



PARLIAMENT OF INDIA RAJYA SABHA

224

**DEPARTMENT-RELATED PARLIAMENTARY STANDING
COMMITTEE ON HUMAN RESOURCE DEVELOPMENT**

TWO HUNDRED TWENTY-FOURTH REPORT

ON

**THE NATIONAL COUNCIL FOR TEACHER EDUCATION
(AMENDMENT) BILL, 2010**

**(PRESENTED TO HON'BLE CHAIRMAN, RAJYA SABHA ON 28TH JUNE, 2010)
(FORWARDED TO HON'BLE SPEAKER, LOK SABHA ON 2ND JULY, 2010)**

**(PRESENTED TO RAJYA SABHA ON2010)
(LAID ON THE TABLE OF LOK SABHA ON2010)**

**RAJYA SABHA SECRETARIAT
NEW DELHI**

JUNE 2010/ ASADHA, 1932 (SAKA)

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**COMPOSITION OF THE COMMITTEE ON HRD
(2009-10)**

RAJYA SABHA

1. Shri Oscar Fernandes — *Chairman*
2. Dr. E.M. Sudarsana Natchiappan
3. Shrimati Mohsina Kidwai
4. Shri M. Rama Jois
5. Shri Penumalli Madhu
6. Shri Brij Bhushan Tiwari
7. Shri T.T.V. Dhinakaran
8. Shri N.K. Singh
9. Dr. Janardhan Waghmare
10. @Shri Prakash Javadekar

LOK SABHA

11. Shri Suresh Angadi
12. Shri Kirti Azad
13. Shri P.K. Biju
14. Shri Jitendrasingh Bundela
15. Shrimati J. Helen Davidson
16. Shri P.C. Gaddigoudar
17. Shri Rahul Gandhi
18. Shri Deepender Singh Hooda
19. Shri Prataprao Ganpatrao Jadhav
20. Shri Suresh Kalmadi
21. Shri P. Kumar
22. Shri Prasanta Kumar Majumdar
23. Capt. Jai Narain Prasad Nishad
24. Shri Sis Ram Ola
25. Dr. Vinay Kumar Pandey
26. Shri Tapas Paul
27. Shri Brijbhushan Sharan Singh
28. Shri Ashok Tanwar
29. Shri Joseph Toppo
30. Shri P. Viswanathan
31. Shri Madhu Goud Yaskhi

@ Nominated w.e.f. 4.6.2010

SECRETARIAT

Smt. Vandana Garg, Additional Secretary
Shri J. Sundriyal, Director
Shri Arun Sharma, Joint Director
Shri Sanjay Singh, Assistant Director
Smt. Himanshi Arya, Committee Officer
Smt. Harshita Shankar, Committee Officer

PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Human Resource Development, having been authorized by the Committee, present this Two Hundred and Twenty-fourth Report of the Committee on the National Council for Teacher Education (Amendment) Bill, 2010.*

2. The National Council for Teacher Education (Amendment) Bill, 2010 was introduced in the Rajya Sabha on the 16th April, 2010. In pursuance of Rule 270 relating to Department-related Parliamentary Standing Committees, the Chairman, Rajya Sabha, referred** the Bill to the Committee on the 16th April, 2010 for examination and report within two months.

3. The Committee considered the Bill in three sittings held on the 5th May & 18th May, 2010 and 4th June, 2010.

4. On the 5th May, 2010, the Committee heard the Secretary, Department of School Education and Literacy on various provisions of the Bill. The Committee also interacted with the Chairman of the National Council for Teacher Education, the former Vice-Chairperson of the National Council for Teacher Education and Secretary, Legislative Department.

5. The Committee, while drafting the report, relied on the following:

- (i) The National Council for Teacher Education (Amendment) Bill, 2010;
- (ii) The National Council for Teacher Education Act, 1993;
- (iii) Background Note on the Bill;
- (iv) Detailed clause by clause note on provisions of the Bill;
- (v) Supreme Court judgement in Basic Education Board, U.P. vs Upendra Rai and others; and
- (vi) Details of consultations including views of State Governments, State-wise on the Bill.

6. The Committee considered the Draft Report on the Bill and adopted the same in its meeting held on the 15th June, 2010.

7. For facility of reference, observations and recommendations of the Committee have been printed in bold letters at the end of the Report.

NEW DELHI;

June 15, 2010
Jyaishta 25, 1932 (Saka)

OSCAR FERNENDES
Chairman,
Department-related Parliamentary
Standing Committee on Human Resource Development.

*Published in Gazette of India Extraordinary Part II Section 2 dated the 16th April, 2010
** Rajya Sabha Parliamentary Bulletin Part II No. 47152 dated the 19th April, 2010

INTRODUCTION

1.1 The National Council for Teacher Education (Amendment) Bill, 2010 was introduced in the Rajya Sabha on the 16th April, 2010 and referred to the Department related Parliamentary Standing Committee on Human Resource Development on the 22nd April, 2010 for examination and report thereon.

1.2 The National Council for Teacher Education Act, 1993 was enacted to provide for the establishment of a National Council for Teacher Education with a view to achieving planned and co-ordinated development of teacher education system in the country and the regulation and proper maintenance of norms and standards in the said system. The Act empowers the Council to lay down guidelines in respect of minimum qualifications for a person to be employed as a teacher in schools or in recognized institutions so as to ensure quality of teachers, and thereby, teaching in schools uniformly across the country. Regulations have, accordingly, been framed by the Council which are binding on all State Governments in the matter of appointment of school teachers.

1.3 The Secretary, Department of School Education and Literacy, during the course of her deposition before the Committee, informed that recently it had come to their notice that the Supreme Court in the case of Basic Education Board, U.P. vs Upendra Rai and others had held that the National Council for Teacher Education Act, 1993 did not deal with educational institutions like primary schools etc. Hence the qualifications for appointment as teacher in ordinary educational institutions could not be prescribed under the aforesaid Act and the State Legislation / Rules on the subject would prevail. Pursuant to the Supreme Court judgment, the minimum qualifications for appointment of school teachers laid down by the Act had become redundant.

1.4 The Committee was informed that neither the Central Government nor NCTE was made party to the case and therefore, there was no occasion to defend the NCTE Act and Regulations. It was also emphasized that impact of Supreme Court judgement would be far-reaching as it would lead to dilution in the quality of teaching in the elementary schools. Therefore, in order to remove this ambiguity regarding the applicability of the NCTE Act on schools, school teachers, and minimum qualifications for appointment of school teachers, it was considered necessary to amend the NCTE Act. The Committee was given to understand that this would preclude the possibility of State Governments, taking advantage of the Supreme Court judgement to recruit as school teachers such persons who did not possess the minimum qualifications prescribed by NCTE.

II. CLAUSE 3

2.1 Clause 3 of the Bill seeks to insert sub-section (4) in section 1 of the Act relating to the ‘Short Title, Extent and Commencement’ as reproduced below :

“ (4) Save as otherwise provided in this Act, the provisions of this Act shall apply to

—

(a) institutions;

(b) students and teachers of the institutions;

(c) schools imparting pre-primary, primary, upper primary, secondary or senior secondary education and colleges providing senior secondary or intermediate education irrespective of the fact, by whatever names they may be called; and

(d) teachers for schools and colleges referred to in clause (c)”.

2.2 As pointed out by the Department, rationale for the proposed amendment was to overcome the difficulties posed by the Supreme Court in the case of Basic Education Board, UP vs Upendra Rai and others [Appeal (Civil) 8034 of 2001]. With the inclusion of sub-section (4), besides teacher education institutions and their students and teachers, the Act would become applicable to all categories of schools and their teachers. It was emphasized that this specific provision, being clarificatory in nature, was necessitated to remove the ambiguity about the mandate of NCTE arising due to the Supreme Court judgement. The Committee had the occasion to interact with the Chairman of the National Council for Teacher Education who also expressed similar views.

2.3 On a specific query in this regard, the Legislative Department pointed out that the scope of the NCTE Act as considered by the Department of School Education and Literacy and as interpreted by the Supreme Court varied. In order to make it clear and to widen the scope of the Act, the proposed amendment making the Act applicable to all categories of schools and their teachers was in order. This would make the intention of the Government clear.

2.4 *The Committee feels that strictly speaking, the proposed amendment of section 1 of the Act cannot be considered simply clarificatory in nature. The very fact that ‘qualifications of school teachers’ have been specifically included in the long title of the Act with resultant insertion of sub-section (4) clearly indicates that scope of the Act has been somewhat widened to cover all categories of schools and their teachers. However, in the light of the Supreme Court judgement and resultant ambiguity with chances of further complications in future, the Department does not seem to have other option but to go for such an amendment. The Committee is also aware about the urgent need for maintenance of quality education in schools across the country, specially in view*

of the Right of Children to Free and Compulsory Education Act, 2009 coming into force. The Committee believes that by bringing all categories of schools and their teachers within the ambit of the Act, the ambiguity appears to have been removed and the mandate of the Council clarified in unequivocal terms.

2.5 *The Committee observes that nowhere in the Act, the term ‘school’ has been defined. The Committee takes note of the opinion of the Legislative Department that the term ‘school’ will be construed in its generic sense. The Committee, however, is of the view that in the light of different categories of schools – Government, aided, unaided, minority, there needs to be a specific definition of the term ‘school’ in the Act. The Committee, accordingly, recommends that the same may be included under Section 2 relating to ‘Definitions’ of the Act.*

III. CLAUSE 4

3.1 Clause 4 of the Bill seeks to insert a new section, i.e., section 12A relating to ‘Power of Council to determine minimum standards of education of school teachers’ after section 12 of the Act, as follows:

“12A - For the purpose of maintaining standards of education in schools, the Council may, by regulations, determine the qualifications of persons for being recruited as teachers in any pre-primary, primary, upper primary, secondary, senior secondary or intermediate school or college, by whatever name called, established, run, aided or recognised by the Central Government or a State Government or a local or other authority:
Provided that nothing in this section shall adversely affect the continuance of any person recruited in any pre-primary, primary, upper primary, secondary, senior

secondary or intermediate schools or colleges, under any rule, regulation or order made by the Central Government, a State Government, a local or other authority, immediately before the commencement of National Council for Teacher Education (Amendment) Act, 2010 solely on the ground of non-fulfillment of such educational qualifications as may be specified by the Council."

3.2 The proposed section 12A empowers the Council to determine the minimum qualifications for appointment as teachers of schools by framing regulations. The proviso to this section clearly safeguards the interest of the serving teachers by providing that it shall not adversely affect the continuance of such teachers.

3.3 Committee's attention was drawn to section 23 of the Right of Children to Free and Compulsory Education Act, 2009 which provides that the Central Government shall authorize an academic authority to lay down the minimum qualifications for a person to be appointed as a teacher in school. This provision also stipulates that a teacher at the commencement of the RTE Act not possessing the minimum qualifications, shall acquire the same within 5 years. However, the proviso under the proposed section, 12A of the Act does not lay down any such condition and permits the continuance of teachers not fulfilling the minimum educational qualifications.

3.4 On a specific query in this regard, the Department clarified that section 23 of the RTE Act empowers the Central Government to authorize an academic authority to lay down the minimum qualifications for a person to be employed as a teacher in elementary school. These minimum qualifications to be laid down by the academic authority may be different from those presently prescribed by the NCTE Regulations. Accordingly, it was considered necessary to provide a time period of

five years within which the existing teachers could acquire the new qualifications prescribed by the academic authority.

3.5 The stand taken by the Council was that the provision of RTE Act and proposed provision (12A) of NCTE Act were complimentary to each other. While RTE Act related to teachers at elementary stage of education, NCTE Act addressed to all levels of teachers. The proviso to proposed section 12 A intended to protect the interest of all those who were already in employment. It was pointed out that the spirit of RTE Act which was based on field reality would be accommodated in NCTE Regulations to be framed afresh.

3.6 The Legislative Department clarified that the Central Government has been empowered under section 23 of the RTE Act to authorize an ‘academic authority’ to lay down the minimum qualifications for a person to be appointed as a teacher in school. Harmony was required to be there between the qualifications prescribed under section 12A of the NCTE Act and qualifications prescribed by the academic authority under section 23 of the RTE Act. This purpose could be achieved by authorizing the NCTE as the ‘academic authority’ by the Central Government.

3.7 *The Committee appreciates the stand taken by the Department to safeguard the interest of those serving teachers who do not have the required qualifications as prescribed by the amending legislation, specially in view of acute shortage of school teachers in the country. The Committee is, however, of the view that such consideration cannot continue indefinitely as it would amount to compromising the standard of education with untrained and less qualified teachers. One must not forget that both quality and uniformity of education being imparted in schools across the country can only be ensured by having qualified and trained teachers. The Committee, therefore, strongly feels that an*

effective mechanism needs to be evolved for provision of adequate training to those teachers who need it.

IV. CLAUSE 5

4.1 Clause 5 seeks to add a new clause (dd) after clause (d) of section 32(2) which relates to regulation making powers of the Council, whereby regulations on qualifications of teachers under section 12A are to be made. It was clarified by the Department that since the proposed section 12A related to minimum qualifications of teachers, it was considered appropriate to provide that such standards be specified by way of regulations.

4.2 The Committee notes that under section 12 of the Act relating to 'Functions of the Council', one of the functions entrusted to the Council is laying down guidelines in respect of minimum qualifications for a person to be employed as a teacher in schools or in recognised institutions (teacher education institutions). Under the regulation-making power in section 32(2) (d) (i), the Council has the power to make regulations relating to norms, guidelines and standards in respect of the minimum qualifications for teachers in schools as well as teacher education institutions. The Committee observes that whereas separate Regulations prescribing minimum qualifications for teacher recruitment at school level, i.e., the NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001 (amended in 2003 and 2005) exist, for appointment of teacher educators in teacher training institutions, qualifications have been comprehensively prescribed from time to time through NCTE Regulations notified from 1995 onwards to Regulations, 2009.

4.3 On being asked about the need for continuing with regulations providing norms, guidelines and standards for minimum qualifications for school

teachers under section 32(2) (d) (i) read with section 12(d), it was categorically admitted by the Council that after introduction of section 12A and insertion of corresponding regulation-making provision under section 32(2) (dd), the need for continuation of section 12(d) and section 32(d) (i) would not be there which may, accordingly, be got deleted.

4.4 When views of Legislative Department were sought on the apparent ambiguity in the existing provisions of the Act vis-à-vis the proposed amendment, it was clarified that section 12(d) read with section 32(2) (d) (i) empowers the Council to lay down the guidelines in respect of minimum qualifications for school teachers, whereas the proposed section 12A read with section 32(2) (dd) seeks to empower the Council to lay down by regulations the qualifications of school teachers. In other words, the regulation-making power proposed to be given to the Council is in respect of laying down specific qualifications of teachers as distinct from laying down guidelines for minimum qualifications.

4.5 While agreeing with the contention of the Legislative Department, the Committee would like to point out that the NCTE (Determination of Minimum Qualifications for Recruitment of Teachers in Schools) Regulations, 2001, applicable for recruitment of teachers in all formal schools established, run or aided or recognised by Central or State Governments and other authorities, lay down specific qualifications for school teachers, although both functions of the Council as well as relevant regulation-making provision of the Act only refer to norms, guidelines and standards in respect of minimum qualifications for teachers in schools and recognised institutions. This clearly indicates that under the existing provisions of the Act, the Council did not have the power to specifically lay down minimum qualifications for school teachers. This was the basis of Supreme Court judgement given in the case of Basic Education Board, U.P. vs Upendra Rai and

others. And the main purpose of bringing the proposed amendments in the Act is to remove this ambiguity only.

4.6 In the light of the above and also with the insertion of section 12A and section 32(2) (dd), the Committee can only conclude that section 12(d) and section 32(2) (d) (i) need to be suitably reviewed so as to restrict to qualifications for teacher education institutions only. The Committee also strongly feels that a view needs to be taken to suitably modify section 12(d) and section 32(2) (d) (i) so as to make it amply clear that minimum qualification for teachers of teacher education institutions can be specifically provided under the Act.

V. CONSULTATION WITH THE STATE GOVERNMENTS

5.1 'Education' being in the Concurrent List, the issue of consultation with the State Governments on the proposed amendments in the Act was deliberated at length by the Committee. The Committee was given to understand that consultation with the State Governments was not considered necessary as the proposed amendment only sought to overcome the difficulty posed by the Supreme Court judgement regarding the existing mandate of NCTE under the Act relating to schools, teachers and their minimum qualifications.

5.2 On a specific query with regard to the need for seeking the views of State Governments, specially because of education being in the Concurrent List and also in view of prevailing ground realities, NCTE took the stand that no useful purpose would be served in initiating the process of consultation with State Governments as most of States were coming to term with the requirement of standards in teacher education. Committee's attention was also drawn to the fact that since consultation with the State Governments for implementation of Right to Education Act, 2009 had already been undertaken and this proposed amendment

was in tune with the RTE Act, any consultation with the State Governments at this stage would unnecessarily delay the matter.

5.3 The Legislative Department was of the view that usually when legislation was undertaken by the Central Government for Concurrent subjects, consultations with State Governments was to be undertaken. However, it was a matter of policy and was within the domain of the administrative Ministry to take a view in the matter.

5.4 The Committee has strong reservations about non-adherence to well-established norms of consultation with State Governments in respect of Concurrent subjects. The very fact that NCTE has not conducted any study to identify the States which are yet to adopt the NCTE regulations indicates that ground realities are not very encouraging. The Committee finds that information in this regard is being collected from different States and the Government Orders and Recruitment Rules for teachers in States are being analyzed to identify the States not adhering to the NCTE Regulations. On the basis of available information, North-Eastern States and West Bengal, U.P. etc. were not conforming to the NCTE Regulations. The Committee was given to understand that majority of the States were in the process of amending the Recruitment Rules for teachers so as to bring them in conformity with NCTE Regulations. It has also been pointed out by the Council that it would be necessary that Regulations for teacher appointment are made more flexible to be able to cope with the new challenge thrown by the fundamental right given through the RTE Act.

5.5 The Committee was also specifically informed by the Council that in case of West Bengal, the matter was taken with the State Government and the Department was also informed about the violation. The State Government took the plea that changes in the Recruitment Rules and its notification was a time-

consuming process and since requirement of school teachers was immediate, Rules were framed by them which would be amended in due course to make it in conformity with the NCTE Regulations. The Committee was given to understand that other State Governments were also reported to have initiated the process of amendment of their Recruitment Rules.

5.6 The Committee being conscious of the fact that the States were not consulted on the amendment Bill considered it appropriate to take up this matter with States/UTs. However, communications sent by it failed to elicit feedback from the States. Only 3-4 States came forward with their views. Due to time-constraint, the Committee could not pursue the matter further.

5.7 The Committee takes note of the detailed response received from the State Government of West Bengal on this crucial issue. It has been pointed out by the State Government that upon the 73rd Constitutional amendment coming into force w.e.f.24th April, 1993, education, including primary and secondary schools became a field on which legislature of a State could only legislate as far as Panchayat areas were concerned. In addition, exclusive legislative field of the State in this regard was also guided by Schedule VII, List III (Concurrent List), Entry 25 in so far as non-panchayat areas were concerned. Attention of the Committee was also drawn to the recruitment rules framed by the State Government for school teachers. Citing Supreme Court judgement, it was also contented by the State Government that NCTE Act was embarking in an area which was beyond its source of legislation and also in conflict with the legislation made under the State List. Strong opposition to the proposed amendment of the NCTE Act was, accordingly, expressed by the State Government of West Bengal. The Committee apprehends that chances are there that similar stand could be taken by many of the State Governments.

5.8 *The Committee appreciates the spirit of the proposed legislation to maintain quality of the education in schools uniformly throughout the country. But, education, being a concurrent subject, any change including policy formation should be as far as possible corroborated and substantiated by the State Governments. The Committee, therefore, recommends that the Department should convene a meeting of Education Secretaries of all States/UTs at the earliest so as to have the exact assessment of all the problem areas in the field of education.*

5.9 The Committee also recommends that while framing the regulations for prescribing minimum qualifications for appointment of school teachers, NCTE should undertake a consultation process with all the State Government to ensure that a consolidated set of guidelines uniformly applicable throughout the country could be framed with an element of flexibility in the light of state-specific ground realities.

VI. General Observations

6.1 Committee's attention has been drawn to twin problems of acute shortage of teachers and large number of untrained teachers in the country. From the feedback made available to the Committee, percentage of untrained teachers is alarmingly high in some of the very crucial states. State-wise figures of regular and para-teachers and level of their training indicates a very discouraging scenario. This position is likely to aggravate further with demand for increasing number of teachers arising with the RTE Act coming into force. As pointed out by the Secretary, School Education and Literacy, in States like Assam, Bihar, Chhattisgarh, Jharkhand, Orissa, U.P., West Bengal and Jammu & Kashmir, teacher education capacity is grossly inadequate.

6.2 The Committee observes that initiatives like increasing intake capacity of DIETs in States, special arrangements for conducting in-service training through distance learning by IGNOU and also setting up of teacher education institutions in States lacking the same have been taken by NCTE. However, in some of the States, particularly in North-East States, acute shortage of trained teachers was primarily due to inadequate number of teacher education institutions.

6.3 The Committee is of the view that while mushrooming of sub-standard teacher education institutions needs to be curbed, setting up of teacher education institutions in uncovered areas is also required to be taken at priority. As informed by NCTE, in 24 States/UTs which include all the North-East States, Bihar, Jharkhand, Orissa, West Bengal, Madhya Pradesh, U.P., Goa, Uttarakhand, Chandigarh, Delhi, Daman & Diu, Lakshadweep and Dadra and Nagar Haveli, requisite number of teacher education institutions do not exist.

6.4 The Committee strongly feels that a coordinated exercise by the Department and NCTE needs to be initiated for filling the very visible gaps in the availability of teacher education institutions in such a large number of States. If need be, special support may be provided by the Central Government in this regard. At the same time, situation prevailing in States having surplus teacher training institutions also needs to be looked into. Viability of utilizing the services of trained teachers coming out from these States in all other States facing shortage of trained teachers can be looked into. Nobody would deny the fact that only qualified and trained school teachers have a significant role in the imparting of quality education to children, future of our country. The

Committee is, therefore, of the view that a mechanism of assessment and accreditation of teacher education institutions needs to be evolved on an urgent basis. Besides that, remedial steps need to be taken for strengthening all categories of teacher training institutions, so that component of pre-service and in-service training becomes an essential part of service of school teachers and the element of their accountability could be realised.

6.5 The enacting formula and the title are adopted with consequential changes.

6.6 **The Committee recommends that the Bill be passed after incorporating the amendments / suggestions offered by it.**

6.7 **The Committee would like the Department to submit a note to it with reasons with Recommendations/suggestions made by it which could not be incorporated with Bill.**