



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-20529-2025 (O&M)

Date of decision: 14.01.2026

Master Zaki Iqbal (Minor) through natural guardian father Sarvar Khan
and anotherPetitioners

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Gaurav Chopra, Senior Advocate (*Amicus Curiae*) with
Mr. Rishabh Bajaj, Advocate,
Mr. Vardhan Sethi, Advocate.

Mr. Sahil R. Bakshi, AAG, Punjab.

KULDEEP TIWARI, J. (Oral)

1. A 10-year-old child, through his father, has knocked the doors of this Court seeking issuance of directions to the respondent No.4-School to admit him in Class 3 under the 25% quota earmarked for children belonging to the weaker sections of society. The petitioner has further prayed for issuance of directions to the respondent No. 1 to ensure that free and compulsory elementary education, as envisaged under Section 12 of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the 'Act of 2009'), is made available to him by the respondent No. 4-School.

2. Succinctly stated, the petitioner was initially admitted to the respondent No.4-School in Class 1 under the "General" category, and at no point in time did he seek admission under the "Economically Weaker Section" category. Thereafter, the parents of the petitioner requested the respondent No. 4-School to promote him directly from Class 1 to Class 3, taking into account his age and abilities. The request was considered, and he was found eligible in all respects for promotion to Class 3. However, the petitioner did not attend school during the first term, and the plea taken before this Court in this regard is that his parents were unable to bear his



school fees and other educational expenses. Resultantly, a prayer has been made that the petitioner be allowed to continue his education by virtue of Section 12 of the Act of 2009, which casts an obligation on all unaided schools, not receiving any grant or aid, to admit, to the extent of at least 25%, children belonging to the weaker sections and disadvantaged groups.

3. Upon analysing Section 12 of the Act of 2009, this Court is, *prima facie*, of the opinion that the obligation cast upon schools defined under Section 2(n)(iii) and (iv) of the Act of 2009 is to provide free and compulsory elementary education to children belonging to the weaker sections and disadvantaged groups in their neighbourhood, to the extent of at least 25% of their strength.

4 The learned *Amicus Curiae* submits that the State of Punjab framed The Punjab Right of Children to Free and Compulsory Education Rules, 2011 (hereinafter referred to as the 'Rules of 2011'), which confer discretion upon the schools referred to in Section 2(n)(iii) and (iv) of the Act of 2009 to admit children belonging to weaker sections and disadvantaged groups. At the time of obtaining initial admission in Class 1, the petitioner may not have applied to the respondent No. 4-School under the Rules of 2011.

5. He further submits that the Rule 7(4) of Rules of 2011 were found to be in conflict with the statutory Rules by a Division Bench of this Court in CWP-PIL-285-2024, and, as a result, an interim direction was issued that all private unaided recognized schools satisfying the criteria laid down in Section 2(n)(iv) of the Act of 2009 shall reserve 25% of the seats in Class I for children belonging to weaker sections and disadvantaged groups residing in the neighborhood of the school, so as to provide free and compulsory education. The relevant portion of the interim order dated 19.02.2025 is extracted hereunder:-

“The public cause raised in this PIL is by challenging the provisions of Rule 7(4) of “The Punjab Right of Children to Free and Compulsory Education Rules, 2011” (hereinafter referred to as “Punjab RTE Rules, 2011”) which is reproduced for ready reference and convenience below:



“Rule 7 (4) All admissions of the children belonging to the weaker section and the disadvantaged group shall be made by the school itself. If such children are unable to get admission in the schools referred to in sub-clauses (i) and (ii) of clause (n) of section 2 due to non-availability of seats or for any other reason, then their parents or guardians may apply to get admission in the schools referred to in sub-clauses (iii) and (iv) of clause (n) of section 2 against the twenty-five per cent seats reserved for them. Admission to these seats shall be made by a draw of lots.”

The petitioner represented by Sh. Jagmohan Singh Raju, contends that the restrictions placed by Rule 7(4) of Punjab RTE Rules, 2011 is abhorrence to and virtually nullifies the concept of Right to Education especially extended constitutionally to children belonging to weaker sections and disadvantaged group. He further contends, by referring to Section 12(1)(c) of Right of Children to Free and Compulsory Education Act, 2009 (in short “the RTE Act, 2009”) that it is obligatory for all schools described in sub clause (iv) of Clause (n) of Section 2 Right of Children to Free & Compulsory Education Act, 2009 (2009 Act for brevity) to reserve 25% of the strength of Class I to be filled up by children belonging to weaker sections and disadvantaged group living in the neighbourhood to provide free and compulsory education.

Prima facie, it appears that the provisions of Rule 7(4) of Punjab RTE Rule, 2011 is in the teeth of the Section 12(1)(c) of the RTE Act, 2009. It is settled by the principles of interpretation of statute that in case of conflict between statutory rules and the Act, the Act prevails.

In view of above, as an interim measure it is directed that all private unaided recognised schools satisfying the criteria laid down in sub clause (iv) of Clause (n) of Section 2 of 2009 Act shall reserve 25% of seats in Class I, to be filled up exclusively by children belonging to weaker sections and disadvantaged



group living in the neighbourhood of the school to provide free and compulsory education.

The functionaries of State of Punjab are directed to ensure compliance of this order for admission to 2025-26 session.”

6. The learned *Amicus* asserts that although the obligation on schools under Section 12 of the Act of 2009 has existed since the date of its coming into force, Rule 7(4) of the Rules of 2011 somewhat dilutes that obligation. By referring to the guidelines issued by the State of Punjab for implementation of Section 12(1)(c) of the Act of 2009, he submits that the complete eligibility criteria, the apportionment of seats amongst EWS, SC, BC/OBC, the neighbourhood criteria for candidate-school mapping, the age classification criteria, and the criteria for calculation of 25% seats have been fixed therein. He further submits that only if the petitioner's case falls within the prescribed criteria, he can be considered eligible for the benefit of Section 12 of the Act of 2009. The relevant portion of the guidelines (*supra*) is reproduced hereunder:-

“2. Eligibility criteria for students:

a. The following categories of children, who belong to Disadvantaged Groups (DG) shall be eligible as per notification issued by the Department vide notification No.2/4/10-2E7/8770 dated 18th November, 2010.

i. Weaker Section.

ii. Scheduled Caste (No income limit)

iii. Backward Class/Other Backward Class (non-creamy layer).

iv. War widows' children

v. Destitute parents' children (minimum 50% disability)

b. The children, whose family income from all resources is below 8.0 lakhs per annum (Vide letter no. 1/16/2019-RCI/116 dated 14th May, 2019 of Department of Social Justice, Empowerment and Minorities, Punjab, as amended), will be identified as children belonging to Weaker Section who will be eligible to be



considered for the purpose of admission under Section 12(1)(c) of "The Right of Children to Free and Compulsory Education Act-2009"

** EWS limit is subject to change annually, as per limit prescribed by Department of Social Justice, Empowerment and Minorities, Punjab.*

c. Category-wise seat reservation:

i. The division of 25% seats under the Right to Education (RTE) quota shall be as follows:

Category	Sub-classification of the 25% seats
Economically Weaker Section	12.5%
S.C.	5%
B.C./O.B.C.	5%
War widows children	1.25%
Destitute parents' children (Minimum 50% disability)	1.25%

ii. Sufficient Efforts will be made to ensure that seat allocation is completed in all categories as per the percentage prescribed above.

In such event that seats allocated under any specific category within the 25% reservation quota remain unfilled upon the conclusion of the admission cycle, then the unfilled seats shall, be considered for reallocation to eligible applicants from other sub-categories within the same 25% quota, subject to the availability of such applicants.

3. Neighbourhood Criteria for candidate-school mapping:

- i. Children residing within a 1 km radius of the school will receive first priority for draw/admissions.*
- ii. Children residing within a radius of 3 km of the school will get second preference in the draw/admission.*
- iii. Thereafter, in the case of unfilled vacancies, the applicants residing beyond 3 km but within 6 km radius will be considered.*



Note: The School transportation costs will be borne by the parents/ guardians, wherever applicable.

4. Age Classification Criteria into Entry Class(es):

For the purpose of admission, "Entry Class(es)" shall refer to the entry grade(s) of formal schooling ie. Nursery, LKG, UKG or Class I.

The minimum age of child for the purpose of admission in each class shall be as follows as on 31st March 2025:

Entry level class	Age
Nursery	3 Years
LKG	4 years
UKG	5 years
First	6 years

5. Calculation of 25% seats composition in schools:

- i. 25% of seats will be calculated from the total admissions of the previous academic year in the entry-level class;*
- ii. For newly registered schools, the 25% seats will be calculated on the basis of approved class strength.*

Note: While calculating the number of seats equal to 25%, in case the number of seats is a fraction, the same shall be rounded off to the nearest whole number.”

7. On 25.08.2025, when the matter was taken up, the father of the petitioner conceded that, currently, his child would not be entitled to seek admission under the Economically Weaker Section Category, as he did not possess the requisite certificate. However, an application had already been submitted for issuance of the necessary certificate. Considering the sensitivity involved in the matter in issue, this Court had directed the competent authority, which was seized of the application (supra), to decide the same within 15 days. Simultaneously, the Deputy Commissioner concerned was also directed to examine all other parameters, as laid down in the guidelines (supra), to ascertain, whether the petitioner is eligible to seek the benefit of Section 12 of the Act of 2009, for taking admission with the respondent-School, and file an



affidavit, in this regard. Accordingly, the proceedings were deferred to 08.09.2025.

8. On the adjourned date, this Court was apprised that the EWS certificate had been issued in favour of the petitioner. Thus, he would be duly eligible to be considered for admission under the EWS Category, by virtue of Section 4 of the Act of 2009.

9. In the wake of the position sketched out above, the following twin questions arise for determination by this Court:-

- 1) Whether the benefit of Section 12 of the Act of 2009 can be extended to a child, who did not opt for the same while initially obtaining admission in Class 1?*
- 2) Whether the petitioner is eligible to seek free and compulsory education under the Act of 2009 from a school falling within the ambit of Section 2(n)(iii) and (iv), i.e., respondent No. 4 in the present case?*

10. Being conscious of the situation that future of the child was at stake, this Court, vide order dated 08.09.2025 itself, had directed the Secretary, Department of School Education, Punjab, to carefully examine the matter, and furnish his affidavit on the next date, i.e. 10.09.2025, as to whether, besides the Act of 2009, there exists any other benevolent Rules/Schemes in the State of Punjab, by the aid of which, fee of the petitioner can be paid

11. In response, the Deputy Commissioner Sangrur, who appeared virtually, on the adjourned date, informed this Court that the Principal/Management of the School agreed to waive off 50% of the fee of the petitioner, and the remaining school fee, for Class-III to Class-V, would be borne, with the assistance of different NGOs.

12. On the basis of the above statement, the petitioner was directed to appear before the Deputy Commissioner, Sangrur, on 11.09.2025, by 11:00 A.M., so that the necessary steps could be taken to ensure resumption of his studies.

13. Consequently, the child is now pursuing his studies in the



respondent School, uninterruptedly, and the entire fee has also been arranged, as stated by the Deputy Commissioner. Therefore, the pivotal issue has been set at rest in the manner demonstrated above, and the principal grievance of the petitioner has been redressed.

14. In view of the above, no further orders are required to passed in the instant writ petition. However, it is clarified that other issue/question of law, which arises for consideration of this Court, is left open to be decided in appropriate proceedings.

15. **Disposed of**, accordingly.

(KULDEEP TIWARI)
JUDGE

14.01.2026
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No