

Environmental & Consumer Protection Foundation v Delhi Administration & Others (Supreme Court of India; 2012)

Case at a glance

Full citation

[Environmental & Consumer Protection Foundation v Delhi Administration & Others \[2012\] INSC 584](#)

Forum

Supreme Court of India

Date of decision

3 October 2012

Summary of decision

In response to a petition filed by an Indian charity, the Supreme Court of India directed the governments of all States and Union Territories to ensure that all schools, whether private or state-run, provide proper toilet facilities, drinking water, sufficient classrooms and capable teaching staff.

Significance to the right to education

The court held that, under the [Right of Children to Free and Compulsory Education Act \(2009\)](#) and the [Indian Constitution](#), central, state and local governments have an obligation to ensure that all schools, both public and private, have adequate infrastructure. Adequate infrastructure includes safe drinking water, toilet facilities for boys and girls, sufficient class rooms and the appointment of teaching and non-teaching staff.

Issues and keywords

Quality; Infrastructure; Minimum educational standards; Regulation of private education providers; Toilet facilities; Duties of non-State actors, State duties

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Context

Lack of adequate sanitation and infrastructure in schools has long been identified as a significant barrier to the right to education in India. In particular, studies suggest that the lack of water and toilet facilities is a common reason for low enrolment rates and drop outs, especially for girls. As of 2013-2014, approximately [250,000 or 18%](#) of all private and state-run schools across India lack toilet facilities – in poorer states, such as Arunachal Pradesh, this figure is as high as 72.5%.

In 2009, the Indian Parliament enacted the [Right of Children to Free and Compulsory Education Act](#) (RTE Act), pursuant to Article 21-A of the [Indian Constitution](#). The RTE Act guarantees a fundamental right to free and compulsory education for children aged 6-14, and sets out the specific responsibilities of centre, state and local governments for its implementation. Among other provisions, the RTE Act establishes that it is the duty of the relevant state or local authorities to ensure the availability of 'neighbourhood' schools and to provide infrastructure, including school buildings and learning equipment.

[Article 21-A of the Indian Constitution](#)

“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. “

Facts

This case was originally filed in 2004 by the Environmental & Consumer Protection Foundation (ECPF), an Indian charity, against the government. The ECPF sought various court orders to improve conditions in schools across India under Article 21A of the Indian Constitution.

In its petition, the ECPF alleged that the right to education was not being implemented and that poor facilities were impeding children's access to education. In particular, the ECPF was concerned that lack of separate and adequate toilet facilities was discouraging girls from attending school.

While the case remained pending before the Court, the Indian Parliament passed the 2009 RTE Act, and on 12 April 2012, the Supreme Court issued a judgment in [Society for Unaided Private Schools of Rajasthan v Union of India and Another](#). In this judgment (a summary of which is available on the Right to Education Project website by clicking the link above), the Court upheld the application of the RTE Act against private schools.

Issue

The issue before the Supreme Court was whether the failure to provide toilet facilities constitutes a violation of the right to free and compulsory education for children under Article 21A of the Indian Constitution and under the RTE Act.

Decision

In its judgment, the Court held that the right to education cannot be enjoyed unless basic infrastructure is provided. In particular, the Court ordered that the governments of all States and UTs must ensure that all schools, whether private or state-run, provide proper toilet facilities, drinking water, sufficient classrooms and capable teaching staff. The Court set a deadline of six months within which all governments were to ensure adequate infrastructure in all schools.

"It is imperative that all schools must provide toilet facilities. Empirical researches have indicated that wherever toilet facilities are not provided in schools, parents do not send their children (particularly girls) to schools. It clearly violates the right to free and compulsory education of children guaranteed under Article 21A of the Constitution".

Prior to this judgment, the Court had issued a number of interim orders directing the governments of the States and Union Territories (UTs) to provide basic infrastructure in schools, including toilet facilities, drinking water and class rooms to ensure clean and healthy school environments.

In a series of interim orders issued from April 2011 to October 2012, the Court ordered all States and UTs to ensure that toilet facilities are available in all schools. Where permanent toilet facilities were not possible, the Court stated that States and UTs should at least provide temporary facilities until permanent toilets could be constructed.

The States and UTs were further ordered to file affidavits outlining the situation of sanitation in schools within their territories. A number of States – including Tamil Nadu, Gujarat and Rajasthan – did not comply with the Court’s order and did not file any affidavits. However, a number of States that did file affidavits indicating that not all schools had toilet facilities. The Court therefore stated that if its directions were not fully implemented, aggrieved parties may apply for appropriate orders.

In its reasoning that both public and private schools must provide adequate infrastructure, the Court relied on the previous judgment in [Society for Unaided Private Schools of Rajasthan v Union of India and Another](#).

Commentary

This decision affirms that the right to adequate infrastructure, including sanitation facilities, is a fundamental component of the right to education. It stands for the principle that, in order for the right to education to be fulfilled, education must be administered in a safe and clean learning environment.

Furthermore, the decision reaffirms the States’ obligation to ensure adequate infrastructure in schools, including both public and private schools. It supports the principle that the State has a duty to monitor and ensure that private schools comply with national legislation and that it cannot avoid this duty, even where a public service is provided by non-State actors.

The decision is also in concert with a [2013 report](#) of the Special Rapporteur on the right to education on Justiciability and the Right to Education, submitted to the UN Human Rights Council. The report states that: “All providers of education—public or private—remain accountable for respecting the right to education in its various dimensions”.

Related Cases

[Society for Unaided Private Schools of Rajasthan v Union of India and Another \(2012\) 6 SCC](#)

In this decision, which was issued 6 months prior to *Environmental & Consumer Protection Foundation v Delhi Administration*, the validity of the RTE Act was challenged by a group of private (unaided) schools. The validity of RTE Act was upheld by the Court, allowing the State to impose obligations on private schools in fulfilment of the right to education under Article 21-A of the Constitution.

Relevant Legal Provisions

National

- Article 21-A, [Constitution of India](#)
- Section 8, [Right of Children to Free and Compulsory Education Act 2009](#)

International

- Article 26, [Universal Declaration of Human Rights](#)
- Article 28, [Convention on the Rights of the Child](#)
- Articles 13 and 14, [International Covenant on Economic, Social and Cultural Rights](#)

Additional Resources

Right to Education Forum, March 2014. [*Status of Implementation of the Right of Children to Free and Compulsory Education Act, 2009: Year Four \(2013-14\)*](#).

BBC News (3 October 2012). [*Indian court orders toilets to be placed in all schools*](#). Available [here](#).

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