



Association for PARIVARTAN of Nation

PROJECT 21-A



**Report on Status of Implementation of
Section 12 (1) (c) of Right to Education Act - 2009:
Challenges faced by beneficiaries in Jharkhand.**

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PROJECT 21-A

the inclusive growth of a society, education is an effective tool evolution and development rather than being a privilege. India taken a step further by passing the Right to Education Act – 9 and making free and compulsory education a fundamental it incorporated under Article 21A of the Indian constitution. The E Act, 2009 mandates free and compulsory education for all dren between six to 14 years of age until they complete nentary education in a neighborhood school. tion 12(1) (C) of this act mandates a 25% reservation for dren from economically and socially weaker sections in private ided non-minority schools.

JECTIVES OF THE PROJECT 21 A

To spread awareness about Article 21A and Right to Education Act - 2009, notably section 12 (1) (c) of RTE Act.

Using all means possible eg- audio/visual/inter and intrapersonal to spread information regarding the reservation of seats in private unaided schools for admission under section 12 (1) (c) of RTE Act - 2009 and convincing families to sign up for the same.

To encourage maximum participation in form filling for the seats under the Sec. 12 (1) (c) of Right to Education Act - 2009, and to ensure that the process is completed smoothly by arranging the necessary documents and completing all required technicalities and formalities or by filling forms on their behalf by their consent.

Undertaking surveys of various private unaided schools, students and underprivileged people for a better understanding of the ground reality and finding out the actual level of implementation of the RTE Act.

To prepare a report upon the current implementation levels and conditions of various schools under the RTE Act and suggest the areas of improvement.

STATUS OF IMPLEMENTATION OF SECTION 12 (1) (C) OF RIGHT TO EDUCATION ACT - 2009: CHALLENGES FACED BY BENEFICIARIES IN JHARKHAND*

What is Section 12(1)(c) of RTE Act?

The Right of Children to Free and Compulsory Education Act (also known as RTE Act) was passed in 2009 by the Indian parliament. It provided for free and compulsory education for all children in the age group of 6 to 14 years, as per Article 21a of the Indian Constitution. The Act came into force in April 2010. Section 12 (1) (c) of the Act provided for reservation of 25 percent seats in all private schools at the entry level classes for children from economically weaker sections (EWS) and disadvantaged groups (DG). Admission to private school is based on the socio-economic background of the children.

Since education is part of the concurrent list, both centre and state government share the responsibility for the implementation of the Act. Unlike other countries where the parent's hold the primary responsibility for education, the Indian law places the responsibility of enrolment, attendance and completion, on the government. However, even after more than a decade of implementation, the government has grossly fallen short of its promises.



*The survey was a joint effort of APNA volunteers in Ranchi City. This report was prepared by Varsha Poddar & Hasan Al Banna with generous help from Indus Action.



Rules for implementation in Jharkhand

The Act mandates the state government to notify disadvantaged groups and weaker sections, notify per child cost (which is reimbursed to the private school) and start admissions in entry level classes in private unaided schools as per the procedure laid down by the concerned State. The Jharkhand state government laid down the Rules for the implementation of the RTE Act in 2011. However, even after a decade of laying down the rules, the realisation of the Fundamental Right to Education of children from EWS and DG remains grossly inadequate.

In Jharkhand (2021), the following groups are notified as disadvantaged – Scheduled Caste, Scheduled Tribe, Extremely Backward Class, Backward Class, Minority Communities, children with 40 percent or higher disability and orphans; and any family with annual income below 72,000 is considered as Economically Weaker Section. Till 2018, only about 8,200 children from EWS and DG were enrolled in private unaided schools. This number is a cruel joke in the state of Jharkhand, which ranks one of the highest in poverty amongst all the states in the country.



The admission process under Section 12(1)(c) appears to be fairly simple on the surface of it. The process starts with the release of a government notification, followed by filing of forms by the parents and submitting it in neighbourhood schools of their choice. Hereafter, the form is sent to the District Superintendent of Education (DSE) office who verifies the application and returns it to school. The school finally releases the list of students who are admitted.

For example, in 2021, the following dates were released:

15th January: Release of Notification

27th January – 12th February: Application available online on the DSE website

20th February: Last date to submit the hard copy of the application with all required documents in the respective schools.

28th February: Schools to publish the list of students selected for admission on the notice board.

Problems in implementation

Jharkhand based NGO, Association for the Parivartan of Nation (APNA), points out that this entire process is fraught with extreme opaqueness and several irregularities. APNA is run by young college going students who work on the implementation of Section 12(1)(c) of the RTE Act. The organisation has been conducting awareness campaigns among the slum dwellers in Ranchi, Hazaribagh and other cities since 2018. We also set up camps to assist people in filing application forms and procuring all documents at the time of admission. In August 2021, volunteers from the organisation conducted interviews with 54 families in the slums of Ranchi regarding the admission process. Based on the interview responses and more than three years of our experience, we point to several problems in the application process that have come to the surface.

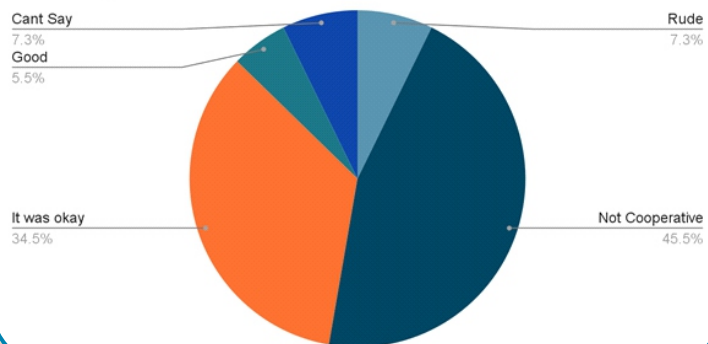
1. Lack of awareness campaigns

The lack of awareness about provisions of the RTE Act provides for the lower number of applications filled annually. The government barely conducts awareness campaigns to inform the people about the process and procedures for filling the applications. The notification is only released online and, in the newspapers, annually. Neither the schools nor the government takes any active measures to inform the people regarding existence of such a provision, let alone assisting them in the admission process. In Ranchi city, one of the latest efforts in this regard was the setting up of a camp in the collectorate building in 2020, which is extremely inadequate. Responding to the interview conducted by APNA, 76 percent of the people said that they learnt about the provision and process of the application through the efforts of APNA, primarily through the camp set up by the organisation in their slums or ward offices. Most of the other respondents got to know about the admission process from their friends or relatives. Only 1 of the 54 respondents learnt about the process from their local authority.

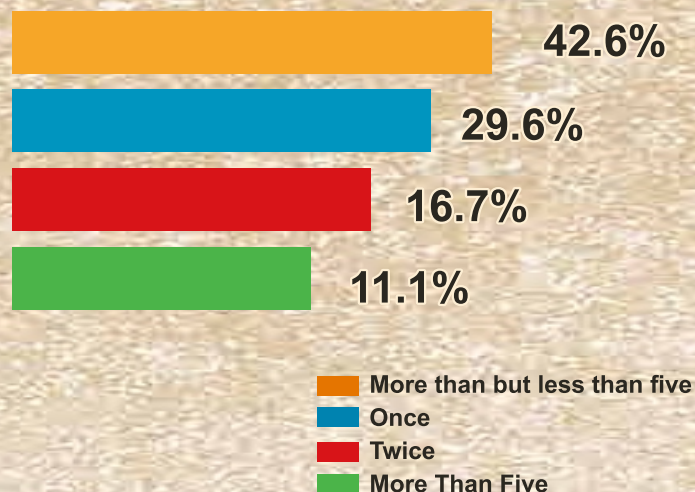
2. Short duration of the application process

The entire admission process, from the release of notification till the final announcement of admission, is done over a period of 1.5 months. After the release of the notification, parent's get only about 15 days to fill the application form and submit all their documents. This time period is not just very short, but also provides scope for a lot of corruption within the systems. The issuance of documents like income or caste certificates take much longer than the given time period. In order to get the certificates sooner, parents often have to pay hefty bribes to public officials.

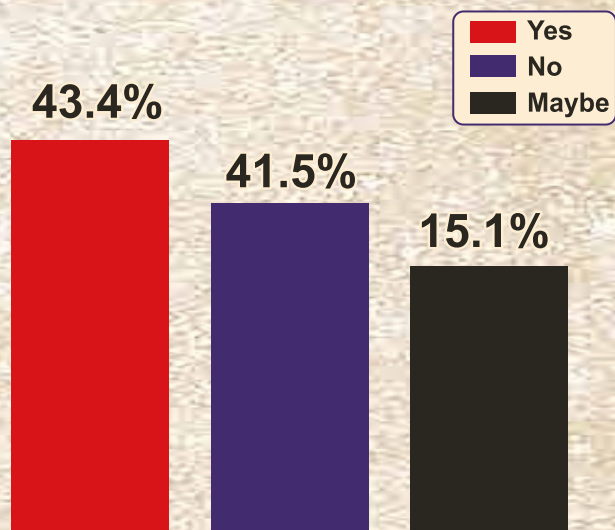
How was the behavior of the school staff and the administration towards you?



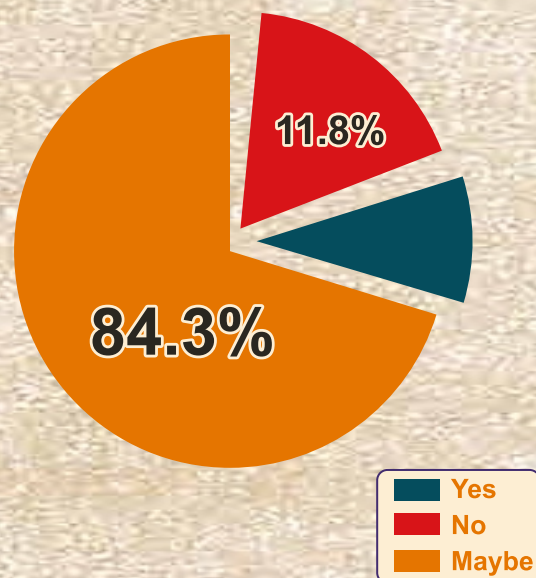
How many times did you have to visit the School to know if your child was Selected or not ?



Did the school ask documents other than prescribed by the government such as parent aadhaar Card?



Do you believe that the state Government is aware of the hardships faced by BPL Families and is deliberately turning a blind eye to this?

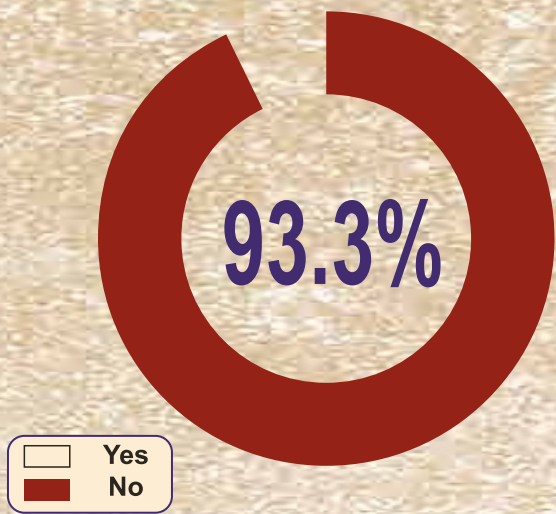


The list is usually pasted on the school wall near the main gate to prevent parents from entering the campus. Other than the list, there is no way to know if the student's application is accepted or rejected, let alone the reason for rejection.

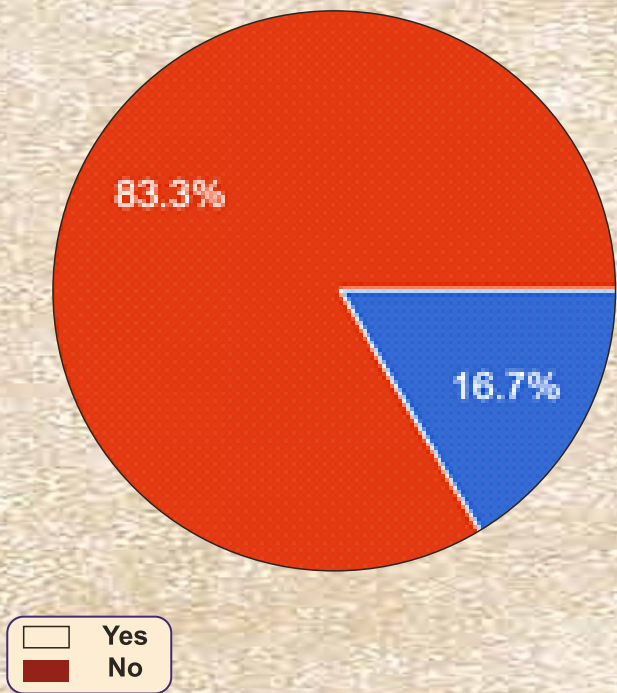
In several cases, applications have been rejected despite presenting all documents and having availability of seats, without giving any reason. Sarvesh Vardhan from Ravidas Mohalla submitted the application form in three schools - Firayalal Public School, Sachidanand Gyan Bharti Model School and Jawahar Vidya Mandir, but got rejected in all three. Reason for rejection remains unknown till date. According to a RTI reply received from DSE, Ranchi 89 percent of the application forms were rejected in 2019-20 while 74 percent of the seats remained vacant. Thus, seats are left vacant in schools, while children in the neighbourhood remain out of school or go to the closest government school. In cases where a parent's application has been rejected they do not get a second chance to apply or submit missing documents. In several states like Odisha and Rajasthan, a second round of applications are invited where parents can make corrections in the previous forms, and reapply in the schools. In Jharkhand, while the government made promises to do the same, it has never materialised on ground.



If not were you given a reason for this rejection?



Did your ward get admission?





Savita, a resident of Sirom Toli and a respondent, said matter of factly, “At the time of admission we had very little time in hand. So, in order to receive the certificate we obviously had to pay a bribe.”

The government provides for 'Tatkal services' under which one is entitled to receive the certificate sooner after applying. However, this provision is hardly employed without the officer charging a hefty bribe from the applicants. In several instances, applications are not filled for the want of documents or delay in procuring them.

3. Problems at school level

Several parents complained that they faced multiple challenges at the school during submission of the application forms. Parents complained of class and caste based discrimination at schools, for example, by keeping them out of the school campus. More often than not, parents handover the application form along with the documents to the guards and do not get any acknowledgement receipt for the submission. Lakshmi Devi from Murma and Rajesh Ram from Ravidas Mohollah, were denied entry in Delhi Public School, Ranchi.

Families rarely get a chance to meet any administrative staff regarding any queries about the process, timelines, documents, etc.

One of the primary problems is the absence of any help desk or assistance at schools. When Rajesh Ram went to Oxford school to submit the documents, the person in charge refused to accept his form and documents, without giving him any reason. It was only after a government officer from Jharkhand Education Project Council intervened, that the school accepted the form on the next day. However, the child did not get admission.

In some cases, the school asked parents to submit extra documents than what was listed in the government notification. For example, several parents from Jagannathpur complained that despite submitting caste certificates and BPL ration cards, schools demanded income certificates to be submitted without which they refused to accept the application form. This goes against the guidelines issued by the DSE.

4.No application tracking system

Once the parents submit the application form at the school, they are completely disconnected from the entire admission process. They are not informed about the stages involved in the process or where and to whom the application is forwarded. Parents or guardians receive absolutely no message (either on phone, email, letter, etc.) on the status of the application. Other than lack of information, this also leads to several irregularities in the verification process. The government mandated certain criterias for verifying and allowing admission are flouted at the discretion of the schools. Further, schools do not inform the applicants about the date of the result and parents often have to visit the school multiple times, missing several days of work, to check if the admission list is released.

5. Financial Burden on the family

The process of application takes a toll on the finances of the family. Filing the application form, arranging all the documents to be attached, submitting the form at school and making multiple rounds in each school to check the result, means missing several working days for families who earn their living on daily wages.

Subhadra Devi from Jagannathpur works as a maid in people's homes. She said, "The government must visit our slum sometime and see the condition here. People here work as maids, drivers or coolies on daily wages. In my third visit to Kairali Public School, I was informed that my child's application was rejected. When we miss two days of work, we have no food to feed our family. I have four daughters and not a very supportive husband. How am I to manage in this situation? If availing the scheme means loss of wages, the scheme is of no use to us."



Subhadra Devi

Furthermore, due to the short duration of the application form, parents often have to pay bribes at government offices or an increased fee to arrange all the documents. For example, the application process mandates an annual income certificate of 72,000. This is very difficult to procure because a regular income certificate is issued for an income slab of 96,000. Parents often end up paying bribes to receive this certificate.

A resident of Jagannathpur, on the condition of anonymity, said that he paid Rs.4,000 to get the income certificate issued. However, the school did not accept his form. This mandate of 72,000 income is not just absurd but also extremely hypocritical of the government, which provides for an income of 2.5 lakhs as eligibility for multiple educational scholarships. In Delhi, Maharashtra and Uttar Pradesh, the income slab for EWS families is set at Rs. 1 lakh while in Bihar it is 2 lakhs.



DEMANDS FOR PROPER IMPLEMENTATION OF SECTION 12(1) OF THE RTE ACT

For true implementation of RTE 12(1)(c), we have analyzed its subcomponents after discussion with the beneficiaries and other NGOs working in different states as well as a comprehensive analysis of various state policies and judgements of both Supreme Court and High Courts of different states. Based on the consultation, we demand the following changes to be implemented with immediate effect:

1. DISADVANTAGE GROUP:

Provisions: As per Section 12(1)(c) of the RTE Act, “a school shall admit...children belonging to weaker sections and disadvantaged groups in the neighborhood and provide free and compulsory elementary education till its completion”. Section 2, Clause (d) of the law defines “child belonging to disadvantaged groups” as “[a child with disability or] a child belonging to the Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class or such other group having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factor, as may be specified by the appropriate Government, by notification”. This implies that the state government is empowered to notify disadvantaged groups and weaker sections owing to various factors as mentioned in the law. Based on this as compared to the current rules, we have the following demand:



Jharkhand (Current Rules)	Disadvantage Group	Recommendation
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The 2021 notification by the DSE notifies the following:-

Disadvantaged Groups: ST, SC, OBC, Orphan, Disabled (>40%), Minority,

- Weaker Section: EWS

Target Beneficiary groups include: -

- Disadvantaged Groups: SC, ST, PVTG (Particularly Vulnerable Tribal Groups), OBC (NC), Minority, Orphan, Disabled, Transgender, CNCP (*Children in need of care and protection*), children of single women, HIV affected children

- Weaker Section: EWS category

Relevant Case Laws:

- In Pramod Arora vs Lt Governor of Delhi, 2014 the HC earmarked 3 percent seats in private unaided schools, within the 25% quota, for Children with Special Needs (or CNCP)
- In Naz Foundation Trust vs Union of India 2009, the SC asked the state governments to consider issuing a notification to include children living with or affected by HIV as belonging to disadvantaged groups.

2. WEAKER SECTIONS:

Provision: According to Section 2 (e) of RTE Act - 2009, “child belonging to weaker section means a child belonging to such parents or guardian whose annual income is lower than the minimum limit specified by the appropriate Government, by notification”.

Jharkhand Income limit EWS (Current Rules)

Rs. 72,000/- & BPL card (Difficult to acquire income certificate by guardian as Rs.72k is very low and such a certificate is not issued generally).

Recommendations

In case of disadvantaged groups:

1. There should be no income limit for SC, ST, PVTG, Orphan, Disabled, Transgender, CNCP, children of single women, HIV affected children.
2. OBC (NC) and Minorities should have to fulfil the income limit of weaker section
3. Weaker Section: The maximum income limit for the economically weaker section should be increased to Rs. 1,50,000.
4. Even after enrolment of the above groups, if the seats remain vacant, children of any section whose parents/guardian's income from all sources are maximum Rs. 2,50,000/- should be considered for admission.

Relevant Case Laws:

- **In, Haryana Progressive School Association vs State of Haryana, 2015**, Supreme Court upheld the validity of Rule 134A which granted the reservation for meritorious students belonging to the Economically Weaker Section, and stated that it is complementary and supplementary to the RTE 2009 Act.

3. ENTRY GRADE:

Provision: As per Sec 12(1) (c) “a school shall admit in class 1, to the extent of at least 25% of the strength of that class...”

Jharkhand Income limit EWS (Current Rules)

Entry class:

- a) Lowest Class in respective school (Pre-Nursery, Nursery, KG, Prep, Class 1)
- b) Age
 - . Nursery/LKG: 3.5 to 4.5 Yrs
 - . Class 1 - 5.5 to 7 Yrs

Recommendations

- Several schools underreport the total admissions each year. To counter this, 25% seats should be calculated based on the last 3 years of average admissions at the entry-level classes.
- **Entry Class: Lowest class in the respective school**
 1. Pre-Nursery
 2. Nursery
 3. KG
 4. Prep
 5. Class 1
- **Entry age to any Pre-primary class -- 3.5 to 6 years**
- **Entry age to Class 1 - 5.5 to 7 years**
- **Age relaxation - 5 years to CNCP, disabled, orphan & HIV+.**

Relevant Case Laws:

- In *Soujanya Patel Trust and others vs State of Karnataka and others, 2017* & *Sudheer Kumar vs State of UP and others, 2017*, the honourable Court held that Reservation to the extent of 25% under the RTE Act applies to both the entry levels of
- Pre-primary and Class 1.

4. DOCUMENTS REQUIRED AND VERIFICATION PROCESS:

Provision: The Act does not explicitly mention document verification.

Jharkhand Documents required (Current Rules)

Documents Verification at school & DSE office

Documents Required:

Child's Age Proof,
Residence proof,
Caste Certificate
Income Certificate etc.

Recommendations

List of Documents required should be as follow:

1. Certificate for Disadvantaged Group (DG):

1. SC/ ST/ OBC certificate or affidavit of parents,
2. HIV+ and disabled children require a medical certificate,
3. District certification for CNCP Self or guardian certification for orphans, transgender, child of a single women and minorities.

2. Income Proof for Weaker Sections, OBC and Minorities:

Three types of Ration card - Red "Priority" National Food Security Act (NFSA) Card, Yellow Antyodaya Anna Yojana (AAY) Card, Green Jharkhand State Food Security Scheme (JSFSS) Card OR *Income Certificate*.

3. Address Proof of Guardians:

Aadhar card, Voter ID, NREGA job card, Ration card (Green, Yellow, Red), Driving license, Electricity bill, Rent agreement, Bank passbook, Letter by Ward Parshad or Gram Panchayat or affidavits of guardians.

4. Age Proof:

Birth certificate, Nursery/ Pre-school/ KG certificate, Letter issued by Anganwadi/ Hospital/ Nurse/ Midwife or Affidavit by Guardian/Parent

** There must be a provision where respective Dist. Education office will share a list of selected students with the school after document verification, and the school CANNOT deny any admission based on any documents.*



5. Preference for Admission:

Provision: Applications are usually admitted based on a lottery system incase of no. of applications exceeding the number of seats. However, this system is very opaque in Jharkhand where a large no. of seats each year is left vacant. Government or School, hardly give reasons for rejection of application or the preference criteria for selecting some applications vis-a-vis the others.

Jharkhand selection criteria (Current Rules)

Distance Criteria only:

- ❖ 0 - 1 km range
- ❖ 1 - 3 km
- ❖ 3 - 5 km

Note: No criteria for equal representation of various groups.

Recommendations

Preference of Order Should be as follow:

- 1.CWSN
 - 2.Orphans
 - 3.HIV+
 - 4.PVTG
 - 5.Transgender community
 - 6.SC/ ST/ OBC
 - 7.Minority
 - 8.EWS
- Preference should be given to lesser income.
 - Preference will be given to girls in all admissions over boys.
 - Houses within 5 kms should get preference in the admission/lottery but distance should not be a criterion.

6. APPLICATION, ADMISSION, TIMELINE & PROCESS:

Jharkhand Admission Process (Current Rules)

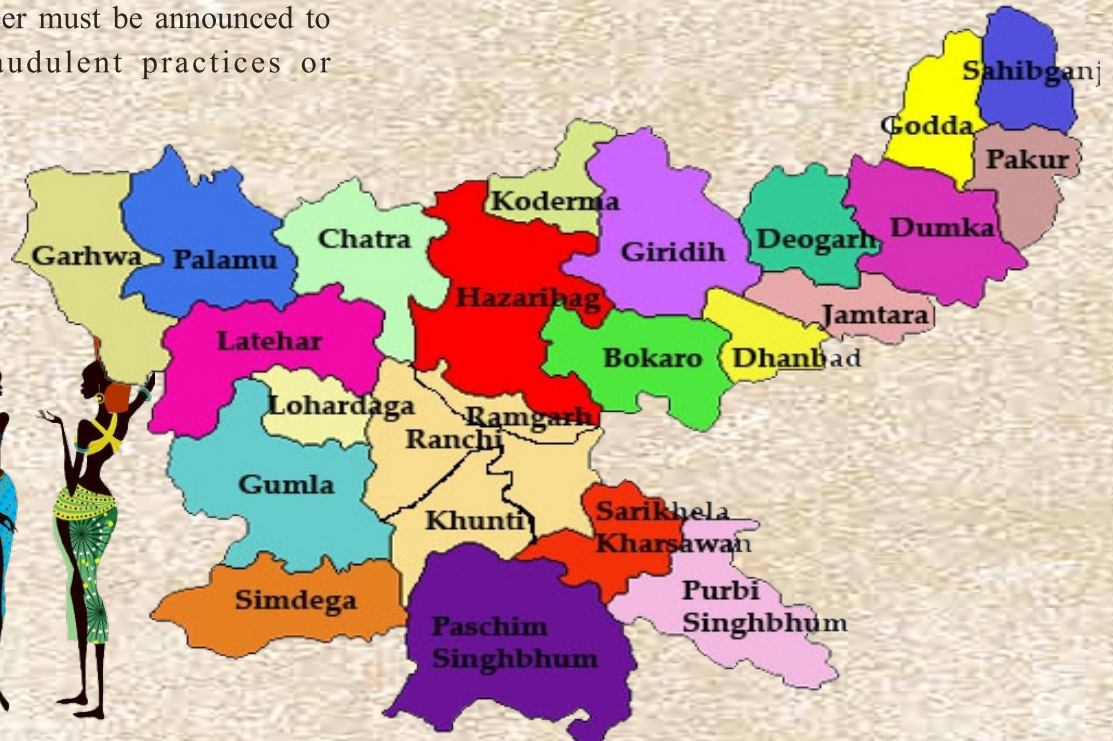
- 1 - One stage admission.
- 2 - Only one admission round results in vacant seats.
- 3 - Admission timelines are different for all districts.
- 4 - Mode of Admission (Online/offline) is different for all districts.
- 5 - No application tracking system.

Recommendations

- 1 - The admission procedure should be completed before the month of December/January every year before the regular admission cycle. Unless admissions under 25percent is complete, no new admissions should be allowed.
- 2 - The time period from the release of the notification to the final release of the list should be at least 90 days or 3 months. Multiple awareness campaigns must be held and people should be assisted in filing the application forms.
- 3 - Punitive action must be taken for schools that fail to register themselves or those that report lesser seats than actual admissions, under sec. 12 (1) (c) of RTE Act.
- 4 - Number of admission rounds must be increased, and applicants should get a chance to make corrections to their forms, to ensure all the vacant seats get filled.
- 5 - Application process must be shifted online to an integrated state system with proper tracking mechanisms, like in the case of most other states. Physical submission of forms should be completely eliminated.

Other Recommendations:

1. The government must organise camps in each ward office and slums to spread awareness about the provision of the Act, procedure of application and the documents to be appended with the application form. The camps must assist people by informing them where and how documents can be procured.
2. All application forms must compulsorily be submitted to the government, through an online portal, and the role of school in the process of verification and release of result must be minimised. These submissions must go to the government directly for verification. Further, the government must send a list of successful applications to the respective school. Further, the criteria that takes precedence over the other must be announced and the process must be transparent.
3. A grievances redressal officer must be announced to take complaints of fraudulent practices or misbehaviour by schools.





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