

From:

**Principal Secretary
Basic Education Department
U.P. Government**

To,

- 1) Director, Education (Basic)
U.P. Lucknow**
- 2) Director Education (Middle)
U.P. Lucknow**
- 3) District Magistrate
All Districts, U.P.**

Shiksha Anubhag - 5

Lucknow: Dated 3 December, 2012

Subject: Regarding directions to admit at least 25% students of disadvantaged groups and weaker sections of society in class I/pre-primary classes in the unaided recognized schools of neighborhood under section 12(1)(c) of Right of Children to Free and Compulsory Education Act, 2009

Sir,

With reference to the above, I have been directed to state that as per the Article 12(l) of the Right of Children to Free and Compulsory Education Act, 2009, it is compulsory for all government and private schools of the state to provide free and compulsory education to all children. Therefore after granting free admission to children for education in classes I to VIII, preparations be made for providing quality education. Act also provides for free and compulsory primary education in government aided schools. Besides unaided recognized schools too, shall admit in class I, to the extent of at least 25% of the strength of that class, children belonging to weaker section and disadvantaged group in the neighborhood and provide free and compulsory elementary education till class VIII. Schools that impart pre-primary education, the provisions of providing 25% seats shall apply for admission to Pre Primary classes.

2- U.P. Government, through its notice No. 3087/79-5-2012-29/09T.C-11 Dated 30.11.2012 issued directions defining 'child belonging to disadvantaged group' and 'child belonging to weaker section'. The same is attached with this letter.

As per the above Act 2009,

(i) the following have been categorized as 'Child belonging to disadvantaged group':

- A child belonging to Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class
- A homeless or orphan child or the child of HIV or cancer patient parents

(ii) The child belonging to weaker section means,

- A child belonging to such parent or guardian whose annual income is lower than the minimum limit specified by the appropriate Government.
- Whose parents or guardians are getting handicap/old age or widow pension.
- Whose parents or guardians have annual income of less than Rs. 1 lakh.

In this context, it is specified that preference would be given to those children whose parents' annual income is less than Rs. 35,000/-. Thereafter, admission will be granted in ascending order to children whose parents have annual income of up to Rs. 1 lakh till any seats are left vacant. Clearly, the annual income of parents has been kept as the basis for admission. The list of applications will be prepared in ascending order in terms of the parents' annual income and admission will be granted as per the number of seats.

3- The above Act 2009 defines 'school' as any recognized school imparting elementary education. Thus, this scheme will be applicable to all unaided recognized schools, i.e. besides the schools recognized by Education Department, Uttar Pradesh, to all CBSE/ICSE schools.

4- It is noteworthy that minority institutions have been kept out of the provisions of this Act. Following system has been derived after amendments in the Right of Children to Free and Compulsory Education Act, 2012 (Act No. 30 of 2012):-

2- In the Right of Children to Free and Compulsory Education Act, 2009 (Hereinafter referred to as the principal Act), in section 1, after sub-section (3), the following sub-sections shall be inserted, namely:-

"(4) Subject to the provisions of articles 29 and 30 of the Constitution, the provisions of this Act shall apply to conferment of rights on children to free and compulsory education.

(5) Nothing contained in this Act shall apply to Madrasas, Vedic Pathshalas and educational institutions primarily imparting religious instruction."

It is clear from the above that in context with the minority institutions, the Article 29-30 of the Constitution will be applicable and Madrasa, Vedic Pathshalas and educational institutions, primarily imparting religious education will stay out of the provisions of this Act. In its reaction to petition (C) No. 95 of 2010 dated 12 April 2012, Hon'ble Supreme Court of India has maintained that this Act 2009 is not applicable to unaided minority educational institutions. Thus clearly, this provision will not be applicable in the case of unaided minority educational institutions too.

5- The above scheme will take off from the session 2013-14. Intensive publicity will be done two months prior to the commencement of the session. The format of application will be published through press release in newspapers by the Basic Education Officer. At the same time, the format will be made available at Khand Shiksha Adhikari BRC/NPRC levels and proper publicity of the application form will be done. It would be compulsory to attach caste certificate by authorized officer for 'disadvantaged group', Tehsildar's certificate for annual income or orphan, HIV or cancer infected parent's child certificate, homeless child category. Format of application is attached as Annexure 1. Applicant will also have to attach proof of residing in the 'neighborhood'.

6- Government has made following provisions in the light of Right of Children to Free and Compulsory Education Act, 2009 and the judgment of the Hon'ble Supreme Court of India:-

(a) All children between age group of 6-14 years belonging to 'Disadvantaged Group' and 'Weaker Section' will have right to admission in government/private and aided schools of the neighborhood.

(b) In case the District Basic Education Officer finds out that children belonging to disadvantaged and weaker sections do not get admission in the government schools or schools run by local authority and aided schools in their neighborhood due to scarcity of seats, in that case, under the government's scheme of reserving 25% seats, he will, within 10 days of receiving the application, issue order for admission of these children in class I in unaided schools which would be applicable up to class VIII.

For the above procedure a Self explanatory proposal will be put up by Basic Shiksha Adhikari before the District Magistrate's approval within 5 days who will then take final decision within 5 days on the same and the decision will be conveyed to the parents/guardians BSA.

(c) District Basic Education Officer will continuously collect information whether government schools or schools run by local authority have granted admission up to their full capacity as well as whether students are obtaining education. If the seats created due to dropouts do not get filled up quickly, in that case arrangements will be made to grant admission to children belonging to disadvantaged or weaker section on those seats.

(d) Under the policy prepared by the state government, reimbursement will be given to private schools for the expenses incurred on these children.

7- The above school will reserve a separate bank account for reimbursement amount received for the above. The school will provide all important details including category wise expenditure every year by 31st October on the format decided by the Director Education (Basic). But in places where such schools because of having obtained land/building/equipments or any other facilities are already committed to providing free education to children, these schools will not be entitled for reimbursement to the extent of such obligation.

The reimbursement amount shall be transferred to the school's account only after the attestation by District Education Officer in case of Middle Education and District Basic Education Officer in case of Basic Education and this information will be available for public through website. If at any stage the schools are found to be hiding facts or presenting false evidence for obtaining the reimbursement amount, the recognition status of the school shall be taken back and they would be punished as per the provisions of the Indian Penal Code. They will also have to deposit double the amount in state funds. This amount will be collected by the recovery collection in the form of the outstanding dues of the land revenue.

8- In this context, Director of Education (Basic), U.P. will prepare a format for the recovery of revenue. It will have proper system for the attestation of the entries. Accounts controller of the Investigation department will check the format prepared by Director of Education (Basic). Accounts Controller for state level and the Revenue and Accounts Officer of concerned department will be responsible for the inspection of the reimbursement claims of the schools. All this activity will be carried out under the direction of Director of Education (Basic). Additional Director of Education (Basic) Headquarters, Allahabad will conduct the monitoring and inspection of the fee reimbursement and Director of Education (Basic) will be responsible for smooth conduct of the admission and fee reimbursement procedure. Director of Education (Basic) U.P. in consultation with Finance Controller will make reimbursement related detailed proposal available to the government within 15 days.

9- You are aware that for implementation of these provisions state government has promulgated Right of Children to Free and Compulsory Education Rules, 2011 on 27th July, 2011. On the above subject, Article-8 of the above Rules 2011 clearly states that the process of children's admission will be made completely transparent. For this purpose the format of application has been given in Annexure 1 for the parents/guardians of the children seeking admission. The compiled details of the applicants thus received through the application form will be regularly maintained. This would contain child's name, address, sex, caste, category, date of birth, Father/mother/guardian's name, annual income etc. This information will also be made public and displayed on the display board. If possible, it would also be displayed on the school's website. Out of the total applicants, those who could not be admitted as per the set norms will be informed about the reason by the institution. It would be binding upon the schools to follow the procedure of admissions set by the state government. Details of the students for admission in these schools will be compiled and preserved. For this a format has been supplied in Annexure 2.

You are therefore requested to ensure the above process without further delay.

Yours sincerely,

(Sunil Kumar)
Principal Secretary

Enclosures: As above

Copy to the following for information and further necessary action-

1. State Planning Director, State Planning Office, Lucknow with request to make a copy of the letter available to all concerned.
2. All Associate Education Director/District School Inspectors, U.P.
3. All Regional Assistant Education Director (Basic), U.P.
4. Finance Controller, Basic and Madhyamik Education Directorate, U.P.
5. Finance and Accounts Officer, Office of the District Basic Education Officer's Office, All Districts.
6. Finance and Accounts Officer, Office of District School Inspector, All District.

By order of:

(Harendra Veer Singh)
Special Secretary