

15 June 2015

The Additional Director Education (Act-I)

Directorate of Education

Old Secretariat

New Delhi-54

Subject- Comments on and suggestions to the proposal for amendment in Sections 17, 24 & 27 of Delhi School Education Act 1973 and Amendment in Rule 145 of Delhi School Education Rules, 1973.

Dear Madam/ Sir:

This letter is with reference to the comments/suggestions requested by the government of NCT of New Delhi vide public circular number No. DE/15(281)/Act-I/2013/15/1446 dated 11-06.2015 for the proposal for amendment in Sections 17, 24 & 27 of Delhi School Education Act 1973 and amendment in Rule 145 of Delhi School Education Rules, 1973.

With respect to the proposed Subsection 13 to Section 17 of the DSEAR, 1973.

With reference to Section 17 of the Delhi School Education Act 1973, the proposed Subsection 13, it is felt that it is unnecessary and prone to misuse by any person with mala fide intension, especially if the said person is in a position of power; here the Director.

Any policy must leave minimum scope for arbitrariness in the process of decision-making. It is well established that unbridled power in the hands of a few eventually leads to misuse and abuse of power, however well intentioned the law granting such power may be.

In Subsection 3 of the Act, the Director will oversee and approve the fee structure presented by the Manager of a recognized unaided school before the start of an academic session. The school cannot levy fee in excess of the approved amount except when prior approval by the Director has been provided. The newly proposed Subsection 13 provides blanket power to the Director to control the fee charged by schools. There is no restriction to how and during which time of the academic year he would be allowed to exercise this authority. Therefore, he will now have the authority to change the fee structure and the frequency of levying fee at any time during the academic session. Similarly the Subsection does not define a particular period before, after or in the middle of an academic session when new guidelines for fee collection could be issued. In essence, Subsection 13 provides enormous power to the Director without necessary inbuilt safeguards to limit the use of that power only to the extent it does not defeat the educational purpose of the schools. In the hands of a noble being, this power would surely benefit students and parents. However, in the hands of a corrupt official or one who is influenced by extraneous considerations, this power would hamper quality and objectivity in schooling. For instance:

- Schools will be unable to plan a concrete fee structure
- There would be no predictability in revenue planning
- School authorities would be afraid of new guidelines issued by the Director

Therefore, this amendment would take us back to the period of License Raj.

The Director is not in the best position to decide the fee as each school functions differently in terms of resources, services provided, future plans etc.

A good policy should be such that the process espoused would minimize damage to public welfare irrespective of the integrity, efficiency and competence of the official exercising power over others. This proposed amendment, though well intentioned, fails this test and the magnitude of power assigned to the Director would occlude the efficient functioning of schools.

With respect to the proposed Subsection 4 to Section 24 of the DSEAR, 2015

The government has endeavored to provide quality education to the citizens at affordable price. However it has been unsuccessful in running schools efficiently and in providing quality education. There have been case studies highlighting rampant student and teacher absenteeism. A few months back, the Deputy Chief Minister, during an inspection of a state government run school found forged bills with salaries to non-existent teachers. With respect to the amendment to **Section 24** with the substitution of Subsection 4, taking over the management of a private school, even if it is not functioning well, is not the solution. If the objective of the amendment is to secure the interest of students, takeover of school management would not fulfill that objective. A better solution would be the establishment of an incentive system to propel schools towards improving performance.

India Institute has already suggested a system of Graded Recognition to the Delhi government as part of the document titled "Delhi School Education Agenda- India Institute Recommendations" submitted to the Honourable Chief Minister in March 2015.

Graded Recognition System- Separate criteria for recognition of quality low cost private schools: Replace the policy of one-size-fits-all input based recognition system with a more flexible and practical input cum-outcome based recognition system for both government and private schools, and categorize schools with stars or grades (as the UGC categorizes universities) at five year intervals. This will correct the anomaly of forcing elite private schools that charge in lakhs and affordable private schools that charge in hundreds to conform to the same set of norms for recognition.

According to Subsections 3 and 4 of Section 24, a School Manager is penalized when he is unable to rectify any defect in the functioning of school found during inspection. However the proposed amendment seeks to penalize the School Manager for disobeying ANY direction given by the Director or any committee/authority under the Act, that is, it does not restrict this punishment to failure to execute an order of the Director to rectify a defect found during an inspection. So this amendment too provides blanket power to the Director that can be easily misused and abused by a corrupt official.

With respect to the proposed Section 27A of the DSEAR, 2015

Section 27 of the Act deals with punishment to school managers who do not comply with the orders of a tribunal or present a student for higher secondary examinations without following due procedures given in Section 19 or do not hand over any school property to the government

in case of a take over of the school by the government. Thus the existing provision is specific about the definition of the offence for which the manager will be liable for punishment. However, the proposed Section 27A seeks to make the manager liable for severe punishment- imprisonment for minimum 3 to maximum 7 years and/or fine from one lakh to five lakhs- for not complying with ANY provision of the Act. This provision is not in accordance with the established principle of proportionality in punishment to specific offences. As per literal interpretation of the proposed provision, manager of a school would be liable for imprisonment for a minimum of three years and/or fine of a minimum of one lakh if he allows a student with an attendance shortage to sit for a class 12 exams. Because such an action would contravene Section 27(b) of the Act. While the intention of this amendment could be to ensure that schools follow rules, this provision, if enacted, would act as an obstacle for enterprising individuals who wish to open and run schools.

With respect to the proposed Rule 145 of the DSEAR, 2015

The amendment proposed for Rule 145 of the Delhi School Education Rules 1973 grossly undermines the autonomy of unaided institutions. According to the Rule in the present form, the head of an unaided institution is the sole regulator of admissions to the school. The new Rule seeks to deprive the school of the power to regulate admissions to students wishing to join the school. Instead it gives the Director the power to regulate admission in all recognized schools. This provision would mean the Director would run all private schools of the state while not being accountable to anyone as he is not responsible for the quality of service, or ensuring minimum revenue to meet expenses or the reputation of any school in the community. Even as there are several serious problems in the running of government schools, this amendment seeks to effect partial takeover of unaided schools. Private schools that do well do so because their leaders are committed and competent. Taking over their powers to run the school is most likely to open new avenues of corruption and deprive the people of well-run private schools.

These are some suggestions to the amendments proposed for Sections 17, 24 and 27 in the Delhi School Education Act 1973 and Rule 145 in the Delhi School Education Rules 1973. We hope that these suggestions would be given due consideration and the government would revise the proposed amendments. This would be imperative for providing efficient schooling and quality education to all students in Delhi.

I am also attaching here for your reference the recommendations for the sector that we presented to the government in March 2015.

Thank you.

Yours truly,



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