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## **CASE COMMENT: DINESH BIWAJI ASHTIKAR v. STATE OF MAHARASHTRA ON 13 JANUARY, 2026**

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### **ABSTRACT**

This paper critically evaluates the Supreme Court's ruling in Dinesh Biwaji Ashtikar v. State of Maharashtra<sup>1</sup> in the context of implementing section 12(1)(c) of the Right of Children to Free and Compulsory Education Act, 2009. The provision compels private unaided neighbourhood schools to allocate at least twenty five per cent of entry level admissions for children from economically weaker and disadvantaged categories, thereby implementing the constitutional guarantee under Article 21A<sup>2</sup>. even though the petitioners individual claim no longer survived, the court utilised the case as precedent setting vehicle to remedy the structural barriers like technological exclusion, procedural inflexibility, opacity, and deficient grievance redressal systems. Stressing education as a positive constitutional right accompanied by obligations on the states and private schools, the court stressed the significance of inclusive education to foster equality and fraternity. It mandated the establishment of binding rules under Section 38 to ensure uniform and effective implementation of the statutory requirement across India.

**Keywords:** Right to Education, Neighbourhood Schools, weaker and disadvantaged categories, positive constitutional right Inclusive Education.

### **BRIEF INTRODUCTION AND FACTS OF THE CASE**

The petitioner in this case applied for his children's admission under the twenty five per cent quota allocated to children from weaker and disadvantaged groups in a private unaided school under Section 12(1)(c) of the Right of Children to Free and Compulsory Education Act, 2009. In the year 2016, he approached the concerned school to avail free and compulsory elementary education for his children. Here the petitioner contended that, the details were obtained through

<sup>1</sup> Dinesh Biwaji Ashtikar v. State of Maharashtra, SLP (C) No. 10105 of 2017, 2026 INSC 56 (India)

<sup>2</sup> **Constitution of India art. 21A** (as inserted by The Constitution (Eighty-sixth Amendment) ct, 2002) (India)

an application under the said Act and it demonstrated that seats under the twenty five per cent category were available. Despite the availability of seats, the school denied admission. The petitioner belonged to an economically weaker and disadvantaged section, and his residence fell within a three kilometres of the concerned neighbourhood school. The Primary Education Officer of the Zila Parishad, Gondia addressed a communication recommending the admission of the children notwithstanding the failure to comply with the online admission procedure. However the High Court dismissed the petitioner's writ petition under Article 226 observing that the petitioner had not followed the prescribed online procedure. Dissatisfied with the decision of High court, the petitioner preferred a Special Leave petition before the Supreme Court. By the time the appeal came up for consideration, several years had elapsed and the individual relief had ceased to survive, prompting the court to examine the broader question of implementation of Section 12(1)(c).

### CONTENTIONS OF THE PETITIONER

- 1. Violation of Section 12(1)(c) of the Act<sup>3</sup>:** The petitioner in the case stated that the children were qualified for admission under the said twenty five per cent quota provided under Section 12(1)(c) of the 2009 Right of Children to Free and Compulsory Education Act. Three important factors should be taken into account that is, the petitioner lived within 3 km of the concerned neighbourhood school and he belonged to a weaker disadvantaged group. Most importantly, there were almost 648 vacant seats available. Even then, the admission was denied.
- 2. Procedure cannot Defeat Fundamental Rights:** He argued that the non-compliance with the online application process cannot curtail the fundamental rights protected or guaranteed under Article 21A of the Constitution.

### CONTENTIONS OF THE RESPONDENTS

- 1. Non Compliance with the online Procedure:** Here, the state clearly says that the admission under Section 12(1)(c) of the Act must be processed strictly in accordance with prescribed online system. Since the petitioner had not complied with the online application requirement, he was not entitled to claim relief.
- 2. Existing Regulatory Framework:** The state relied upon the prescribed SOPs and procedural frameworks to maintain fairness and uniformity in the admission process.

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<sup>3</sup> Right of Children to Free and Compulsory Education Act, No. 35 of 2009

## CRITICAL EVALUATION OF THE SUPREME COURT'S JUDGMENT

1. **Matter Became Infructuous:** The court noted that the lapse of time had made it impracticable to grant effective personal relief to the petitioner. Consequently, the petitioner's admission dispute becomes infructuous.
2. **Section 12(1)(c) has a transformative impact:** The court concluded that Section 12(1)(c) of the Act is more than a procedural norm,; it is a constitutional mechanism to operationalize Article 21A of the Constitution. It highlights that the twenty five per cent of seats or reservation in the neighbourhood school advances equality, dignity and fraternity.
3. **SOPs are insufficient:** The court stated that the SOPs which were issued by the authorities are just guidelines only and the same does not have any binding force. So in the absence of enforceable rules, the mandate of Section 12(1)(c) may lose its effectiveness or become ineffective.
4. **Direction to Frame Rules:** The court has directed the states and the Union Territories to formulate binding rules and regulations under Section 38 of the RTE Act, after consulting the NCPCR<sup>4</sup> and SCPCR to facilitate effective implementation. Also the court further instructed the NCPCR to obtain information from the states and present a compliance affidavit to the court.

### CONCLUSION

The Supreme Court issued a progressive and authoritative affirmation of the constitutional requirement for inclusive education under Section 12(1)(c) of the Act. However, its effectiveness depends on the framing of appropriate rules and implementation by the executive authorities. Here the Apex court clearly highlights that the right to education is a fundamental instrument of social justice, transcending formal legal entitlements to influence societal norms. Emphasizing systemic reform over individual grievances, the court acknowledged the tangible difficulties experienced by the disadvantaged children. By insisting on binding rules, accountability and emphasizing transparency, the court converts the RTE Act into an operational tool rather than a mere policy statement. This approach transforms schools not merely centers of education, but as instruments promoting social cohesion, equality and inclusive development, establishing a benchmark for progress in India's education system.

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<sup>4</sup> National Commission for Protection of Child Rights (NCPCR), India.