

October 12, 2022

## Implications of the RTE Experience for EWS Quotas

Can Policy Goals be considered Independently of Implementation?

By: Ankur Sarin, Bhargav B.S.

*The belief that goals can be independent of the means to pursue them assumes an all-powerful state capacity. The reality is that all policies entail implementation costs, and those targeting the weaker sections typically pass this on to the groups they are supposed to help.*

The Supreme Court hearing on petitions challenging the constitutional validity of the 103rd Amendment to the Constitution Act, 2019 raises several interesting policy issues.

The Constitutional amendment introduced a 10% quota for economically weaker sections (EWS) in government jobs and admissions in educational institutions. The Chief Justice of India U.U. Lalit's [observation](#) that “economic backwardness can be temporary”, coupled with the Solicitor General's argument that the “absence of guidelines is not a ground for challenging the amendment”, raises questions about whether a policy objective, such as having reservations on the basis of economic status, can be considered independently from what a policy is likely to look like when it is operationalised.

The implementation experience of the Right to Education (RTE) Act's “25 percent” mandate and, more broadly, the issue of reservations by economic status can throw light on these questions. Like the one being currently considered by the Supreme Court, the RTE mandate invokes economic status as a basis for reservations. However, unlike the EWS quotas, the RTE mandate provides fee waivers, a distinction to bear in mind.

Even as we continue to believe in the mandate's objectives, we find that mechanisms being used to fulfil them often undermine their core purpose and raise concerns around the 103rd Amendment as well.

### Measuring Economic Status

To start with, economic status is extremely tricky to measure. For years, the National Sample Survey Organisation has tried to measure consumption (and not income) as a measure of economic status, presumably because it finds it more appropriate and practical to measure. However, for the most disadvantaged and marginalised, furnishing proof of income is a great challenge.

Given that it must be certified by an employer who may or may not be sympathetic to their cause and the informal nature of the unorganised sector where the most marginalised find work, it is always difficult to provide accurate income information at the tehsildar or mamlatdar's office. In [a household survey](#) conducted a few years ago among those affected by the RTE mandate, more than half the households reported having had to procure proof of income during the process of application and nearly 90% of them reported having had to pay money to get income certificates. Not surprisingly, we found that the economically worst-off households were least likely to be able to apply. As might be expected, processes such as these often lead to corruption.

Section 12(1)(c) of the RTE Act, 2009 mandates that private unaided schools—with some exceptions—admit at least 25% children at the entry level from “weaker sections and disadvantaged groups in the neighbourhood”. States have used the wide latitude available to them to define these categories in different ways. While there is no mandated split between different categories, states often have a priority list of categories when allocating schools among eligible applicants. For example, in [Gujarat](#), the below the poverty line category precedes caste categories. Likewise, states use a wide range of income limits, which have also changed over time.

[T]he RTE Act specifies income in terms of ‘parental/guardian’ income, while the EWS amendment defines it as ‘family’ income. While simple to define in common parlance, administratively these are not easy categories to operationalise.

Interestingly, the income limit used for EWS reservations under the 103rd Amendment of Rs. 8 lakh per annum significantly exceeds the income limits specified by most states for “weaker” sections under the RTE. While the government maintains that the income limit for the EWS quotas does not reflect “[an unstudied position](#)”, explanations for the RTE income limits adopted by the states remain

unclear. Moreover, the RTE Act specifies income in terms of “parental/guardian” income, while the EWS amendment defines it as “family” income. While simple to define in common parlance, administratively these are not easy categories to operationalise. For instance, the issue of income to be considered for children who have been abandoned by one parent has always remained a tricky one.

The official acknowledgement of the disadvantages produced by caste and economic status differs across states and has also changed over time in state-level policies implementing the RTE. The recognition that caste and economic status intersect in significant ways to additionally disadvantage children seems to have diminished in some states. While some states relax the income limits based on caste, others do not, and this has changed over the years.

For instance, till 2017, in Gujarat, the income limit for General Category (EWS) was Rs. 68,000 (urban) and Rs. 48,000 (rural), while it was Rs. 1 lakh for Other Backward Classes (OBC) and Rs. 2 lakh for Scheduled Caste (SC) and Scheduled Tribe (ST) households. Now, EWS and all caste categories in the state have the same annual income limit of Rs. 150,000 in urban areas and Rs. 120,000 in rural areas. In contrast, Maharashtra, Rajasthan, Uttar Pradesh, and Haryana have no income limits for SC and ST candidates. Consequently, other than special categories such as orphans and single girl households, the 25% RTE reservations in Gujarat have been reduced to being based on economic considerations for purposes of eligibility (although not for purposes of prioritising admissions).

### Changing Eligibility

The “temporary” nature of economic circumstances that the Chief Justice of India referred to adds further complications in the case of the RTE. For instance, in 2020—more than six years after initiating the implementation of the mandate—a clause introduced by a [resolution](#) mandated cancellation of admissions to those whose household incomes increased beyond the specified eligibility limit at any point. This would also apply to those students who received admissions under the BPL category if and when their parents’ income increased beyond the income limit. According to the resolution, while these children would be allowed to continue studying in the schools they were admitted to, they would no longer receive the benefits of “free” schooling as obligated by the mandate.

Interestingly, a similar clause was introduced for those who had applied under the “single girl child” category. A girl child admitted under the clause would no longer receive benefits under the mandate if her parents were to have another child during the time of her schooling. The resolution also allowed schools to investigate parents suspected of furnishing fake proofs of income, among other documents, and cancel the admissions of children if evidence of wrongdoing was found.

From a purely theoretical perspective, one can perhaps empathise with the rationality and necessity of introducing these clauses. However, the impact that these clauses would have had on not only schooling but also all aspects of household life can be well imagined. The belief that goals can be considered independent of the means available to pursue them assumes an all-powerful state capacity that faces no practical constraints.

When the unequal and unjust distribution of administrative burdens is taken into account, it is clear that there is no substitute to increasing the supply of high-quality public institutions providing services such as education and health. Imagine a Kendriya Vidyalaya for all children living in a neighbourhood.

The reality is different. All policies are accompanied by [administrative burdens](#), which refer to the costs (financial and otherwise) of implementing policies. And, like all costs, someone must bear them. In the case of policies targeting the “disadvantaged” and “weaker” sections, these burdens are typically passed on to the groups they are supposed to help.

When the unequal and unjust distribution of administrative burdens is taken into account, it is clear that there is no substitute to increasing the supply of high-quality public institutions providing services such as education and health. Imagine a Kendriya Vidyalaya for all children living in a neighbourhood. Learning lessons from the National Food Security Act and Mahatma Gandhi National Rural Employment Guarantee Act, when it comes to policies that are considered essential for creating just societies, designs that are more universal in nature (as opposed to those relying on hard evidence to implement eligibility restrictions) help improve both welfare outcomes as well as expenditure efficiency.

Reservations do have an important place in social policy, but to use it appropriately, we should perhaps be guided by the Chief Justice of India’s [remark](#), “Reservation is not just financial empowerment, it is social empowerment”.

### Representation Important

Disadvantages from economic status emerge from current institutional structures and need other kinds of interventions. On the other hand, discrimination on the basis of caste is more complex, with economics being only one dimension of disadvantage. Consequently, representation is a more important criterion when evaluating the case for caste-based quotas.

Economic status matters to the extent that institutions make it matter. The extent to which one's own household income matters in a society depends on the extent to which goods and services are provided as public and private goods. Money by itself has no intrinsic value. For example, in societies where transportation is publicly funded, economic status does not affect anyone's mobility and the extent to which money matters for education depends on practices such as the fees students must pay for education. Further, reservations do not reduce the financial burden of the poor because the students do not get any fee concession, as they do under the RTE.

Loans are an option at many institutions, but they must be considered in the context of an increasing share of education loans among the non-performing assets (NPAs) of banks. Reservations might therefore merely be deflecting issues of equity and justice for those who are poor.

*Ankur Sarin is a member of the faculty in the Public Systems Group at IIM Ahmedabad; Bhargav B.S. is a Research Assistant at IIM Ahmedabad, working on the Right to Education.*