
(2012) 07 MAD CK 0054

In the Madras High Court

Case No : Writ Petition No's. 10217, 10218, 12203, 13337 and 13338 of 2012

M. Abimanyou and Others

APPELLANT

Vs

Government of India and Others

RESPONDENT

Date of Decision : 02-07-2012

Acts Referred:

Citation : (2012) 5 MLJ 383

Hon'ble Judges : K. Chandru, J

Bench : Single Bench

Advocate : M. Pari, for the Appellant; P. Sanjay Gandhi, Special Government Pleader (Edn.), R. Venkataraman, T. Meikandan, N. Raja Senthoo Pandian, M.S. Krishnan and Ms. Karthikaa Ashok, for the Respondent

Final Decision : Dismissed

Judgement

K. Chandru, J.—All these writ petitions came to be posted on being specially ordered by the Hon"ble Chief Justice vide order dated

6.6.2012. The petitioners in all these writ petitions are parents of the children for whom they were seeking for admissions into some unaided

private schools shown as the contesting respondents in the respective writ petitions. Inspiration for filing the writ petition was drawn from the

provisions of The Right of Children for Free and Compulsory Education Act, 2009 (for short Free Education Act).

2. On notice from this Court, the contesting respondents have also filed counter affidavits. Before going into the merits of the contentions, it is

necessary to set out the facts pleaded by the respective parties.

I.W.P. No. 10217 of 2012:

3. The petitioner in this writ petition seeks for a direction to the official respondents to identify the neighborhood schools where children can be

admitted and make such information public and consequently to direct the 6th respondent (D.A.V. School, Sri Nandeeswarar Campus,

Adambakkam) to admit his daughter Mathivathani (aged 3 years) in the L.K.G. Section without any screening test and by providing free education

upto 8th standard, free uniform, free education materials and free books. According to the petitioner, he belonged to the Most Backward caste

and disadvantage group. He is earning Rs. 1,29,516/- per annum and also belonged to weaker Section. Free education Act defines disadvantage

group and weaker Section. His daughter aged 3 years is willing to join the 6th respondent school in L.K.G. and to study upto 8th standard free

and compulsory education. The petitioner had approached the 6th respondent many times for admission. He was not given any application form.

After enquiry, he came to know that admission was completed. He made a representation on 13.3.2012 to the respondents requesting them to

take steps to admit his child under Rule 6(6) of the Right of Children to Free and Compulsory Education Rules, 2010. It is stated that the 6th

respondent school had not allotted 25% of seats as required u/s 12(c) of the Free Education Act in each standard from L.K.G to 8th standard.

The official respondents were not supervising. His daughter not only has legal right, but also fundamental right under Article 21 of the Constitution

to have free and compulsory education upto 8th standard.

II. W.P. No. 10218 of 2012:

4. In this writ petition, the petitioner who is the father has sought for an identical prayer in respect of his daughter Pavithra aged 6 years to be

admitted to 2nd standard with free uniform, free education materials, free books and other needs in the 5th respondent Sri Nadesan Vidyalaya

Matriculation Higher Secondary School, Mannivakkam, Chennai-48.

5. When both writ petitions came up for admission, since the petitioners asked for a larger prayer, this Court directed that it may be treated as a

Public Interest Litigation. Hence it should be posted before a division Bench. However, the division bench presided by the Hon'ble Chief Justice

vide order dated 26.4.2012 held that the relief claimed is only personal and it should be heard only by a single bench. Subsequently, these two writ

petitions were admitted by this Court on 27.4.2012. On notice, the 5th respondent in W.P. No. 10218 of 2012 has filed a counter affidavit, dated

4.6.2012. In the counter affidavit, it was stated that the writ petition is not maintainable as the Act only provides for admission to 1st standard u/s

12(1)(c). But. their school is having pre-school education from L.K.G. onwards. Since the petitioner seeks admission for his daughter in the 2nd

standard, the writ petition is liable to be dismissed. It was also stated that in the Mannivakkam village neighborhood, there is a Government High

school. It is not as if the petitioner cannot get admission to the said school. Their school has been unnecessarily dragged into the case.

III. W.P. No. 12203 of 2012:

6. This writ petition is filed by the father of a child seeking for an admission in the 1st standard to his daughter S. Swathi aged 5 years in the 7th

respondent school, i.e., Vellammal Vidyala CBSE School, Ayanampakkam, Chennai without any screening test and free education upto 8th

standard. In this writ petition, notice was ordered on 4.5.2012. The contention of the petitioner was that he belonged to Most Backward class

which is a disadvantaged group. He is earning Rs. 1,15,500/- per year which is a weaker Section under the said Act. He had approached the

private respondent school for admission. He came to know that the admission was completed. Therefore, he made a representation on 21.4.2012

for taking steps. The official respondents have not taken any steps. Hence this writ petition.

7. On notice from this Court, the private respondent school has filed a counter affidavit dated 7.6.2012. In the counter affidavit, it was stated that

their schools is an unaided school and is having pre school education from the Lower Kinder Garden (L.K.G.). They are exempted from admitting

students in terms of Section 12(c)(1). Since their admission starts from pre school stage, the petitioner's claim to admit his daughter in the 1st

standard is not valid. They are not in a position to admit the petitioner's child. The school is having the strength of 500 students in respect of the 1st

standard, who were admitted in the L.K.G itself. Further the petitioner in his representation dated 21.4.2012 stated that he wanted Samacheer

Kalvi (Uniform syllabus) and it is not applicable to the respondent school as it is affiliated to the CBSE. Therefore, the petitioner cannot admit his

daughter in their school.

IV. W.P. No. 13337 of 2012:

8. The petitioner is the mother. In this writ petition, she sought for a direction to admit her son Sanjay Bharathi aged 9 years in the 5th standard

without any screening test and by providing free education upto 8th standard in the 6th respondent school, i.e., Vani Vidyalaya Senior Secondary

and Junior College, K.K. Nagar (West), Chennai. This writ petition is yet to be admitted. The petitioner was directed to issue a private notice to

the 6th respondent.

9. It is the case of the petitioner that she belonged to most backward class and defined as a disadvantaged group. Her family income is less than

Rs. 2 lakhs per year. When the petitioner had approached the 6th respondent school for admission, she was not given application form. She came

to know that admission was completed. The petitioner made a representation dated 1.5.2012 to the respondents, but no action was taken. Hence

she has filed the present writ petition.

V. W.P. No. 13338 of 2012:

10. In this writ petition, the petitioner is the mother, who seeks for a direction to admit her daughter Vaishnavi aged 3 years in the L.K.G. In the

6th respondent school, i.e. Chinmaya Vidyalaya, Chinmaya Nagar, Stage II. Virugambakkam without any screening test and by providing

education upto 8th standard. It is her case that her family income is Rs. 2 lakhs. She belonged to the weaker Section. In spite of her approaching

school, she was not given an application form. Thereafter she came to know that admission of the school was already over. Despite her

representation, the respondents have not taken any action. In that writ petition, notice was ordered on 9.5.2012.

11. On notice from this Court, the contesting respondent Chinmaya Vidyalaya has filed a counter affidavit, dated 8.6.2012. It was stated that their

school is affiliated to CBSE and no writ petition is maintainable against the said school. It was also stated that their school gave wide publicity with

reference to the admission procedure in the local dailies and other newspapers for the academic year 2012-2013 during January, 2012 itself. The

application were allowed to be downloaded from the website of the school. Based upon the advertisement made in the newspapers, more than

1265 applications were downloaded by the aspirants to L.K.G. admission for the ensuing academic year. They had specifically instructed and

advertised that such applications should be sent to the school on or before 18th, 19th, and 21.1.2012. Many parents took note of the details and

applied to the school for admission within time. The petitioner's contention that she had approached the school for application form was not

accepted and it was stated only for filing the present case. The petitioner never made any application to the school.

12. It was stated that apart from issuing application during January, 2012 the academic year for all CBSE schools starts in April itself, i.e., from

4.4.2012. the condition that 25% of vacancies to be filled up by weaker Sections and disadvantage group were also filled up on "first come first

served" basis and the entire admission in the school was over by April, 2012. Since the petitioner did not approach the school, the question of her

seeking for admission from the school does not arise. The management had consciously kept in mind the provisions of the Act as upheld by the

Supreme Court and had admitted 52 students u/s 12(1)(c) category out of 160 students. The list of students who were admitted in that category is

also enclosed along with the counter affidavit. In fact, their school had admitted more than 1/3 rd of the category for admission which is more than

the percentage fixed under the Act. Apart from this even in the same neighborhood, there are several schools, which are as follows:

(a) Marthoma Matriculation Higher Secondary School.

(b) Padma Sarangapani Matriculation Higher Secondary School.

(c) Balar Gurukulam School.

(d) Tagore Matriculation School.

(e) Kalaivani Vidyalaya

(f) Corporation Primary School, Virugambakkam.

(g) Clarence Matriculation Higher Secondary School, Virugambakkam.

But, no attempt was made to seek admission in those schools though petitioner claiming to be living in the neighborhood. The petitioner is only

targeting the respondent school for the reasons best known to her.

13. In the light of these facts, it has to be seen whether the petitioners claim can be countenanced by this Court? Since the entire claims of the

petitioners have been rest on Section 12 more particularly Section 12(1)(c), it is necessary to extract the said provision in its entirety which reads as

follows:

12. Extent of school's responsibilities for free and compulsory education. -

(1) For the purposes of this Act, a school,

(a) specified in sub-clause (i) of Clause (n) of Section 2 shall provide free and compulsory elementary education to all children admitted therein;

(b) specified in sub-clause (ii) of Clause (n) of Section 2 shall provide free and compulsory elementary education to such proportion of children

admitted therein as its annual recurring aid or grants so received bears to its annual recurring expenses, subject to a minimum of twenty-five per

cent;

(c) specified in sub-clauses (iii) and (iv) of Clause (n) of Section 2 shall admit in class I, to the extent of at least twenty-five per cent. of the strength

of that class, children belonging to weaker Section and disadvantaged group in the neighbourhood and provide free and compulsory elementary

education till its completion:

Provided further that where a school specified in Clause (n) of Section 2 imparts pre-school education, the provisions of Clauses (a) to (c) shall

apply for admission to such pre-school education.

(2) 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 expenditure so 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.

(3) Every school shall provide such information as may be required by the appropriate Government or the local authority, as the case may be.

(emphasis supplied)

14. The said provision when challenged by an unaided private schools Association of Rajasthan, the provision was upheld by the Supreme Court

vide judgment in *Society for Un-aided Private Schools of Rajasthan Vs. Union of India* (UOI) and Another, . In paragraph No. 12, it has been

observed as follows:

12.....Thus, if one reads the 2009 Act including Section 12(1)(c) in its application to unaided non-minority school(s), the same is saved as

reasonable restriction under Article 19(6).

15. Before going into the rival contentions, it is also necessary to refer to the following passages found in the same Supreme Court judgment. In

paragraph 21, it was observed as follows:

21. This judgment will operate from today. In other words, this will apply from the academic year 2012-13, However, admissions given by

unaided minority schools prior to pronouncement of this judgment shall not be reopened.

16. The judgment of the Supreme Court was delivered on 12.4.2012. Therefore, wherever admissions were made before the date, the petitioners

cannot seek any enforcement of the provisions under this Act. In view of the stand taken by the respondent in W.P. No. 13338 of 2012, that writ

petition is not maintainable as the stand taken by the respondent has not been controverted by any reply affidavit. Therefore, admissions in that

school having been made before the cut off date, W.P. No. 13338 of 2012 is liable to be rejected on that short ground. Accordingly, it is rejected.

17. In W.P. No. 12203 of 2012, the claim for admission is for the 1st standard. But, the stand taken by the contesting respondent School was that

their admission procedure starts from the L.K.G stage. Therefore, the provisions of Section 12(1)(c) will apply only from pre school education as

can be seen from the proviso to Section 12(1) as noted above. Hence the stand of the management that admission during the 1st class is not

maintainable as the Act itself recognizes admission at the pre-school stage. Hence, W.P. No. 12203 of 2012 is liable to be dismissed.

18. In W.P. No. 10218 of 2012, the admission was sought for in the 2nd standard. Whereas Section 12(1)(c) itself clearly states that admission

should be from Class-I for the ensuing year and does not talk about the

subsequent standards for the purpose of enforcement of the Act. The question of compulsory admission of 25% of the strength of the class relates to Class-I as can be seen from Section 12(1)(c). The Act never contemplated that the School coming u/s 12(1)(c) must grant 25% admission in respect of standards 2 to 8 as the admission to those classes had already been made before coming into force of the Act as well as the Act was made applicable by the Supreme Court with effect from 12.4.2012.

19. Various types of schools are defined u/s 2(n) of the Act, which reads as follows:

2(n) "School" means any recognised school imparting elementary education and includes

(i) a school established, owned or controlled by the appropriate Government or a local authority;

(ii) an aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority;

(iii) a school belonging to specified category; and

(iv) an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority;

20. It is only in case of the school coming under Section 2(n)(i), free and compulsory elementary education to all children admitted is to be

provided. Whereas the contesting respondent admittedly comes under the category of Section 2(n)(iv) as unaided non minority schools. In those

cases, the process of admitting students with 25% reservation for children belonging to weaker Sections and disadvantaged group started only

from Class I and it may grow gradually from the 1st standard to 8th standard. But, in cases where there is pre school education, then it may start

from the L.K.G. onwards. Hence, the petitioners are under misconception that automatically in respect of unaided private schools, there will be

complete free education including supply of uniform, education materials, books and other needs for education. But it is a complete misleading of

the provisions of the Act.

21. In case, if a child is unable to get Class-I admission in any of the unaided private school, the only guarantee for free and compulsory education

provided for children from 6 years to 14 years is set out u/s 9 of the Free Education Act, which reads as follows:

9. Duties of local authority. - Every local authority shall

(a) provide free and compulsory elementary education to every child:

Provided that where a child is admitted by his or her parents or guardian, as the case may be, in a school other than a school established, owned,

controlled or substantially financed by funds provided directly or indirectly by the appropriate Government or a local authority, such child or his or

her parents or guardian, as the case may be, shall not be entitled to make a claim for reimbursement of expenditure incurred on elementary

education of the child in such other school;

(b) ensure availability of a neighbourhood school as specified in Section 6;

(c) ensure that the child belonging to weaker Section and the child belonging to disadvantaged group are not discriminated against and prevented

from pursuing and completing elementary education on any grounds;

(d) maintain records of children up to the age of fourteen years residing within its jurisdiction, in such manner as may be prescribed;

(e) ensure and monitor admission, attendance and completion of elementary education by every child residing within its jurisdiction:

(f) provide infrastructure including school building, teaching staff and learning material;

(g) provide special training facility specified in Section 4;

(h) ensure good quality elementary education conforming to the standards and norms specified in the Schedule;

(i) ensure timely prescribing of curriculum and courses of study for elementary education;

(j) provide training facility for teachers;

(k) ensure admission of children of migrant families;

(l) monitor functioning of schools within its jurisdiction; and

(m) decide the academic calendar.

Therefore, the obligation to provide free and compulsory education upto 14 years vest solely on the local authorities.

22. In case there was any further grievance regarding admission of a child. Section 32 provides for grievance redressal machinery. Section 32

reads as follows:

32. Redressal of grievances.- (I) Notwithstanding anything contained in Section 31. any person having any grievance relating to the right of a child

under this Act may make a written complaint to the local authority having jurisdiction.

(2) After receiving the complaint under sub-section (1), the local authority shall decide the matter within a period of three months after affording a reasonable opportunity of being heard to the parties concerned.

(3) Any person aggrieved by the decision of the local authority may prefer an appeal to the State Commission for Protection of Child Rights or the authority prescribed under sub-section (3) of Section 31, as the case may be.

(4) The appeal preferred under sub-section (3) shall be decided by State Commission for Protection of Child Rights or the authority prescribed under sub-section (3) of Section 31, as the case may be, as provided under Clause (c) of sub-section (1) of Section 31.

23. Since the petitioners have emphasized the right to education as a fundamental right, the history behind the enactment has to be seen first. When the National Policy on Education (1986) was evolved, it guaranteed that the constitutional promise found under Article 45 will be redeemed before the end of the 20th century. It was in case *Miss. Mohini Jain Vs. State of Karnataka* and others, the Supreme Court came to the conclusion that the right of education is a fundamental right. In that judgment, in paragraphs 14 and 17, it was observed as follows:

14. The "right to education", therefore, is concomitant to the fundamental rights enshrined under Part III of the Constitution. The State is under a constitutional mandate to provide educational institutions at all levels for the benefit of the citizens. The educational institutions must function to the best advantage of the citizens. Opportunity to acquire education cannot be confined to the richer Section of the society.

17. We hold that every citizen has a "right to education" under the Constitution. The State is under an obligation to establish educational institutions to enable the citizens to enjoy the said right. The State may discharge its obligation through state-owned or state-recognised educational institutions.

24. But, the dictum of *Mohini Jain (Miss) v. State of Karnataka* (supra) case did not last long. That decision was explained by Unni Krishnan, J.P.

and others Vs. State of Andhra Pradesh and others etc. etc., . In that judgment, in paragraphs 171, 176 and 182, it was observed as follows:

171.....it would not be correct to contend that Mohini Jain (Miss) v. State of Karnataka (supra) case was wrong insofar as it declared that ""the right to education flows directly from right to life"". But the question is what is the content of this right? How much and what level of education is necessary to make the life meaningful? Does it mean that every citizen of this country can call upon the State to provide him education of his choice?

176. This does not however mean that this obligation can be performed only through the State Schools. It can also be done by permitting, recognising and aiding voluntary non-governmental organisations, who are prepared to impart free education to children. This does not also mean that unaided private schools cannot continue. They can, indeed, they too have a role to play. They meet the demand of that segment of population who may not wish to have their children educated in State-run schools. They have necessarily to charge fees from the students.

182. The right to free education is available only to children until they complete the age of 14 years. Thereafter, the obligation of the State to provide education is subject to the limits of its economic capacity and development.

25. It was only after these two decisions and due to public pressure, the Parliament was forced to amend the Constitution to introduce Article 21A and it reads as follows:

The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

26. Article 45 was also amended simultaneously to read:

45". Provision for early childhood care and education to children below the age of six years.- The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

The said Article 45 before its amendment reads as follows:

The State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education

for all children until they complete the age of fourteen years.

27. Even after declaring the right to education upto 14 years as a fundamental right, nothing was done concretely to make it as a reality by bringing

an appropriate legislation. After seven years after the Constitutional amendment, the new The Right of Children to Free and Compulsory Education

Act, 2009 (Act 35 of 2009) was enacted with effect from 1.4.2010.

28. In the meanwhile, a larger bench of the Supreme Court in T.M.A. Pai Foundation and Others Vs. State of Karnataka and Others, further

nullified Unni Krishnan, J.P. v. State of A.P. (supra) case. It was observed in paragraph 38 as follows:

38. The scheme in Unni Krishnan, J.P. v. State of A.P. (supra) case has the effect of nationalizing education in respect of important features viz. the

right of a private unaided institution to give admission and to fix the fee. By framing this scheme, which has led to the State Governments legislating

in conformity with the scheme, the private institutions are indistinguishable from the government institutions; curtailing all the essential features of the

right of administration of a private unaided educational institution can neither be called fair nor reasonable.

29. The need for private public partnership in the field of education was noted in the T.M.A. Pai Foundation v. State of Karnataka (supra) case. It

was observed as follows:

India is a land of diversity of different castes, peoples, communities, languages, religions and culture. Although these people enjoy complete

political freedom, a vast part of the multitude is illiterate and lives below the poverty line. The single-most powerful tool for the upliftment and

progress of such diverse communities is education. The State, with its limited resources and slow-moving machinery, is unable to fully develop the

genius of the Indian people. Very often the impersonal education that is imparted by the State, devoid of adequate material content that will make

the students self-reliant, only succeeds in producing potential pen-pushers, as a result of which sufficient jobs are not available.

30. Therefore, the judicial process starting from Mohini Jain (Miss) v. State of Karnataka (supra) case to T.M.A. Pai Foundation v. State of

Karnataka (supra) case via Unni Krishnan, J.P. v. State of A.P. (supra) case gave sanctity to the ""National Education Policy"" by which the State

wanted to wriggle out of its commitment by bringing private initiative into the field on grounds of paucity of funds. The Supreme Court in essence gave its seal of approval to the stand of the Union of India. Hence, notwithstanding education being a fundamental right under Article 21A, when the Right of Children to Free and Compulsory Education Act, 2009 was enacted, the Government had *T.M.A. Pai Foundation v. State of Karnataka* (supra) case before it. Hence, the Act instead of making the State to realise its responsibility, passed on the responsibility to private partnership. Hence, the definition of the term "school" under the Act made four different types of schools u/s 2(n).

31. After enumerating four different types of schools, the Act was held inapplicable to unaided minority schools by the recent judgment in *Society for Un-Aided Private Schools of Rajasthan v. U.O.I. and Another* (supra). Section 12 which contemplates the extent of school's responsibility for free and compulsory education only provides for at least 25% of the strength of the class to be filled up by the children belonging to weaker Sections and disadvantaged group in the neighbourhood and provide free and compulsory elementary education till its completion. The schools, which are to provide education to such 25% of the children belonging to weaker Sections and disadvantaged groups, expenses are to be refunded on the basis of per-child-expenditure incurred by the State.

32. In this scheme of things, it is not clear whether parents of the children whether belonging to weaker Sections or well-off Sections will have any right to get their children admitted to the school of their choice with the hope of right to get quality education granted to them. On the other hand, except for a guarantee of 25% of admission to weaker Sections, the rest of the 75%, who want to get admitted to such private schools, are to fend for themselves by paying the fees demanded as per law.

33. The Supreme Court in its latest decision *Society for Un-Aided Private Schools of Rajasthan v. U.O.I, and Another* (supra) in permitting private participation in the area of school education made a distinction between the old Article 45 and the new Article 21A in the following words:

To provide for free and compulsory education in Article 45 is not the same thing as to provide free and compulsory education. The word "for" in Article 45 is a preposition. The word "education" was read into Article 21 by the

judgments of this Court. However, Article 21 merely declared education"" to fall within the contours of right to live. To provide for right to access education, Article 21A was enacted to give effect to Article 45 of the Constitution. Under Article 21 A, right is given to the State to provide by law ""free and compulsory education"". Article 21A contemplates making of a law by the State. Thus, Article 21A contemplates right to education flowing from the law to be made which is the 2009 Act, which is child centric and not institution centric. Thus, as stated, Article 21A provides that the State shall provide free and compulsory education to all children of the specified age in such manner as the State may, by law, determine. The manner in which this obligation will be discharged by the State has been left to the State to determine by law. The 2009 Act is thus enacted in terms of Article 21 A.

(emphasis supplied)

34. Therefore, according to the Supreme Court, the absence of the word ""for"" in Article 21A had absolved the full responsibility of the State to provide free and compulsory education. By the interpretative process, the right of the children to have free and compulsory education upto 14 years is clearly diluted. Further as to what constitutes a neighborhood school and if there are more than one school in a neighborhood as to which school the parent can have the choice and which authority can direct admission to such school and in case of an unaided private school who will supervise the admission is not made clear. Under the present scheme of the Act if the school justified that it had admitted minimum of 25% of its seats to the children belong to weaker Section and disadvantaged Section, that will be a sufficient compliance of Section 12(1)(c) of the Act. The process of admission has to be in a transparent manner. But there is no particular right of a child to be admitted to a particular school is guaranteed under the Act.

35. The counsel for the petitioners placed reliance upon Article 13.3 of the International Covenant on Economic, Social and Cultural Rights, 1966 and stated that there is an obligation by the international law to provide right of the child to get admitted to a school of his choice. Article 13.3 reads as follows:

5. The States Parties to the present Covenant undertake to have respect for the

liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions. The said provision only enables the parents not to be subjected to the State law to admit only their children/wards in the Government or public school, but also have their choice to get admitted their children other than public school. It is not clear as to how the said provision is helpful to the petitioner, since that provision did not deal with any free education, but only dealt with the choice of parents to go to a school of their choice free from State compulsion.

36. In the light of the above discussion, it has to be seen whether the petitioners have made out any case for interfering with the admission procedure adopted by the contesting respondents. Admittedly, the contesting respondents are ""unaided private schools"" coming under the definition of Section 2(n)(iv). Their obligation to implement the admission to an extent of 25% for the weaker Sections and disadvantaged group only starts from Class-I or in alternative from the pre school education. Therefore, some of the petitioners' claim for admission other than Class-I is not maintainable. Further, since the stand taken by some of the schools that their admission procedure started in the month of January and had ended well during the first week of April, they were clearly exempted from the application of the Act as the Supreme Court had applied the act prospectively from 12.4.2012. In W.P. No. 13338 of 2012, the definite stand of the respondent school was that the petitioner never even made any application though application was asked to be downloaded from the website. At the time of admission, they followed the procedure of either first come first serve basis or random method. Since admissions having been completed and there being no case to interfere with the admission procedure adopted by the contesting respondents, the petitioners have not made out any case to entertain the writ petitions. Their only option is to approach the local authorities providing for free and compulsory education.

37. Even in cases where pre school admission was rejected, it is u/s 11, the appropriate Governments have been directed to provide necessary

arrangements for free pre-school education for such children. Section 11 reads as follows:

11. Appropriate Government to provide for pre-school education.- With a view to prepare children above the age of three years for elementary

education and to provide early childhood care and education for all children until they complete the age of six years, the appropriate Government

may make necessary arrangement for providing free pre-school education for such children.

38. In cases where there is any specific extent of violation of the provisions of the Act or rules, it also provides for redressal of grievance by the

competent authority and by local authorities as well as by the State Governments as set out in Section 32. Hence, the petitioners have not made

out any case to entertain the writ petitions. Further, it is the stand of the respondent schools that seats have already been filled up as per the

guidelines issued under the Act and children have already been studying in the schools. In the affidavits filed by the petitioners, there was no

concrete details regarding any improper admissions being made by the schools. The affidavits were filed in a stereotyped manner containing same

allegations even though the contesting respondents are different schools. Hence, no further probe is required with reference to the nature of

admissions made in respect of these schools. In the light of the above, all writ petitions were misconceived and bereft of legal reasons and hence,

will stand dismissed. However, there will be no order as to costs.