



Centre for Peace and
Development Initiatives

Punjab Free and Compulsory Education Bill 2014 (XVI of 2014)

REVIEW & RECOMMENDATIONS

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Review and Recommendations

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Introduction

Guaranteeing fundamental rights of the people is an essential feature of a functional democracy and good governance; acknowledging this fact Constitution of Pakistan recognizes access to free and compulsory education as a fundamental right of every child. Article 25-A states; “State shall provide free and compulsory education to all children of the age of five to sixteen years”.

Punjab being home to more than half of the population of the country is the biggest province; any effort for improvement of education sector in Punjab means more than half of Pakistan will benefit from it. Introduction of this bill by the Punjab government portrays its commitment and willingness to boost up efforts for bringing all out of school children (OSC) to schools. This bill also indicates a drive towards implementation of Right to Education (RTE) by clear demarcation of roles and responsibilities of different stakeholders including parents, community, teachers, local authority and the provincial government. The endeavor to seek public opinion on the bill also proves that the government is sincere to improve the proposed law in light of the informed public opinion, this move is commendable.

Following is the review and the recommendations for the proposed law.

Capitation fee: Exemption to fee notified by Government

Section 3 of the act prohibits any kind of fee or charges or expenses, similarly section 14(1) disallows collection of capitation fee in any form. While defining “capitation fee” section 2(b) gives an exemption to a “fee notified by the Government or the local authority”. This exemption is not required because it may pave way for any future imposition of fee that would not be in spirit of this law and RTE itself.

Recommendation

It is recommended that this last part of the section 2(b) may be deleted: “other than the fee notified by the Government or the local authority”.

Definition of education and its requirements

Under section 2(d) “education” means “teaching and training of mind and character” whereas according to section 17(2) (d), (e), (f) and (g) teacher and head teacher are responsible to try for all round development of the child; build up child’s knowledge, potentiality and talent, adopt learning through activities, discovery and exploration in a child-friendly and child-centered manner; keep the child free of fear, trauma and anxiety and help the child to express his views freely. Setting of such standards is a real need of the hour but the proposed law does not provide any framework for the government to follow and impart these skills in all the teachers through an intensive training program.

Recommendations

- a) It is recommended that law should set clear targets for the government to train the existing pool of school teachers for these special skills within two years.
- b) All newly inducted teachers should learn these skills in their induction training.
- c) Government should provide additional resources required for this extensive training and these allocations must be mentioned separately in the budget so that abidance by law is clearly visible.

Free Education: Removing financial barriers

Section 2(e); while defining “free education”, implies that the Government or a local authority shall endeavor to remove financial barriers that may prevent a child from completing ten years’ education. This clause is most important as far as removing barriers for free education is concerned; there can be three dimensions of the term ‘financial barriers’ (i) poverty of the child’s family, (ii) expenses that are incurred on education of a child, and (iii) non-provision of adequate financial resources to the education institutions to be able to impart free quality education.

The bill prevents imposition of any fee or charges and imparts shared financial responsibility on province and the local authority for the purpose of this law but it does not provide any specific guideline for provision of adequate resources to the schools for their recurrent expenditure; majority of schools receive nominal and insufficient amount ranging between Rs. 20,000 and 50,000 in School Council Fund.

Recommendations

It is recommended that;

- a) The bill may fix, as part of recurrent expenditure, a minimum amount of money for each school that the government must provide; in addition to this, a separate allocation must also be linked with the number of students enrolled in each school.
- b) This amount should also be given to the secondary schools while replacing the “administrative budget” being allocated annually for each high school.
- c) The law should also direct the government and local authority to deposit this allocated budget in the account of the school council as it already does in case of School Council fund.
- d) The law should also fix the percentage share of funds by the provincial government and the local authority that they would pool for this purpose and this allocation must be separately mentioned in the budget.

These steps will ensure availability of resources to run day to day expenses of the schools, will empower schools management bodies and the school administrations and will also give incentive to the school administration for increasing enrolment.

Maintenance of School Building and Facilities

The bill is silent about the improvement of school buildings and provision of missing facilities has not been directly addressed; the proposed law must set a deadline for the government to provide all necessary facilities in the schools

Recommendations

It is recommended that

- a) The law must make it binding on the government to improve the condition of existing buildings to a level where no building remains requiring any major repair and provide all the missing facilities in the schools within a period of two years.
- b) After two years the SMBs must be resourceful enough to maintain the buildings and facilities out of their own resources.

Fee by examination boards

The bill has not addressed the issue of registration or other fee by the examination commission or the examination boards. Examination board fee has been a common feature in the past; to stop any chances of imposition of any such fee in future this bill must clearly prohibit any such imposition of fee.

Recommendation

- a) It is recommended that a clause be added stating that no examination board or commission shall collect any registration fee, examination fee or any other charges whatsoever.

Caring for children with disabilities

Section 3 (4) requires government to provide “suitable education” to children with disability and special children. This provision points towards the need to take special care of these children but the bill itself does not speak more than this on the topic. This bill must propose a set of guidelines for the government and educational institutions in this regard; some recommendations are enlisted below

Recommendations

- a) This law may make it obligatory for all public and private schools to make buildings accessible for wheel chair user children and children with other disabilities. A penalty may also be imposed in case the requirement is not fulfilled in three months from promulgation of the law.
- b) To incentivize enrolment of children with disability the law may also fix a stipend for each such child going to school.
- c) Similarly the schools enrolling these children should get the double amount of recurrent budget (mentioned in last paragraph above) for each such child as compared to a normal child.
- d) The children with such a disability that hinders their education in normal school will obviously be going to special schools that are less in number and are thinly spread. To cater this problem the law should provide for allocation of one class room in an accessible and well equipped school in each union council and allocate a separate teacher for education of special children in that school.
- e) Since special children need special travelling arrangements for reaching the schools it is obvious that this might have additional financial burden on the parents. The law must

also make sure that the travelling cost of these children be given to the parents by the government, other than the proposed stipend.

Sharing of responsibilities by Government & Local Authority

Section 7 provides for sharing of financial and other responsibilities by the government and local authority but it does not specify any clear strategy for such allocation; on other hand, section 8 rests responsibility of establishment of new schools on shoulders of the local authority. It is not clear that what percentage of share will the provincial government share and what will be mechanism of that sharing?

Recommendations

It is recommended that the law may specify the minimum percentage share of the provincial government in financial responsibilities for the purpose of this act including establishment of new schools. This percentage share should be for all shared allocations and in case of any exemption the law must clearly specify.

School Management Body

Section 11 provides for establishment of “School Management Body” (SMB) but does not clearly specify who will form it (provincial government or local authority), what will be its composition, what will be its roles and responsibilities, who will chair the body? How will it be run?

Recommendations

It is recommended that;

- a) The formation of the “SMB” should be a responsibility of the local authority. The body must include parents, local community members, teachers, philanthropists and / or a member of civil society (local NGOs can be engaged for this purpose) and a local councilor. The SMB should choose a chairperson among its members.
- b) The SMB should have mandate to oversee all the administrative matters of the school including financial management and internal audit. The SMB should have mandate to raise funds for schools from community, philanthropists, government and nongovernment funding agencies and international NGOs.
- c) SMBs in a geographic cluster may be allowed to make union council, tehsil and district forum of SMBs that would provide a platforms for experience sharing and set a direction for the joint efforts for betterment of educational institutions.
- d) The law should also make government responsible to provide training to the SMBs in basics of the following skills: school management, financial management, annual budget making, internal audit, dispute resolution and fund raising.
- e) After completion of trainings in a reasonable time span (three years suggested) the SMBs should be expected to make annual budgets of the schools recurrent expenditure as well as small development projects for the school.

Farogh-e-Taleem Fund

Section 12 provides for establishment of Farogh-e-Taleem Fund (FTF) by the SMB. For last many years, FTF has been a major contributor in resources for recurrent expenditure of the schools in Punjab. The idea of FTF is really good and has already proved its success but the practice has been that the fund was collected from the students; this practice is in clear contravention with RTE as well as section 3 of this law that prohibits collection of any charges from the students or parents.

Recommendations

- a) To make sure that the law is not violated in the garb of the law itself, it is suggested that the word “student” be deleted from section 12 so that students are not asked to pay anything in the school. The SMB with the help of school administration and staff should mobilize parents and community to collect FTF.
- b) To curb the chances of collection of FTF from the students the law must clearly state that this fund cannot be collected from students and that the administration doing so shall be liable to punishment for violation of this law.

Responsibility of Private Schools

Section 13 seeks the private schools to share the responsibility and provide free and compulsory education to a proportion of students under clause (a) or ten percent of total strength of a class under clause (b). After stating the above mentioned, the clause (d) of the same section states that such private school “shall not charge any amount other than tuition fee, admission fee or prescribed security”; how can this be said free education? This law should not allow collection of any fee from the students.

Recommendation

- a) The law should clearly state that the students enrolled in free quota in a private school shall not be liable to pay anything to the school, whatsoever. And the exemption provided in clause (d) must be withdrawn.
- b) Autonomous educational institutions like District / Divisional Public Schools and pre cadet colleges should also be made part of the provisions of section 13.

Implementation

Implementation of the law has two dimensions; (i) abidance by the parents to get their children admitted in schools; the beneficiary part and (ii) dual responsibility of government officials to abide by the law and provide the services required under this law and also to make sure that the law is being enforced; the service delivery part. Implementation at both ends requires a unique mechanism; that, on one hand, ensures abidance by the beneficiaries and on other hand by the service providers. Section 4 (2) (b) states that the local government shall be responsible “to ensure and monitor admission, attendance and completion of education by every child residing within its jurisdiction” but does not equip the local authority with any penalty to impose the law. Section 18 (1) (a) rests the responsibility of effective implementation of the law on the shoulders of the government; Section 9 (3) says that government may recommend for withdrawal of the government subsidies or support, but this might not apply to the families that are not covered under any such poverty support program. Further section 18

(2) provides that complaints regarding RTE may be filed before the government or its designated authority

Recommendations

In the above mentioned scenario it is recommended that

- a) In case of parents not sending children to the school local government with the help of SMB must enroll the child in the school and a token fine of Rs. 500 be imposed on the parents by the local authority, collected and submitted in the account of the SMB.
- b) If the parents are found not abiding by law for the second time the SMB or the local authority should present a written complaint to the government that will initiate the proceedings against the parents, as prescribed in the bill.
- c) Matters relating to performance of school or implementation of this law in the school but not relating to harassment and gross misconduct should be taken up first at the SMB that should try to resolve the issue within two weeks; if complainant is dis-satisfied with the steps taken by SMB or SMB fails to respond he may raise the matter before the designated authority that will resolve it within two weeks. In case matter pertains to a private school it shall be directly raised with the designated authority and be resolved in two weeks' time

Grievance Redressal

As mentioned above the law rests the responsibility of effective implementation, monitoring and handling of complaints on the shoulders of the government; in case a citizen has a grievance against the implementing authority or anyone in the government on its in-ability to implement the law or causing damage to RTE by any of its acts, an alternative, independent and dedicated forum is the need of the hour.

Recommendations

For such grievance redressal it is recommended that

- a) An independent education commission should be established. Comprising of a retired high court judge, a civil society representative and a retired government official of not less than grade 20 who has worked in education department. This commission should receive, hear and dispose-off complaints against government and officials.
- b) Should have authority to impose penalties prescribed in this bill as well as take action against officials for gross misconduct wherever applicable
- c) The commission should also have the authority to take notice of anything that it thinks might damage RTE and issue recommendations to the government; the government in case not agreeing with recommendations of the commission must convey in writing to the commission the reason for which it feels that the recommendations are not acceptable.

The penalties and the procedures prescribed in the bill pertaining to the matters that do not conflict with the recommendations provided herein may be maintained in the same manner as already proposed in the bill.

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