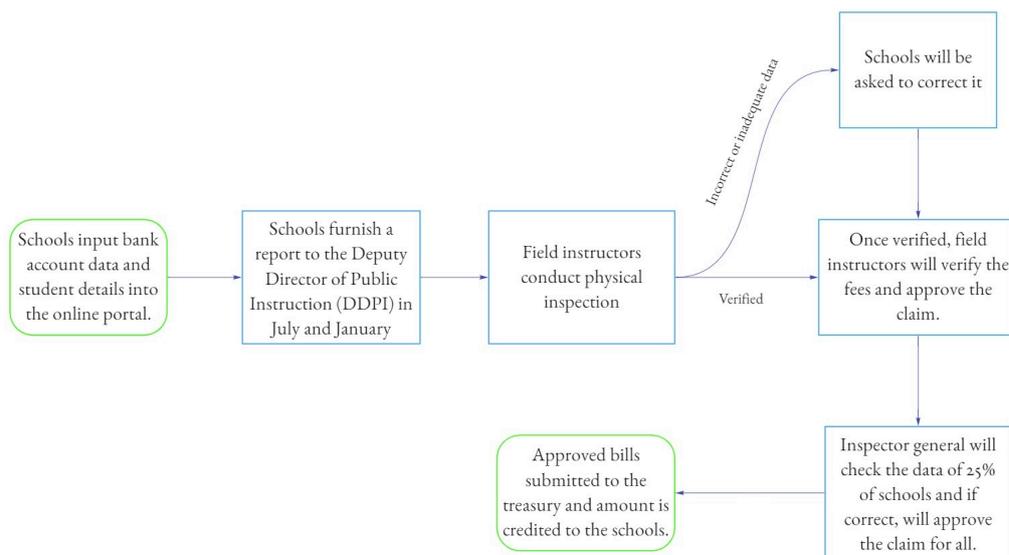


Figure 4.5: *De jure* process of Karnataka

Table 4.1: *De jure* Processes in different states

Metric	Delhi	Odisha	Karnataka	Madhya Pradesh
Process Description	Process not apparent	Website clearly mentions process	Website clearly mentions the process, and has training videos for filling out online module. However language issues persist (ie, most circulars are in Kannada)	Issues multiple circulars detailing different parts of the process
Timeline	Not mentioned	Not mentioned	Fixed deadline	Deadline frequently shifted
Number of Instalments	One installment	One installment	Two installments- one in September and the other in January	Usually lump sum, in 2 installments for 2019-20. More steps involved in online proposal
Appeal mechanism	Have to refill the information from scratch	No appeal mechanism	Have an RTE appeal software through which you can edit previous year's information	Schools can apply for revised recognition themselves to unlock the details

What is the process on the ground?

This section aims to lay down the on-ground process of reimbursement in Delhi, mapped out through interviews with government officials and private unaided schools. We first provide the broad timeline and outline of the process, and then elaborate on all three phases: data entry, data verification, and fund disbursal.

The circulars uploaded by the DoE show that the reimbursement process does not have a fixed timeline every year. Interviews with private schools corroborated this finding. The schools mentioned that the earliest the process had begun was in October of that academic year. According to the zonal offices, the reimbursement process begins after the draw of lots for the admission of EWS/DG students is completed. There is no fixed time for when these lottery rounds end.

According to the Planning Branch, the reimbursement process begins in November, after the admission of EWS/DG students. The process begins as and when the Planning Branch notifies the Computer Aided Learning (CAL) lab to allow schools to submit data relevant for reimbursement. The Planning Branch notifies schools through circulars and advertisements placed in newspapers. Zonal offices also communicate this information through WhatsApp groups consisting of private school owners and principals, and also call individual schools that have not submitted claims a few days before the deadline. Schools are given time until January to submit their data, after which the DoE/DDE begin the process of physical verification, which goes on until April. Around the second week of April, the Planning Branch sanctions funds to zones for disbursal to schools.

Based on interviews conducted with school owners and government officials, the team extrapolated the entire process of reimbursements in Delhi. There are three phases in the process: data entry, data verification, and fund disbursal.

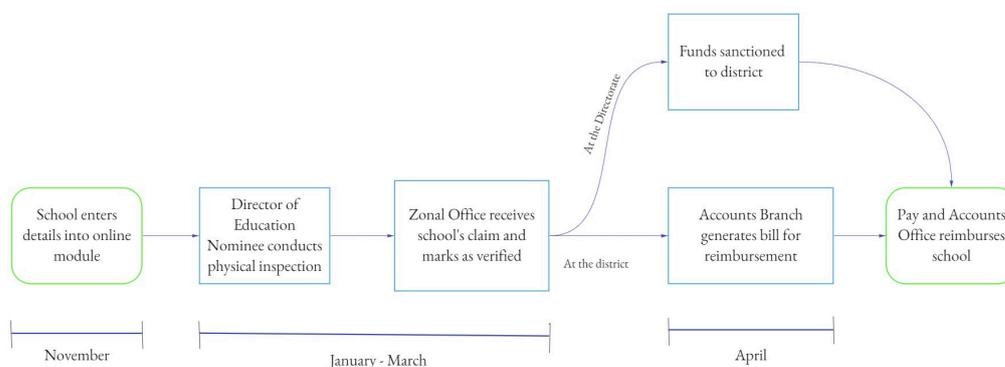


Figure 4.6: *De facto* process in Delhi

Phase I: Data entry

Schools must submit reimbursement data on an online portal housed within the DoE's website. It is built and maintained by CAL lab, which is the Information Technology Branch of the DoE. The portal allows schools to enter data throughout the year but only provides the option to submit the data when the Planning Branch begins the reimbursement process. The details a school is required to enter is the same as specified in the *de jure* process.

If a school makes an error while entering data, it cannot edit the data and has to approach its respective zonal office regarding the mistake. The zonal office sends the issue to the CAL lab. The CAL lab erases all the data entered by the school, and then the school has to restart the data entry process. The zonal offices can delete the data but prefer sending the request to the CAL lab since most zonal officers lack the technical know-how to fix the issue. The portal is also more prone to user error as schools must manually enter details for all EWS/DG students every year, despite having the same cohort. The data submission process extends by 10-15 days if the school encounters an error requiring redress.

Phase 2: Verification

After submitting data on the online portal, schools must contact their DoE nominee to clear physical inspection. The inspection takes a day if a school has all the documents ready. The process might take longer if schools need to procure some documents. Thus, DoE nominees have 2-3 days to complete the physical inspection of one school. The parameters for inspection are the same as the *de jure* process.

Subsequently, the DoE nominee drafts a report stating that the school has cleared physical inspection. Parallely, the zonal office marks the claim submitted by the school on the online module as verified. The school prints a copy of the verified claim and submits the hard copy to the zonal office along with the DoE Nominee's report and other affidavits mentioned in the *de jure* process. Following this, the zonal office updates the status of the school's claim, and sends these details to the Accounts Branch of the district office so that fund disbursement can begin.

None of the schools we interviewed expressed any problems regarding their DoE nominees or the physical inspection. However, some schools reported that the nominees of other schools might be misusing their authority. When we enquired about the same at the zonal offices, we found that schools can report untoward behaviour by their nominee to the DoE, who can then set up a committee to review the nominee's actions.

Phase 3: Fund disbursement

Each district is allocated a detailed budget at the beginning of a financial year by the Planning Branch, including a budget for reimbursement.

After the zonal office verifies and approves the claim submitted by schools, they transfer the details of the school's claim amount to the district accounts office online. The accounts office then produces bills and sends them to the Pay and Accounts Office, along with the schools' bank account details, which facilitate the fund transfer.

In case the funds sanctioned to the district are insufficient to reimburse all verified claims from schools, the accounts office files a request for additional funds with the Planning Branch. Generally, the accounts branch puts a hold on the reimbursement process until the end of the year, when they receive the majority of verified claims from schools, so as to apply for all of them together. Once the Planning Branch receives the request for more funds, the second sanction of funds is almost instantaneous. The accounts branch of the district clears the backlog of claims. If the second round of funds also get used up, the branch reimburses the remaining schools in the next academic year.

If schools file for reimbursement of previous years, they are reimbursed at the previous year's rate but through the current year's budget. In case funds are not used completely, it lapses and it is reabsorbed into the larger budget of the Government of NCT of Delhi.

What are the differences in practice?

After reviewing the *de jure* process and speaking to government officials at various levels in Delhi, the team identified many discrepancies in the process of reimbursement. These discrepancies are not just between *de jure* and the *de facto* processes, but also between the accounts of different stakeholders of the *de facto* process.

- Although the online module is open year-round, the option to 'submit' the entered details is opened generally around October of the ongoing session.
- After submitting details in the online module, schools take a printout of the same, approach the DE nominee directly and request for a suitable date for physical verification, instead of submitting it to the DDE zone first.
- On obtaining the DE nominee's signed copy of the report, schools prepare a hardcopy file containing the printout of the online report and undertaking and then submit this file to the DDE zone. This makes the process only partially online.
- Our interviews with the school owners indicated that in case of any error in data entry, all the schools have to approach the CAL Lab for correction. According to the CAL Lab, the option to clear the data entered by schools is also available with the district officials, but is not used frequently due to lack of technological prowess. However, the team's interviews with zonal level officers suggested that there was no such option available, and that having such an option will help accelerate the reimbursement process since the errors can be resolved at the nearby district-level office itself, instead of the CAL lab located at the Planning Branch.
- Across zones, there are discrepancies on the types of documents to be submitted. For example, some zonal offices adhere to the requirements listed out in the *de jure* process, while others ask schools to submit additional affidavits from the school authorities. This includes affidavits stating that the school has borne the expense for which it is claiming reimbursement. Further, while some district accounts offices conduct verification of the files submitted by schools and the claimed amount, some do not.
- Certain circulars outlining the *de jure* process mention that details of students are automatically updated each year. However, in reality, schools have to manually upload data for all EWS/DG students except for the entry-level class.

What are the biggest bottlenecks?

Based on interviews of government officials and school authorities, we observed some inefficiencies in the reimbursement process. These bottlenecks are at two levels— the government and the private unaided schools.

The lack of a fixed timeline results in schools having to wait all year for the option to submit their claims on the portal. The uncertainty can discourage schools from filing for reimbursement. They often have to rely on informal networks or circulars for updates on timelines for the academic year.

Additionally, the portal itself has some issues related to data-entry. The manual submission of data for classes, other than the entry-level one, results in a high degree of error from the schools.

In case there is an error, schools must approach the CAL lab, located at the Planning Branch to delete their data before re-entering it anew. Editing of errors delays the process further since district-level officers cannot fix the data for the schools in their zone.

Furthermore, there is district-level variation in some parts of the process. For instance, one district office (three zones) requires schools to submit an affidavit, stating that the school has borne the claimed expenses, along with other documents. In contrast, other districts have no such requirement. All the districts claim that these requirements are consistent with the ones stated on the website. However, no circular mentions the affidavit. This requirement not only adds burden for the schools falling in the particular district, but also reflects lack of uniformity in the process and the ability of the districts to make their own requirements.

The process of reimbursement is dependent on various levels of verification, and fund availability. A few district accounts offices also re-verify the claims that come from the zone.

At times, delay in reimbursement can also arise due to delay in filing claims by other schools. Following are the reasons supporting this argument:

- Once the initial fund allotted by the Planning Branch gets exhausted, district accounts offices stall the reimbursement process and wait to receive the claims from more schools so as to send a request for a sizable number to the Planning Branch. District offices do not have any predefined threshold for the same.
- Another recurring response from district-level officers was that some schools do not submit all the undertakings and documents in one go. This leads to multiple visits or errors in the data entry process, which further takes about two weeks to get resolved through the CAL Lab. They also claimed that high-fee schools are not motivated to fill the application for reimbursement since the amount they receive is much lower than the fees. This low motivation is also true for schools with land grants from the government. These schools are supposed to admit the same proportion of EWS/DG students as other private unaided schools (25 per cent), but the government is obliged to reimburse only for 5 per cent of the students. Consequently, many schools either do not file claims in time or do not file one at all, thus stalling the reimbursement process for the entire zone.
- As per few officials, some schools do not know how to file for reimbursement or even that a provision for reimbursing EWS/DG students exists. This, however seems unlikely as the RTE Act has been in effect for over 10 years and has also been covered extensively in the news.

However, this delay pertains to a few schools and does not explain the bottlenecks in the backend process. Based on our interview, the zonal offices, Accounts Branch and the Planning Branch do not wait to reach any threshold of verified claims to proceed to the next stage of the reimbursement process. Rather, they move ahead according to loose timelines set by themselves and the availability of funds.

These loose timelines and lack of a proper flow of the process is a major concern. For example, the delay in the process for 2020-21 is greater than previous years. The process was supposed to start in November 2020. However, it actually started in the last week of July 2021. According to officials, this delay was due to the revision of the notified per-child amount— done once after every two

years by the Finance Department. Since this a recurring process, government officials should have ideally carried it out in advance. Even if this was not possible, the process of submitting details and verifying information could have started as it does not directly depend on the notified amount of reimbursement.

Recommendations

1. **District-level CAL labs:** The CAL lab is currently situated only at the Planning Branch. If CAL lab offices existed alongside district-level education offices, the correction process would become streamlined. Additionally, the option of editing information, once the district reverts the data to the schools, should be enabled so that schools do not have to approach the CAL lab for fixing minor discrepancies in their data.

Schools often struggle with the online platform. A helpline would help schools address their concerns and questions. The helpline can also be used to reach out to schools that have not filed for reimbursement either because of lack of information or other reasons.

2. **Integration of CAL lab's data entry portal with U-DISE+ platform:** Schools are required to submit details about themselves and their students to Unified District Information System for Education (U-DISE+) platform. According to schools, the U-DISE+ platform is easier to use. The details of students in a given year get updated in the system automatically. This means that schools only enter data regarding a student once—on their admission to the school. In the EWS/DG platform, reimbursement data for students in the entry class is already filled and transferred from the EWS/DG admission portal. However, schools need to fill in details for students in all other classes, despite filling the same details in the previous years. Moreover, the U-DISE+ portal allows users to edit data as they enter it, which CAL lab's portal does not. The existence of both platforms is repetitive. Schools would benefit from a combined platform.
3. **Greater transparency:** The Planning Branch should ensure greater transparency in fund transfer. This can be incorporated on the edudel website itself, by adding a section on district-wise data of funds.
4. **District-level helplines:** Schools often struggle with the online platform. A helpline would provide schools with a place to direct their concerns and questions. Additionally, the helpline can also reach out to schools that have not filed for reimbursement either because of a lack of information or any other reason.
5. **Uniformity:** Our findings reflected the differences in the documents required across different districts. Moreover, a few schools submit incomplete files due to lack of complete information on the requirements. This leads to multiple visits to the zonal offices and consequent delays. Hence, the Planning Branch should direct all districts to adopt uniform practices, alongside adding the requirements on the website itself, to avoid confusion and ensure timely document verification.

Additionally, a fixed timeline, with stepwise deadlines for the reimbursement process would make it more streamlined. Since the process would remain the same year-on-year, there would be less uncertainty. This would result in schools having clarity on when the portal opens and the information they are required to submit.

- 6. Installments in place of lump sum:** Low-fee schools depend on timely reimbursements to ensure availability of funds. Delays in reimbursement exert liquidity pressures on budget-schools, especially due to the COVID-19 pandemic. Dividing the fund transfer into two or three installments would ease this burden on schools, incentivise them to submit their data sooner, and ensure a greater uptake on part of schools.

Conclusion

Given the concerns around reimbursement delays in Delhi this paper attempted to analyse the ease of process for schools, district officials, and the Planning Branch officials.

We first mapped out the *de jure* process and identified various gaps in the information published on Delhi's DoE website. We also highlighted best practices from three states: Karnataka, Madhya Pradesh, and Odisha. The information derived from the circulars, however, raised four concerns.

First, the cause of the delays in the reimbursement process is at both the school and the government level. Second, the required data has to be submitted on the online portal as well as to the districts as a hard copy. This raises concerns on uniformity in the mandate across different district offices. Third, the disbursement process by the Planning Branch is ambiguous. It is unclear if there exists a threshold for the number of schools that have to be verified by the districts before the districts receive funds. Finally, there is no fixed timeline for the various stages of the process.

Our findings showed that reimbursement-related delays occur due to: (i) the government's inability to produce a concrete timeline each year; (ii) delays in opening the portal on time and; (iii) delays on part of schools to file the claim online.

Interviews with schools, district officials and Planning Branch officials, revealed some discrepancies. For instance, the districts maintained that while they can revert the data to schools, the schools cannot edit this data. Additionally, they cannot delete the data at the district-level. However, CAL lab officials argued that the districts simply do not know how to delete the data even though they have this option. It is unclear which account is accurate.

Further, while there is a discrepancy in the requirements of hard copy submission and affidavits across zones, an in-depth inquiry into the requirements of each district in Delhi would reveal the level of autonomy that each district has in determining requirements. We also found that there is no concrete timeline for the reimbursement process with schools filing the claim usually until January, after which the physical inspection process begins.

Inefficiencies in the reimbursement process in Delhi disincentivises schools to file the claim on time as transaction costs seem high. These inefficiencies can be improved upon by adopting methodical and systematic practices used in other states like Madhya Pradesh, Odisha, and Karnataka. All these states have fairly accessible online portals dedicated wholly to the reimbursement process. Furthermore, their circulars are easily accessible and are regularly updated throughout the year. Madhya Pradesh, for instance also explicitly states the timeline of both their monthly installments. Finally, Karnataka has online training modules uploaded on their website that explain the process of filing a claim. Clarity on the process is likely to prevent delays on part of the schools.

Delhi can also adopt a district-level helpline to aid the schools in troubleshooting issues at different stages of the process. Furthermore, the CAL lab can be integrated with the U-DISE+ platform to reduce errors in data entry.

Appendix

Methodology

The study was conducted in two phases, both involving different approaches. In the first phase, we studied the *de jure* process using circulars uploaded for each year starting from 2013 to the latest circular dated February, 2021 by the Planning Branch, DoE, Government of NCT of Delhi.

We also studied the reimbursement process in Madhya Pradesh, Odisha, and Karnataka. These states were selected because they published more detailed *de jure* and readily available information on the process as compared to Delhi. These three states have dedicated websites for RTE reimbursements, unlike Delhi. Furthermore, these websites regularly release circulars and provide details about the timeline of the process, changes in process, and steps after the schools fill in the online module. Karnataka also provides training manuals for filling out the online modules. Studying these states helped us identify best practices and contrast them to the practice in Delhi.

The second phase focused on *de facto* analysis by way of primary research. We visited the Directorate of Education and conducted semi-structured interviews with 14 officials from the Directorate, Planning Branch, CAL Lab and six districts: North, North West-A, North West-B, West-A, South West-A and South. In total, we covered 15 zones.

We interviewed school owners and administrative employees of six schools, across six different zones. The strength of students in these schools range from 150 to 200 per batch. The selection of schools was based on convenience sampling from the National Independent Schools Alliance (NISA). We also approached two schools through cold-calling.



Keeping Ears to the Ground

Investigating Stakeholder Perceptions
for Claiming Reimbursements

Neha Ashar, Manav Lal, Kunal Panda, and Jayana Bedi

Introduction

Section 12(1)(c) of the Right to Education Act (RTE) 2009, mandates private unaided schools to admit students belonging to the Economically Weaker Section and Disadvantaged Groups (EWS/DG). This Section is regarded as a key marker of progress towards social inclusion. However, its implementation has been sluggish and the admission rates of students belonging to EWS/DG categories in private schools remain abysmally low (Sarin and Gupta 2013).

Of the 21.1 million seats available nationally, only 6,10,000 (29 per cent) were filled under this Section in 2013-14, as per data from the Unified District Information System for Education (U-DISE +) (Dongre and Sarin 2016). The Indus Action Report on the status of implementation of Section 12(1)(c) also reveals a steady decline in the number of students admitted from 2013-14 to 2016-17 (Verma et al. 2018). Filling up of fewer EWS/DG category seats may adversely affect students as it limits inclusive education.

Even in states where the uptake of students is relatively high, several challenges plague the reimbursement process. For instance, schools continue to suffer from inordinate delays in reimbursements (Kumar 2012; Kumaran 2019; RTE Forum 2014; Sarin et al. 2015b; Comptroller and Auditor General of India 2017), lack of transparency in procedure, non-payment of dues, and an insufficient quantum of reimbursement (RTE Forum 2014; Yadav and Singh 2020a). Meanwhile, parents face the financial burden of continuing their child's education after eighth classes (Chettri and Ibrar 2021; Mohanty 2019). State governments, on their part, complain about the untimely submission of applications and bills by schools resulting in delays (Iftikhar 2020).

What are the underlying reasons for these challenges?

Studies find that lack of clarity on the provisions of Section 12 (Sarin et al. 2015b) and definition of EWS/DG students, calculation of per-child expenditure, the entry class, and neighborhood criteria are key issues that lead to poor implementation (Bhattacharjee 2019b). Others cite delays in the disbursement of funds from the Union, asymmetric cooperation between the Union and state governments (Sarin, Dongre, and Srikant Wad 2015), and incommensurate budgetary allocations for the purpose of reimbursement (Bordoloi et al. 2020c; Sarin, Dongre, and Srikant Wad 2015) as reasons for untimely reimbursement.

The impact of these bottlenecks adversely affects students, parents, and schools. Schools have often resorted to charging parents for the provision of books or conducting activities in the school to cope with delayed payments or non-receipt of amounts (Vibhute 2018b; Vibhute 2018a). Parents have also testified to being victims of the friction between state governments and schools.

However, most studies have focused on the ultimate intent of Section 12—social inclusion. An evaluation of the reimbursement process is only done to understand its broader implications on achieving social inclusion. As a result, there is no detailed examination of the reimbursement process and its underlying challenges. Our paper departs from this approach, and focuses primarily on the seen and hidden effects of the reimbursement mechanism on all stakeholders. The Directorate of Education (DoE), private unaided schools, and parents (who also represent the interests of the child) together form a 'system' of interconnected individuals under Section 12(2) of the RTE Act.

A commonly used frame of analysis for systems is Systems Thinking. It is an analytical framework that is deployed to understand how different parts of a system are interrelated, and how they function within the context of one another and other larger systems. In particular, it involves

exploring the purpose, the process, and the means of decisions taken within a system to gauge interrelated impact (Watson and Watson 2013).

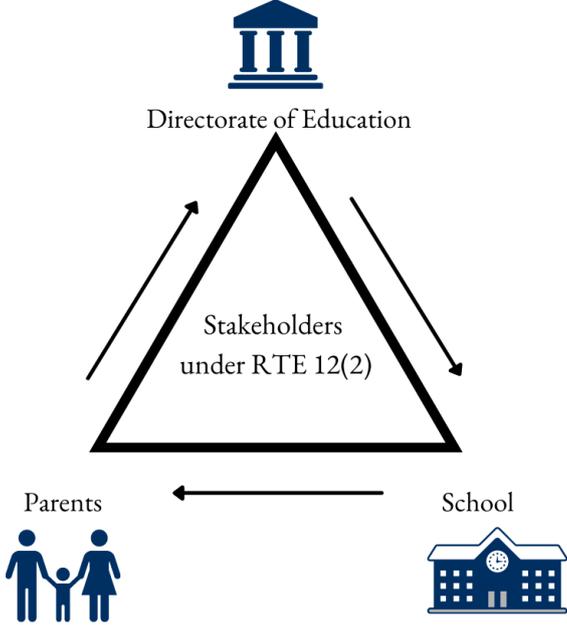


Figure 5.1: Stakeholders constituting a system under Section 12 (2) of RTE

Drawing from Systems Thinking, this study aims to capture how each stakeholder perceives the reimbursement process and the key decisions taken therein—that is, their interactions with one another, and its perceived effect on all. Mooj and Majumdar (2012) argue, “when thinking about the possibilities to improve the system in order to achieve universal quality education, one has to start from the situation as it is, and to see the main actors involved as part of the solution...”. Our paper contributes to literature by elaborating on the perception of the main actors involved in the reimbursement process, and assessing their motivations, interests, and constraints that underline these perceptions.

Our Approach

To conduct a stakeholder perception study, we gauged motivations, preferences, challenges, and constraints of the stakeholders involved in the process. These include DoE (Planning Branch), unaided private schools, and parents. Our study only focuses on stakeholders in Delhi. We chose all of our respondents using convenience and snowball sampling.

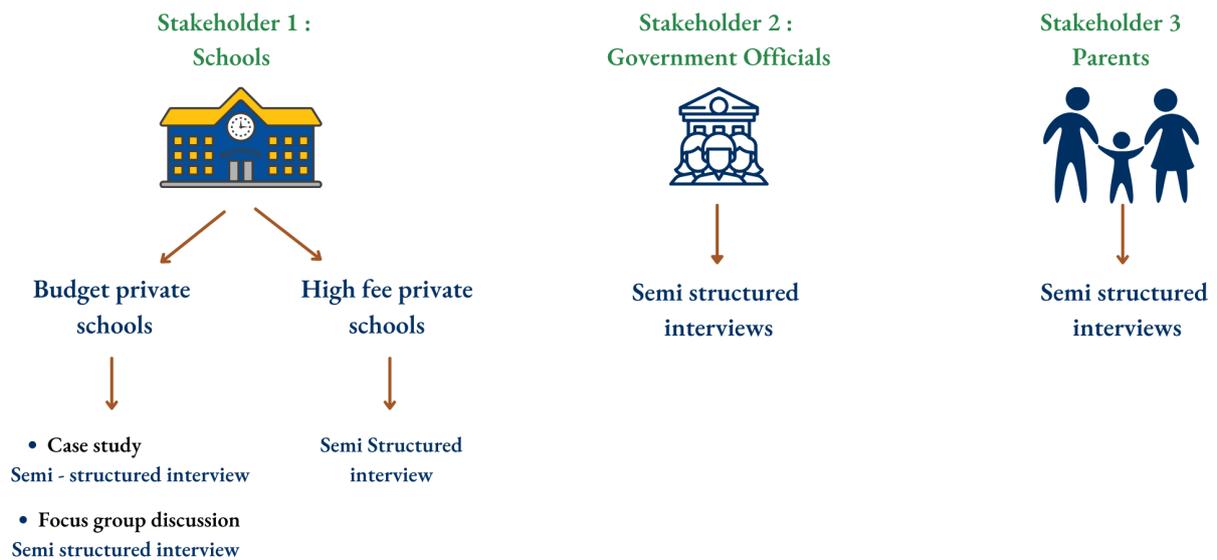


Figure 5.2: Approach adopted for collecting data from our stakeholders

Documenting the experience of each stakeholder helps us point at the divergences in the process of reimbursement- both *de jure* and *de facto*. We begin by first capturing the *de facto* procedural interface. For instance, the interactions between school owners and the government while processing reimbursement claims, and the interactions between school owners and parents while admitting EWS/DG students. These provide insights into the power asymmetries within the system—a result of the varying economic and political strength of each stakeholder.



Figure 5.3: Framework adopted for categorising the data collected

Each actor in the system possesses an inner boundary of resources that they use to cope with, improvise, and adapt to the *de facto* process. The challenges arising from power asymmetries and interactions of each stakeholder have a bearing on their inner boundary of resources. An actor will remain a participant of the reimbursement system as long as they have enough fallback resources¹. As the resources deplete, their motivations also depreciate and can lead them to exit the mechanism once a threshold is attained.

Broadly, the actions of each stakeholder is determined by their own interests and resources, along with their expectations of other actors. Appendix provides details on the stakeholders interviewed.

The distressing tale of a Budget Private School and reimbursements

This section examines the case of a budget private school (BPS)² in Delhi with fees ranging from INR 1,200 to 2,000 per month (that is, approximately INR 14,400 to 24,000 per annum)³. According to the Economic Survey of Delhi (2020-21), the annual per-child expenditure incurred by the government on education is INR 78,082.

The school was established in 2002 with the intention to advance an experimental pedagogy. The school owner believes in “the development of the child and not the subjects [they learn]”. The owner notes that their experimental classroom teaching has produced exceptional multilingual students. Their motivation to set up the school stems from their personal experience of a relatively deprived education and poor command over English language skills. Currently, 550 children are enrolled in the school.

Their idea of inclusivity, from as early on as primary education, is evident from their admissions policy. In addition to reserving 25 per cent of total enrolments for children belonging to the EWS/DG category, the school provides financial aid to certain children with special talents. Moreover, 20 per cent of seats are reserved for children who are slow on their uptake and learning abilities. The owner believes in providing sufficient attention to such children as they are the “cream of the society”—that is, students who have the potential to do well if given the right guidance.

Below we present their perception of the reimbursement process and its implications on how they run their school.

Reimbursement process: what plagues the school-government interface?

The school owner argues that while the reimbursement mechanism is “good in intentions”, it is “hectic” for school owners. They argue that it took a couple of years for the process to get streamlined. Although the RTE Act was enacted in 2009, most schools started filing for reimbursements only in 2011-12.

One reason behind this delay was the misconceptions and misinformation surrounding the Act. A common misconception among school owners in the initial years was that claiming reimbursements under Section 12 of the RTE would result in unwanted audits by the government. Some also believed that this could bring the school’s finances under the ambit of the Right to Information

1. For more, see (Sen 1987) and (Ross 1993)

2. We use they/them/their pronouns to preserve gender neutrality as well as the anonymity of our respondent.

3. The fee varies for students in primary and secondary classes.

Act (RTI Act or RTI), 2005, and thereby under greater scrutiny. This is despite the fact that the Delhi RTE Rules, 2011 require schools to maintain a separate bank account for reimbursements (Section 11). Although most budget schools are now well-versed with the procedure, they still find it cumbersome.

As per the school owner, government officials involved in the approval chain for reimbursements view the procedure as a rent-seeking opportunity. Schools often have to pay an informal facilitation fee to “speed up” the bureaucratic process. They also claimed that schools with ample resources often collude to influence priority payment of their claims. After the claim is filed, the DoE nominee conducts an inspection to check the accuracy of the data inputted⁴. There is no set frequency of inspections but the school is duly informed about the same beforehand.

Prolonged delays in fund receipt

The school owner claimed that they have not received their payment under Section 12 for about 1.5 years. There is no steadfast rule followed by the authorities for disbursing funds in a timely and systematic manner. In some instances, authorities disburse funds to schools in a staggered manner with no intimation. The owner mentioned that they shall “feel lucky” if they receive last year’s outstanding payments at the end of this year.

They claim that one reason for the delay in reimbursement is that government authorities benefit from the accumulation of interest if the funds are kept in their accounts for longer periods of time. School owners only receive the principal amount claimed and not the interest on delays. There is no clarity on what happens after the funds are disbursed to the relevant government department, and the time frame within which these must be distributed to schools.

A paltry sum disguised as reimbursements

Apart from the delays in receiving funds, the school owner faces huge losses due to the meagre amount set for uniforms and books by the government. The cost of providing book-sets far exceeds the amount that is reimbursed. For tuition fees, the BPS owner adds that the reimbursement fund is “just about satisfactory” and helps them break-even in most cases.

Schools like theirs also face other peculiar challenges. To further their experimental and inclusive pedagogy, the school provides laptops to all children. The expenditure incurred for laptops is not reimbursed. The school owner believes that the composition of the reimbursement fund (or per-child expenditure) is arbitrary and far from the actual costs incurred.

EWS/DG Admissions: who takes accountability?

Due to the COVID-19 pandemic, the staggeringly low number of unreserved admissions meant an even lower admission rate of the EWS/DG category students. This, in turn, affected the quantum of claims the school could make. Last year, this resulted in schools turning down students from the EWS/DG category because they did not have enough admissions from fee-paying students. The school owner mentioned that the 3:1 proportion (that is, 25 per cent reservation) was instituted to moderate the funds that the government deploys for reimbursements. The owner stated that, recently, the electoral pressure compelled state authorities to backtrack, and pressurise schools to admit EWS/DG category children regardless of unreserved admissions.

4. The DoE appoints nominees to physically check the accuracy of data entered in the online module for reimbursement claims (Delhi RTE Rules, 2011).

“Parents who take up EWS/[DG] slots walk out of cars”

The owner mentioned that relevant authorities in the land revenue department allot EWS/DG households with attested certificates to prove eligibility and secure admission. However, the school is expected to verify these certificates. The owner clarified that they are an educator and not a custodian of this procedure, hinting that the authorities should handle the verification process.

The school owner argued that “90 per cent of the EWS/[DG] certificates are fake”. Apart from inspections of the households, this claim is based on their perception of the appearance, personality, and behaviour of the parents seeking admission. They provided a striking anecdote regarding this and mentioned how the school encounters two types of EWS/DG parents, one with a car and one with a bicycle. They further explain that “one threatened and one pleaded” to secure admission under the EWS/DG category. As per the owner, the lack of authentic verification of EWS/DG claims is a major block to true inclusion in the classroom.

Burden falls heavily on all

Motivations drop: Our respondent emphasised the need for passionate teachers and innovations in the classroom for better learning. However, delays in reimbursements lead to a “cost-saving attitude” and impinges on both the daily functioning of the school and the long-run outlook of the staff (including the pedagogies they employ). The cash crunch, according to the school owner, leads to the commodification of teaching as “a service” rather than “a passion”. They often resort to contractual employment to save salaries which further depletes the motivations of teachers. The school owner’s experimental attitude towards learning and training reflects their passion as an educator. However, our interactions revealed that their motivation to experiment takes a hit due to delays in reimbursement.

Teacher salaries take a hit: The school faces tremendous pressure to cut down on staff salaries and other non-tuition expenditures. They argued that given their current financial health and delays in reimbursement, they cannot pay teachers as per the 7th Pay Commission. Audits and the paper trail of wage payments haunt the school owner. An unstable cash flow makes matters worse. “To be able to pay at par with the 7th Pay Commission, we will have to charge INR 5000 [per month] from students”, he further adds. They mention that it is a common practice to pay teachers wages lower than the 7th Pay Commission (typically in cash), without a paper trail. This practice is even accepted by the staff. News reports also document how the majority of private schools do not pay salaries as per the 7th Pay Commission (Baruah 2019).

Innovation and risk-taking capacity gets hampered: The school owner mentioned that their “risk-taking capacity” has reduced (especially since the onset of the pandemic), due to reimbursement-related challenges. These risks typically involve engaging in infrastructural and/or pedagogical innovation. Apart from this, other costs include investment in co-curricular activities and school events. Due to delays in reimbursement, the school often finds it difficult to cover such expenses. The cash crunch essentially erases sound financial and motivational health to partake in innovations.

Another consequence of delays is that schools are discouraged from participating under this Section. For instance, in Maharashtra, of the over 22,800 private unaided schools across the state, only 9,331 (41 per cent) have registered for RTE admissions this year. Experts cite the government’s poor record of reimbursing private schools as one of the primary reasons for this (Sarasvati 2020).

Parents suffer from financial distress: As per the school owner, the financial burden of delayed payments is indeed borne by the remaining 75 per cent of students—that is, those paying fees. Fee revisions for the fee-paying students become one way to deal with the cash crunch. The maintenance costs of fixed infrastructure, like laptops, get covered via fee revisions. Although the school can revise the fee only up to 10 per cent a year (Center for Civil Society 2019), non-tuition expenditure throughout the year is used to cover the deficit. However, financial constraints on the fee-paying students must not be ignored. The school owner claims that parents often complain about non-tuition expenditure. However, they argued that parents must pay for these facilities as the school cannot provide “free lunches”.

Our conversations with parents (who had their children enrolled in the school) revealed that all of them were happy with the school in terms of education and skills imparted.

Direct Benefit Transfers: an alternative for achieving inclusion

In light of the issues highlighted, the school owner pointed at Direct Benefit Transfers (DBT) as a possible alternative to the current reimbursement mechanism. That is, DBT, allotted to households in the form of cash transfers or vouchers, can work as a more efficient mechanism to provide access to education. It will provide greater choice to parents to admit their children in the right kind of school within the neighbourhood. The importance of free choice is crucial—“if households can choose the government, then why shouldn’t they get to choose schools?”, the owner concludes.

A Systems Analysis: experiences of low-fee schools, parents, and DoE officials in Delhi

To conduct a systems analysis, we interviewed three key stakeholders who are directly involved in, or impacted by, the reimbursement process. We approached two BPS associations—National Independent Schools Alliance (NISA) and Private Land Public Schools Trust (PLPST) to speak to school owners.⁵ The fee range of NISA Schools is between INR 1000-2500 per month, and that of PLPST Schools is between INR 800-1400. We spoke to six parents of students (from the EWS/DG category) who were enrolled in these schools. Although we also approached four parents of students from the non-EWS/DG category, we were unable to obtain sufficient insights from them. Finally, we spoke to a senior official in the Planning Branch of the DoE. Below, we present the key themes that emerged from these interviews.

The Good, the Bad, and the Ugly of Section 12

We enquired how all stakeholders in the system perceive Section 12 of the RTE. The results were mixed.

Both NISA and PLPST schools pointed out that the Section was built on the inaccurate assumption that all private schools are high-fee or have sufficient funding. School owners also believed that the policy was made to appease the government’s vote bank (that is, parents of students belonging to EWS/DG category), with little to no regard for school owners. One school owner expressed that the government had lost the confidence of the citizens, and they used this policy to win it back.

5. A budget private school is defined as a low-fee private school that provides access to education to lower and middle income families.

These findings are corroborated by Sarin and Gupta (2013), who documented that the school principals they spoke to felt like passive participants, and believed that the policy was passed without proper planning, consideration of all stakeholders, and was rooted in vote bank politics. But the study does not record how political parties (if any) are able to convert this policy into votes.

Insights from government officials

The senior DoE official had a positive view of Section 12, and did not see much room for improvement. He argued that the policy is forward-looking and a result of the thorough analysis done by several experts. Per the official, the policy has managed to effectively help the intended beneficiaries and achieve social inclusion in schools. In particular, he believed that Delhi is one of the best performing states on implementation of this Section.

What do parents think?

The parents have a positive perception of the reservation mechanism—one parent found it to be very helpful since it saves their expenditure, which is important to them because employment is irregular, especially due to the pandemic. Most parents believed that the reservation would definitely lead to a bright future for their children.

Boons and banes of admitting kids under EWS/DG

Initially, students were allotted schools using a lucky draw system in the presence of parents and appointed officials. Since 2014, this process has been digitised, and the government allots schools to students based on the choices of parents and their proximity to the school. NISA schools argued that the online module introduced in 2014 has streamlined the process and made it smoother for schools.

How do parents view the process?

All the parents stated that they filled the form of EWS/DG allotment online. There was a provision to choose their preferred school, contingent on the government's allotment. Five parents expressed that they were allotted their choice of school. One parent was allotted a different school.

Four parents faced delays in admission. One parent said that it took four months to complete the process. As a result of this delay, their child lost out on two months of school and took time to adjust. Another parent said that the process took 2-3 months, primarily, because of documentation delays. The parent was not aware of the documents they had to submit. They were also illiterate and, therefore, had to ask for help to ensure that the admission happens smoothly.

One parent was told that the school did not provide admission in the nursery class. Although the parents approached the local government office with this issue, it was ignored (*“unhone dhyaan nahi diya”*, translates as “they didn't pay any attention to the issue”). He, then, approached the head office and expressed his concerns to the officials. Post this, he received a call from the school confirming his child's admission. This entire process took 2-3 months, delaying the admission. The child had difficulty in coping and had to repeat the year.

Two parents said that the admission happened in 5-6 days, in a smooth manner.

A rocky start to claiming reimbursements

NISA school owners mentioned that they began claiming reimbursements around 2013. This delay was due to the general hesitation on part of schools regarding disbursement of funds, confusion with respect to the fixation of the reimbursement amount, lack of awareness about the provision, and misconceptions about the process (including scrutiny under the RTI Act).

PLPST schools voiced similar concerns, and stated that the bureaucracy took until 2010-11 to implement the Section. Some feared that the government may use this opportunity to exploit schools and reduce the autonomy of school owners. Once these misconceptions were cleared and there was more confidence in the system, schools began filing for claims.

Insights from government officials

The senior official at the Planning Branch also confirmed that the actual implementation of the Section began only in 2011-12. While elaborating on the process, he mentioned that the district offices deal with and verify the claims for reimbursements raised by the schools. Based on their assessment, they inform the Planning Branch regarding their budgetary requirements. Following this, the Planning Branch disburses the funds received from the state government to the district offices.

Achieving compliance without clarity

NISA and PLPST school owners pointed at some legal gray areas. For instance, there is no clarity on what needs to be done if a child exits the school—who gets the vacant seat, and how? What should be done if there are EWS/DG vacancies in the higher standards. School owners feel that the government is aware of the issues in the process, but refrains from taking any actions to address them.

Schools also gave instances of inefficiencies in the process. These include: (i) re-entering each student's details on the portal every year; (ii) repetitive and unnecessary inspections carried out by the DoE nominees; (iii) forcing schools to rectify even the smallest of errors; (iv) asking them to submit documents repeatedly, only to delay the process; (v) lack of transparency and sharing of timely information, and; (vi) treating schools as culprits and forcing them to provide lengthy clarifications in their defence.

As per a PLPST school owner, government officials (at the DoE) themselves do not have clarity on the rules and regulations issued under the Act and its implementation. The owner complained of several inconsistencies in the official orders passed. For example, a recent order arbitrarily fixed the costs for books and other material. To make matters worse, there is no mechanism for feedback loops. While schools are expected to follow rules, no suggestions are taken from them to improve the process. Another issue cited by the schools is the gap in communication of relevant information. Schools often have to file an RTI each time they require a clarification on the process or amount of reimbursement.

Despair due to delays in processing reimbursements

All schools cited delays in reimbursement as one of their major challenges. Majority of the schools mentioned that they did not receive the reimbursement amount for 2-3 years after they began filing the claims. PLPST schools pointed out that funds for 2018-19 and 2019-20 have been released by the government but they have not been disbursed to most of the schools. Schools under the Municipal

Corporation of Delhi (MCD) claimed that funds have not been disbursed to many schools for the past 4-5 years.

One school began claiming reimbursements from 2010-11, but did not receive the funds until 2013-14, when a notice was sent to MCD by the High Court of Delhi. No explanation was provided for this delay. One school owner believed that the delay was due to the government's faulty mindset that private schools have abundant wealth. Some schools cited delays in activation of the online module as an issue. A justification provided by the government to the school owners for the delay was that the funds could not be released until all schools had filed their claims.

Per a school owner from PLPST, there is an unspoken practice where schools pay one per cent of their reimbursement amount to the concerned government office as facilitation fees for timely reimbursements. The owner mentioned "*iske bahane jo school se loot ki jaati hai*" (*this becomes an excuse to extort money from the school*)—alluding to the misuse of the Section. Payment of the facilitation fees, an amount that cannot be shown on official records, poses a high risk to school owners and makes the reimbursement process extremely costly and cumbersome. Other schools also hesitated to agree that payment of facilitation fees is a common practice.

PLPST school owners also mentioned that while government circulars, orders, and notices, provide details on the amount of payment and the breakdown of payment categories (uniform, textbooks, etc), there is no guidance on the timelines. A school owner mentioned that "as far as the government's responsibility of timely fund transfer is concerned, there is no mention of it in any guideline". PLPST had filed an RTI claim with the DoE in 2018 asking for the time frame for reimbursement. The DoE stated that no time frame was mentioned in the parent Act (RTE) or state RTE rules.

Schools established on Delhi Development Authority (DDA) land mentioned that the government often prioritised reimbursing schools built on private lands. They found this unjustified because the cost of acquiring land from DDA is not significantly lower than the cost of acquiring private land.

Despite these challenges, school owners continue to claim reimbursements. They argue that although "there can be a delay in receiving the money from the government, but *paisa doob nahi sakta* (*money will not be lost*)...".

Insights from government officials

As per the Planning Branch official, there is no delay in the receipt of funds from the government. These funds are almost always timely, sufficient, and as per the promised amount. According to him, the system is working well.

When questioned about the delays in reimbursement faced by schools, he mentioned that since it is a "reimbursement" mechanism, there will always be a one-year lag. The delays beyond that are often because schools do not fill out the forms properly. The funds are disbursed after all schools fill out the forms. He denied any delay on part of the government.

The struggle to make heads or tails of the reimbursement amount

Schools mentioned that the manner in which the per-child expenditure is fixed is not disclosed to them. While the amount reimbursed for tuition fees seems to be sufficient for most BPSs, the additional expenses that the schools have to bear are not covered adequately. Both NISA and PLPST schools believe that the amount provided for books and uniforms were insufficient.

Schools revealed that the reimbursement amount for book sets and stationery was fixed at INR 100 for nursery class, and INR 250 for Class I-V. For uniforms, the amount fixed is INR 1,100 for Class I-V, and INR 1,400 for Class VI-VIII. The school owners felt that this amount is arbitrarily fixed and grossly insufficient. According to them, the recommended NCERT textbooks often arrive late and contain sub-par/poor quality content.

Therefore, for better quality and delivery, schools approach private publishers. However, these books are more costly. Some schools wish to teach newer and more relevant subjects in their schools—like Artificial Intelligence. Textbooks for such subjects cannot be bought within the prescribed amount.

While the evidence on quality of NCERT books is mixed, a report published by the National Curriculum Framework (NCF) (2005). points out that availability of multiple textbooks for schools is critical as they widen teachers' choices and provide for "diversity in relation to children's needs and interests"

Insights from government officials

The Planning Branch mentioned that, to be eligible for reimbursement, schools have to provide RTE entitlements to EWS/DG category students. These include textbooks and uniforms. Once a claim for reimbursement is raised, a team—consisting of school principals and officials of a zone different from that to which the school belongs—goes to inspect the schools. They primarily check if the schools have given RTE entitlements to the students. If the team finds that the school has not provided students books and uniforms, their reimbursement is put on hold. However, he mentioned that such defaulting instances are rare—"only 1 out of 100". Schools tend to comply and provide the entitlements.

Experiences of parents with RTE entitlements

All students from the EWS/DG category were provided with books and uniforms by the school and did not have to make any additional payments for the same. One parent expressed that they did not receive the uniform and stationery allotted because of the lockdown imposed due to the COVID-19 pandemic. Another parent mentioned that shoes and school bags are not provided by the school.

Schools scramble to cover costs

NISA and PLPST schools expressed that the delays in reimbursements and costs incurred on EWS/DG students impose a significant financial burden on the schools. For example, the payment of salaries of teachers and non-teaching staff gets affected. The financial resources available for other important areas are diminished—for example, school owners cannot focus on improving teacher quality, because teachers demand a higher salary for better performance.

Some mentioned that the financial burden has increased in the past few years because the strength of students belonging to the EWS/DG category has increased. The budget constraint causes immense pressure, and owners are unable to invest in the development of their schools. The situation became worse due to the pandemic, where parents of many non-EWS/DG category students were also unable to pay the fees. As a result, while the school's income was limited, the costs continued to remain high.

Sleepless nights for school owners

The cumbersome nature of the process causes immense frustration among school owners. Both NISA and PLPST schools argue that school owners are often harassed unnecessarily even though their demands are not unreasonable. All they ask for is payment for the work that they have already done, that too without any interest.

PLPST schools also pointed out that, in the recent past, many Delhi school owners had committed suicide due to the financial pressure which was exacerbated by the COVID-19 pandemic. This claim is corroborated by news reportage on suicides by BPS owners across India (Hindu 2021; News 2021). Their motivation, as well as ability to run a school, especially in the wake of the pandemic, has taken a serious hit. Delays in reimbursement adds to the pre-existing stress of functioning with limited resources.

A school owner claims that “I guarantee, all Budget Private School owners will have one or more of the following health problems due to stress: a weak heart, cholesterol, high blood pressure, and insomnia”.

Delays drain all motivations

School owners argue that reimbursement-related challenges also affect their motivation to run a school. Their effort is often diverted towards finding ways to ensure cost-cutting and saving money rather than thinking about improving the quality of education, teacher performance, and learning outcomes of students. This adversely impacts student-learning. They claim “extrinsic factors begin to direct action”.

Some school owners viewed themselves as “nation-builders”. They are unwilling to compromise on the quality of education they provide since they know that many livelihoods depend on it. One school owner shared that it was the collective will of school owners to provide quality education that allowed them to overcome several barriers posed by the pandemic (including adapting to the online mode of teaching-learning). They view the provision of education as a moral responsibility.

As Sarin and Gupta (2013) points out, attitudes, values, and beliefs of school leaders are crucial in determining how private schools respond to policies like reservation, and the way in which parents perceive them. BPS schools cater to lower- and middle-income families who cannot afford the exorbitant fees of elite private schools. BPS owners have assumed leadership in the quest to provide quality education to such families. They remain committed to the goal of social inclusion. Difficulties in claiming reimbursement, however, does deter them every now and then.

Passing the buck

NISA members admitted that cross-subsidisation is inevitable if they are to recover their costs and ensure that their schools continue to operate. According to them, “the loss they incur is transferred to the general category students, which is a loss for schools and the general category alike”. They recognise that this practice can damage their relationship with parents and, to avoid this, the government must provide adequate reimbursement for non-tuition expenditure as well.

Further, there are limits to the percentage of fee hikes per annum. Increasing fees beyond the limit could invite other issues like government audits, inspector-raj, and bribery.

One school owner from PLPST revealed that his school's land is defined as "Category H" and represents a lower socio-economic demographic. Most of the students enrolled come from low-income backgrounds. In such a case, cross-subsidisation by increasing the fees of non-reserved category students is not feasible.

Schools built on land allotted by the DDA also struggle to cope with delays in reimbursements. These schools need to take permission from the DoE if they wish to implement fee hikes and are eligible to claim only five per cent of the tuition fees for the EWS/DG students. They are yet to receive even this five per cent tuition fee.

PLPST schools mentioned that they were tolerant about the delays because they received the amount at some point at least. However, given the increase in delays, and other issues due to the pandemic, many schools began sending the parents to the concerned government office to obtain in writing that the reimbursement for their student will be paid, even if it is delayed.

Re-thinking the process

NISA and PLPST schools propose a monthly, quarterly, or bi-annual cycle of reimbursement to counter the delays in the receipt of funds. They also suggest that the government should release the amount as soon as a school's claim is verified, and not wait for all schools to do the needful. Additionally, schools should not be required to manually enter the details of each student on the portal every year; details must be updated automatically. To ensure a smooth process, a proper grievance redressal mechanism should be set up to hear the complaints of school owners.

Additionally, schools argue that the time frame for the reimbursement process should be clearly laid out and followed by the government. If there is a delay in reimbursing a school, a penalty should be imposed on the government based on the current interest rate in the market.

Finally, school owners from both associations are of the opinion that the government must reimburse schools based on actual costs incurred, especially on books and uniforms. Schools can submit official bills to the government for transparency.

A contentious alternative to Section 12(2)

The schools under NISA suggested that DBT is a viable alternative to the reimbursement mechanism. DBT would empower parents and students to pick a school of their choice. It would reduce hassles due to delay for schools. Further, parents would not have to file complaints with the Delhi Commission for Protection of Child Rights in case schools harass them or are non-compliant.

The schools under PLPST, on the other hand, believe that DBT could lead to a misuse of public funds—especially if the voucher system is not applied. This would result in losses for the government and, ultimately, for tax-paying citizens. In their opinion, Section 12 should be removed, and the funds allotted for the same should be invested in government schools. This will help improve the infrastructure and quality of education in government schools. Consequently, students who cannot afford private schools will still be able to access quality education.

This view however, discounts how beneficiaries are better enforcers in the implementation process. A voucher system ensures that the beneficiary has better bargaining and decision-making powers—balancing the overall distribution of powers among stakeholders. Vouchers may also achieve more political traction.

Identifying gaps in the system

The experiences of each stakeholder bring to light the gaps in the existing system under Section 12 of the RTE. At present, the system lacks proper channels of communication and grievance redressal (particularly between school owners and the government). While certain authorities have the capacity of a “complaint cell”, the schools in our study maintain that these authorities do not address their queries, concerns, and suggestions. The lack of a feedback loop, coupled with opaque processes and limited accountability for government officials, has devastating consequences for school owners.

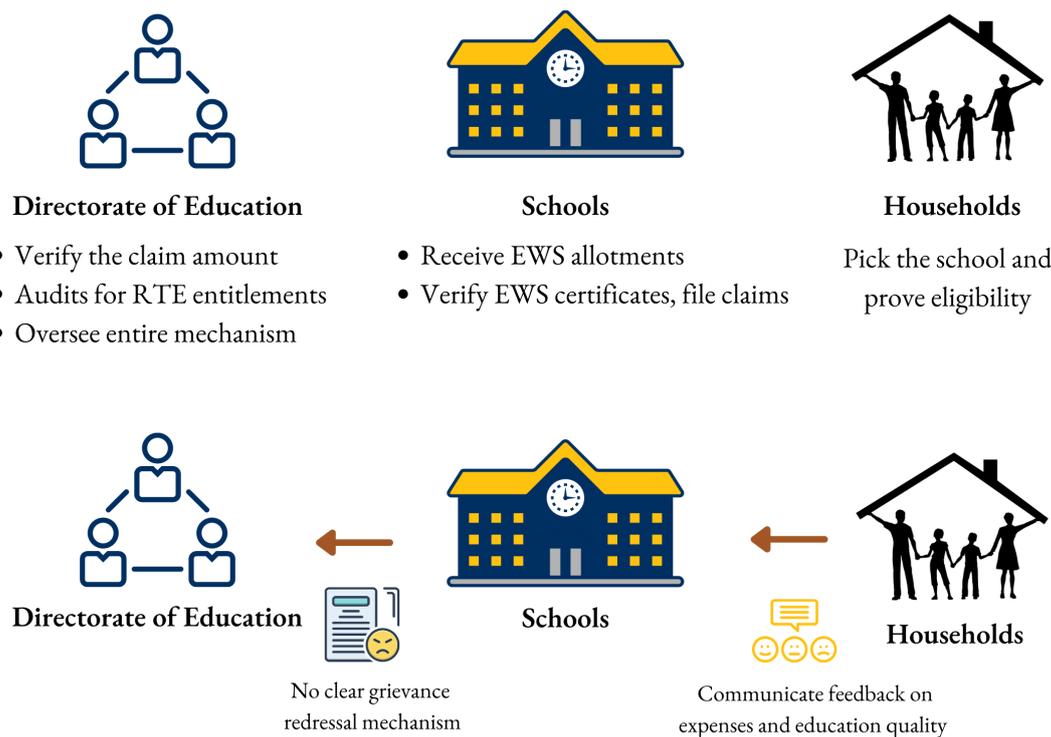


Figure 5.4: Enrolment of EWS/DG students and provision of RTE entitlements

The RTE Act mandates private schools to bear the responsibility for providing elementary education for EWS/DG students. However, *de facto* they are burdened with additional responsibilities. For instance, they are also required to verify the authenticity of EWS/DG applications. Conducting a verification check adds to the financial and administrative burden on low-fee schools. Schools and parents report that fake applications are often overlooked by the government. When schools identify such fake applicants, they are put in a difficult spot while accepting or rejecting admission to students.

Further, given external shocks like the COVID-19 pandemic, stakeholders are finding it difficult to sustain original positions. Schools are facing severe financial constraints. Parents from both EWS/DG and non-EWS/DG categories are also struggling to make ends meet. To top it all, as per the official at DoE, the purse strings for fund disbursement are quite tight in the wake of the pandemic.

Given the lack of proper feedback loops, along with severe and prolonged external shocks, the system is unable to attain homeostasis in its functioning. Apart from dropping out of the system (for instance, in the form of school closures), we also find anecdotal evidence that many school owners have committed suicide in the past year.

Conclusion

Bottlenecks in the process, perceptions of stakeholders, and their challenges and constraints, make it clear that the process outlined under Section 12(2) of the RTE requires a significant overhaul.

While Section 12(2) of the Act mandates state governments to fund the education of children belonging to the EWS/DG categories, they are not held accountable to fulfil this obligation— either in terms of a clear time frame, or via repercussions for not performing this duty. Our discussion with school heads suggests that several rules and orders have been formulated to ensure schools toe the line and do not digress from their responsibility. However, the rules are silent on holding the government accountable for meeting their end of the bargain, and providing timely reimbursements to all private unaided schools.

First, to improve government accountability and ensure timely reimbursements, we recommend that the RTE Act mention a clear timeline for reimbursements to which officials must adhere. Further, as suggested by our interviewees, if the process is delayed, a penalty must be imposed on the relevant department at the current market rate of interest. This is likely to disincentivise delays.

Studies document that the society often plays an instrumental role in improving accountability of the state (Posani and Aiyar 2009). Strengthening accountability, thus, requires enhancing citizens' voice (World Bank 2003). In the current system, this may be achieved by ensuring stronger channels of communication and feedback loops between the government officials and school owners.

Second, lack of communication and transparency throughout the process keeps the schools in the dark about the status of reimbursements. Added to this is the missing grievance redressal system. Government orders and guidelines must clearly explain the procedure for checking the status of reimbursements. Additionally, the DoE nominee allotted for each school should be responsible to clarify relevant queries of the school.

Third, there must be more deliberation on the frequency of fund disbursement. Untimely reimbursements not only impose financial constraints but also hamper effective financial planning for the school's development. Disbursement of funds, on a monthly or quarterly basis, may offer a steady income flow to schools for teacher salaries, equipment upgradation, infrastructure development, and other such purposes in a phased manner throughout the year. At the same time, a more frequent reimbursement may increase the procedural burden on schools and government officials—unless the majority of the process is automated. The pros and cons of frequent reimbursements need to be weighed against one another, and present a future area of research.

Fourth, the process of verifying reimbursement claims needs to be made smoother for schools. Existing verification procedures are deemed to be cumbersome and “hectic” by most schools. School owners claim that government officials take up a lot of time of their school's administration to complete the process and raise repeated requests for relevant documents.

One way to make the process efficient could be to replace spot checks with online verification of all relevant documents. Schools could be instructed to check the portal after a specified time frame

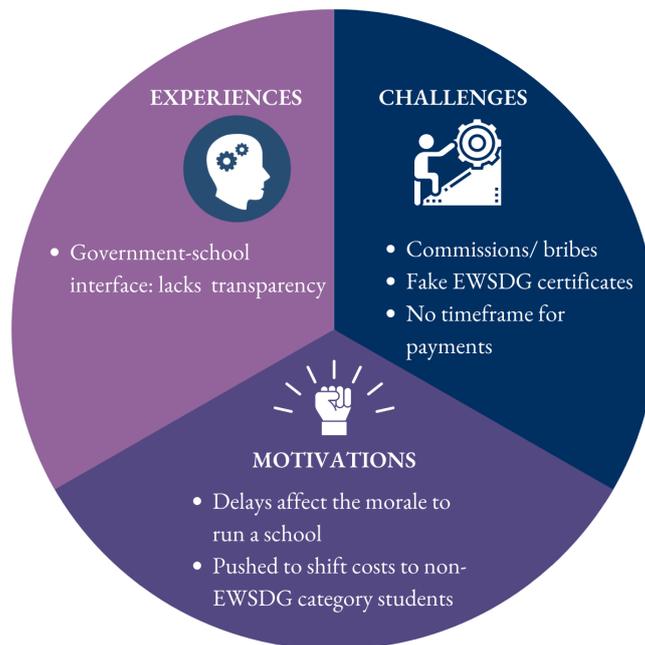


Figure 5.5: Experiences, challenges, and motivations of school owners

to resolve any procedural inconsistencies or errors in documentation. As a result, schools would not have to divert staff capacity to assist officials who come for spot checks, and if implemented effectively, this could be an efficient change for officials as well.

In most cases, parents of EWS/DG students did not face any major problems with the process. They broadly had a positive outlook of the schools. Most parents cited that the teachers and school staff were approachable and cooperative with both the students and the parents. However, parents had to suffer delays in allotment of schools due to the prolonged time period taken by government offices in verifying documents. Parents cited lack of awareness on the procedure as one of the root causes for delays. While parents should be encouraged to complete all steps and finish the submission of relevant documents in a given time frame, the child may begin going to the school in the interim period to avoid being behind at school.

Overall, the RTE played an instrumental role in ensuring greater responsibility from private schools. However, a lot is left to be desired when it comes to improving accountability. In the long run, policy interventions aimed at making the government accountable, increasing choice for parents and students, and reducing administrative burden for schools will leave all three stakeholders better off. It will cultivate greater trust and confidence within the system and its governance process. In the short run, efforts need to be directed towards making the process less cumbersome and more transparent for all involved.

Appendix

Stakeholder 1: Schools

For unaided private schools, our study aims to examine the varying experiences and associated perceptions of school heads about the reimbursement process. We identified schools based on the income groups they cater to, so as to extract the differential experiences of school owners/ principals. Our paper primarily focuses on reimbursement experiences of low-fee schools, given the limited documentation on the issue (Abbas et al. 2021).

Budget private schools (BPS) can be defined as schools that cater to lower- and middle-income families. We studied the case of one such school in detail, by conducting a series of semi-structured interviews with the school owner— that is, the key decision-maker. Along with this we conducted two focus group discussions with school owners from two different associations of BPSs.

In the first focus group discussion, five BPS owners from National Independent Schools Alliance (NISA) participated. The second focus group discussion consisted of four school owners from the Private Land Public Schools Trust (PLPST)—an association of schools in unauthorized settlements. All nine schools are in Delhi. We also reached out to 12 high-fee private schools but only one school owner agreed to give an interview.⁶

Stakeholder 2: Government Officials

We approached government officials from the Directorate of Education, Delhi (Planning Branch) and conducted an interview with one senior official in the Branch. Additionally, we reached out to officials from the National Commission for the Protection of Child Rights (NCPCR) and the Zonal Office, but were unable to interview these officials.

Stakeholder 3: Parents

We approached parents of students belonging to EWSDG category and parents of students belonging to non-reserved category to explore their experiences, challenges, constraints, and motivations pertaining to the admission process. We also document the implications of the reimbursement process on parents (for example, financial burdens imposed, if any).

We conducted semi-structured interviews with six parents of students belonging to the EWSDG category, and four parents of students belonging to the non-reserved category. We employed purposive and convenience sampling, and obtained a list of parents from two school-owners in NISA.

6. The school owner mentioned that they do not have any EWSDG category students in their school because the majority of the applications they received for the same were fake. They have notified the same to the authorities.



Contempt of Logic

Legal Interpretation of Section 12(2)

Akansha Makker, Sara Singh, Raksha Tripathy, and Simranjyot Kaur

Introduction

The Right to Education (RTE) Act, 2009 aims to increase access to education across the country through reservation in private schools. The RTE stipulates that private schools must reserve a minimum of 25 per cent of their available seats for students belonging to Economically Weaker Section and Disadvantaged Groups (EWS/DG). Private unaided schools are reimbursed for these students by the government. This paper, through an analysis of judgments and interviews with lawyers, attempts to understand the myriad challenges faced by the private schools with respect to reimbursements since the enactment of RTE.¹ The judgements help us identify the most contentious issue and the judicial attitude towards the issue.

We found 25 judgements² from 11 High Courts pertaining to Section 12(2) of the RTE.³

How has the judiciary interpreted issues within 12(2)?

Rarely any relief for delayed reimbursements

D.A.V. Boys Senior Secondary School pleaded the High Court of Madras to direct Government of Tamil Nadu to frame guidelines for timely reimbursement. The school argued that reimbursements are made only twice a year and is often delayed. This adds to the financial burdens of the school. Other expenditures such as those related to infrastructure, stationery, and electronic media devices and related consoles, have to be incurred by the school as well. However, the Court dismissed the plea. Per the Court, there was no evidence that delay in reimbursement caused financial instability for the school [*D.A.V. Boys Senior Secondary v State Of Tamil Nadu*, 2019].

Online portals also pose challenges for filing claims. A private school in Mysore struggled to file the reimbursement claim online because the school was incorrectly classified as an "urban institution", instead of a rural one and the reimbursement process for both categories is different. The school struggled to change its classification online, even after repeated requests to the Government of Karnataka. High Court of Karnataka acknowledged the difficulty and directed the government to expedite the reimbursement [*The Managing Trustee, J. Ranganna Lakshmana Charitable Trust, Mysore v the State of Karnataka* 2019]. However, the Court did not prescribe any deadline.

High Court of Bombay has also acknowledged the right of private unaided schools to get timely reimbursement under Section 12(2). However, it did not define any timeline for reimbursement [*Uran Education Society v The State of Maharashtra* 2015].

1. Section 12(2) of the RTE Act, 2009, states: "The school specified in sub-clause (iv) of clause (n) of section 2 providing free and compulsory elementary education as specified in clause (c) of sub-section (1) shall be reimbursed expenditures incurred by it to the extent of per-child-expenditure incurred by the State, or the actual amount charged from the child, whichever is less, in such manner as may be prescribed: Provided that such reimbursement shall not exceed per-child-expenditure incurred by a school specified in sub-clause (i) of clause (n) of section 2: Provided further that where such school is already under obligation to provide free education to a specified number of children on account of it having received any land building, equipment or other facilities, either free of cost or at a concessional rate, such school shall not be entitled for reimbursement to the extent of such obligation."

2. We used two legal repositories—Manupatra and SCC Online— to extract these judgements.

3. High Court of Allahabad (5 Cases), High Court of Bombay (4 Cases), High Court of Chhattisgarh (1 Case), High Court of Delhi (4 Cases), High Court of Gujarat (1 Case), High Court of Himachal Pradesh (1 Case), High Court of Karnataka (3 Cases), High Court of Madhya Pradesh (1 Case), High Court of Madras (3 Cases), High Court of Punjab and Haryana (1 Case), High Court of Rajasthan (1 Case).

Differing views on mandating state to disclose calculation of per-child expenditure

Some schools in Uttar Pradesh found the reimbursement amount of INR 450 per month to be arbitrary. They requested the Court to direct the government to: (a) calculate and declare the per-child expenditure amount on a timely basis each academic year; and (b) calculate the per-child expenditure for two previous years and clear the dues [*C/M, Navayuga Radiance, Senior Secondary School v the State of U.P. 2019*]. However, the Court rejected the demand on the basis that there was no legal requirement for the government to do so. Disclosure by other states (such as Tamil Nadu) of the details of its calculation of per-child expenditure cannot compel the Government of Uttar Pradesh to do the same.

High Court of Karnataka took a fair view when faced with a similar question. The Court directed the state to inform the school of the per-child expenditure at the beginning of every academic year [*Associated Managements of Government Recognised English Medium Schools in Karnataka (KAMS) v State of Karnataka and Ors 2016*].

Social Jurist (an NGO), dissatisfied with the reimbursed amount, filed a Public Interest Litigation with the High Court of Delhi and stated that INR 1190 per student per month was not enough to cover the costs of special teaching aids for students with disabilities. The Court refused to probe into the calculation of reimbursement amount on this ground. But when private schools argued that the amount did not cover the cost of appointing special educators in public schools, the Court directed the government to re-calculate the amount. The Court also directed the private schools “to appoint Special Educators and to make their buildings/school premises barrier free so as to provide free movement/access to children with disabilities” [*Social Jurist, A Civil Rights Group v Govt. of NCT of Delhi 2012*].

Fee hikes and reimbursement amounts

Some CBSE schools in Tamil Nadu challenged the fee control law before the High Court of Madras. The Court observed that since private schools are reimbursed for the EWS/DG category children admitted, they should not charge higher fees from other students [*Lakshmi School, Veerappanchan and Ors v The State of Tamil Nadu and Ors 2012*]. However, the Court failed to acknowledge that the reimbursement amount is based on per-child expenditure incurred by the government in public schools. Private schools may be providing many other amenities and facilities, and the reimbursement amount may fall short of fully covering these costs. This, in turn, may have pushed schools to hike fees for other students (Khadgawat, Vasudeva, and Narang 2021; Susarla, Agiwal, and Goel 2021).

Encouraging an inclusive approach

To bridge the digital gap between the privileged and the under-privileged, the High Court of Delhi expanded the ambit of Section 12 to include access to high speed internet and digital devices like mobiles phones, laptops, and tablets, for students from the EWS/DG category. The Court specifically asked states to reimburse the costs incurred by schools on providing these [*Justice for All v Government of NCT of Delhi and Ors. 2020*].

EWS/DG parents in Maharashtra demanded that transportation fee, for students that reside outside the 'neighbourhood limit', be included in the reimbursement amount. Clause 15.3 of the State

Government Resolution dated 10.01.201 mandates that schools should admit students outside the 'neighbourhood limit' in case they have vacant seats under Section 12(2) of the RTE. However, per the Resolution, parents would have to bear the transportation costs for such students. The Court deemed this to be fair as these students were already at an advantage [*Savari Muthu Micheal Selvan v State of Maharashtra and Ors.* 2019].

The question before the Madhya Pradesh High Court was whether schools would be reimbursed for admitting EWS/DG category children to pre-nursery classes. Private schools informed the Court that the government had not reimbursed them for the EWS/DG category children admitted to pre-school classes in the previous years. The Court directed the schools to file reimbursement claims before the competent authority of the state, and the government to process the claims within three months from the date of receipt of application.

Another interesting question brought before courts was whether a private school can implement the 25 per cent reservation in a staggered way. One school reserved 12.5 per cent at the pre-primary level, and 12.5 per cent at class I level. The Court held that the schools need to ensure 25 per cent reservation for students from the EWS/DG category at pre-primary level and they do not have discretion to ensure admissions in a staggered manner [*Dr. Vikhe Patil Foundation's Vikhe Patil Memorial School Pune and Ors.* 2016].

In 2010, the High Court of Bombay further expanded the scope of Section 12 of RTE by including (i) Vimukta Jati and Nomadic Tribes (VJNT), Other Backward Classes (OBC), and Special Backward Classes (SBC) under the EWS/DG category; and (ii) reimbursement for secondary education. The Court directed the government to include children from Scheduled Castes and Scheduled Tribes in the EWS/DG category regardless of their family income and provide reimbursement for their secondary education. However, the Court set an income criteria, to be eligible for reimbursement, for children belonging to the other categories [*Naresh Gangaram Gosavi and Ors. v Chembur English School and Ors.* 2010].

Confusion over the “Neighbourhood” criteria for EWS/DG children

EWS/DG parents in Karnataka challenged the Karnataka RTE Rules 2012 that exempts private unaided schools from reserving 25 per cent seats for EWS/DG children if there are government schools and aided schools in the neighbourhood. The Court agreed with the government's contention that Section 12(1)(c) casts a heavy burden on the state's exchequer [*Education Rights Trust v The Government of Karnataka and Ors* 2019].

Conclusion

There are not many cases on the reimbursement issue. Does it mean that reimbursement as a system is working well and schools have no reason to complain? Or do schools see no hope in approaching the judiciary for redressal?

Our data is limited to judgments on disputes that have come to the Court. We do not know how many schools, despite having a valid cause of action, chose to not approach the Court. But our interviews with lawyers reveal reluctance among school owners to seek judicial remedy.

A large number of cases deal with delays in reimbursement. However, courts have often shied away from setting timelines for the governments to comply with. This leads to continued uncertainty. Courts should have resorted to the principles of natural justice for dealing with delays.

Courts have also acknowledged the dynamic nature of the Act and directed states to expand reservations to pre-primary and secondary classes, and bring within its ambit special educators, books, uniform, and digital devices. Although this widens the scope of Section 12(2), it burdens private schools with higher compliance without resolving the issue of inadequate and delayed reimbursements. Finally, the standards for compliance and accountability are not same for all schools.

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Anirudh Goel is a final year student of BA LLB at WBNUJS, Kolkata, and a Research Assistant at Centre for Civil Society. He has a profound interest in classical liberalism, economics, and governance issues and also reads on history and urban theory in his pastime. Besides this, he loves sleeping and can sleep continuously for 12 hours.



ARJUN KRISHNAN

Arjun Krishnan is a Research Associate at Centre for Civil Society. He is a political science graduate from Ashoka University and has a master's degree in political and legal theory from Warwick University. The ideal of freedom, both economic and social, are of great importance to him. He enjoys travelling, reading books, and listening to podcasts. He also makes fantastic homemade Kahlua.



JAYANA BEDI

Jayana Bedi is a Senior Research Associate at Centre for Civil Society. She pursued her bachelors in Sociology from Miranda House, Delhi University. Jayana has been working on the issue of vendor livelihoods and quality of laws for the last three years. She is a keen learner and strong supporter of the organisation's ideals- freedom, choice and accountability. You are likely to catch her relishing either a plate of momos or her own nails.



KANIKA KAUR

Kanika Kaur is a political science student at Miranda House, University of Delhi. She is an avid debater and researcher having represented Delhi University at various debate tournaments like Oxford and Cambridge intervarsity. Her interests include public policy, international affairs and Indian foreign policy. One thing she cannot live without is ramen.



KUNAL PANDA

Kunal Panda is a Master's student in Economics at Sciences Po, Paris. He is passionate about political economy and gender studies. He is an ardent reader of Emily Bronte and you can find him stargazing under the skies of Pune.



MANAV LAL

Manav Lal graduated this summer from FLAME University, Pune, pursuing Economics and Public Policy. His subjective interests vary from economics, international law, international relations and public policy. In his spare time, he likes to spend a quiet night reading a book, while listening to The Oasis and Bruce Springsteen.



NEHA ASHAR

Neha Ashar has a bachelor's degree in Psychology, Sociology and Economics. She is currently pursuing her Master's in Applied Sociology from Christ (Deemed to be University), Bangalore. She wishes to pursue a career in social research, public policy and the development sector. Her passion lies in the fields of education and gender, among other things. She enjoys reading and engaging in interdisciplinary discussions that challenge her thoughts and broaden her horizons.



NIKET KHADGAWAT

Niket Khadgawat is someone who is passionate about economic systems and studying human behaviour. He loves working with large datasets because it requires logical interpretation. In his free time, he can be found doing haircare, listening to K-pop or attending public lectures at DSE. His motto in life is "On Wednesday we wear pink".



PRASHANT NARANG

Prashant Narang currently serves as Senior Fellow, Research and Policy Training at Centre for Civil Society. He formerly taught law at the Faculty of Law, University of Delhi. His doctoral thesis is an empirical study of supreme court cases on the constitutional freedom of business, trade and profession. His area of interest is the Rule of Law. He finds legislative drafting and Austrian Economics fascinating. He loves to cook on weekends.



RAKSHA TRIPATHY

Raksha Tripathy is a third-year student pursuing BBA.LLB (Hons.) from School of Law, Mumbai University's Thane Sub-Campus. She is an inspiring fiction writer and loves doodling in her free time. She also admires pop and pop-rock music.



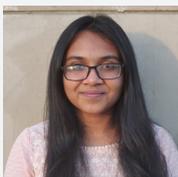
RITIKA SUSARLA

Ritika Susarla is an Economics and Finance graduate from Ashoka University. Her academic interests include development, behavioural economics, trade, environment and gender. She aspires to engage in impact-driven research as an economist.



SARA SINGH

Sara Singh is currently in her third year of college, studying Political Science at Ashoka University. Her primary interests are in the fields of political and literary theory, and also statistics. She also does graphic design work when not engaged with academics. She compulsively adds tracks to her Spotify library, with her playlist currently at 13,288 songs and counting.



SHREYAA BALACHANDRAN

Shreyaa Balachandran studied Economics at Shiv Nadar University, with a minor in International Relations. While her research interests lie in developmental and environmental policy, she would like nothing more than curling up with a good book and a cup of coffee.



SIMRANJYOT KAUR

Simranjyot Kaur is a Junior Research Associate at Centre for Civil Society. She is a graduate of the National Law School of India University, Bangalore. She is also an Advocate registered with the Punjab and Haryana High Court. She is keen on expanding her knowledge of caste and gender. In her personal time, she likes to watch crime documentaries, play some volleyball or discover new hip-hop artists.



VIBHU AGIWAL

Vibhu Agiwal is a third year Economics and Political Science major at Ashoka University. Besides being interested in his major subjects, he is an impatient reader and an aspiring writer.



ZAINAB AKHTAR

Zainab Akhtar is a final year undergraduate student studying political science at Hindu College, Delhi University. She is interested in international relations and aspires to be a diplomat. She loves to paint and learn new languages. She is really good at hula hooping and once even did it for 30 mins straight.



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