



A Study on Implementation of Section
12(1) (c) of RTE Act, 2009 in Delhi
pertaining to Admission of Children from
Disadvantaged Sections in Private Schools

Preface

National Commission for Protection of Child Rights (NCPCR) has been mandated under Section 31 of the Right of Children to Free and Compulsory Education (RTE) Act, 2009 to examine and review the safeguards of the rights provided under the Act and to recommend measures for its effective implementation. Towards realizing its commitment of Universalization of Elementary Education, the Commission has undertaken many initiatives for providing for equity, inclusive, quality and sustainable education in India.

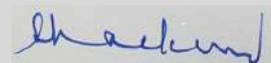
Education is an important medium of promoting equality and social justice in society at large and schools are the vehicle to provide experience of equality and social justice in daily life of children. The RTE Act, 2009 is anchored in the belief that the values of equality, social justice and democracy and the creation of a just and humane society can be achieved only through provision of inclusive elementary education to all.

To make education inclusive, the RTE Act, 2009 defined the responsibility of private schools for including children from backward and disadvantaged sections of society for bringing parity and equality of opportunity for all children to again quality education. Section 12 (1) (C) of the Act is a step forward to provide opportunity for children from diverse social and economic backgrounds to study together in a universal environment. It is important especially when the private education in India is becoming highly hierarchical and segregated.

In view of the importance of this significant provision of the Act, NCPCR took the initiative to examine its implementation from New Delhi itself. This report is a result of extensive research and field work in randomly selected schools.

The report presents a quantitative and as well as a qualitative analysis of the status of implementation of Section 12(1)(c) of the RTE Act, that mandates 25% reservation for children from economically and socially weaker sections in private unaided non-minority schools. The report will provide a reliable and comprehensive data producing useful recommendations for all stakeholders especially the facilitators.

Specifically, the report intends to, not only assess the magnitude of the problem but also identify the underlying responsible factors that are barrier to its full implementation. This will be useful for monitoring progress; will provide assessment and analysis to facilitate policymaking.



(Stuti Kacker)
Chairperson

Acknowledgement

Providing opportunities for learning to all children, in an inclusive environment, is a collective responsibility of all. This has been articulated in the Right to Education Act, 2009 through the landmark provision, popularly known as 12 (1) (c), for admission of children from disadvantaged and economically weaker sections in private unaided schools. It would not be exaggeration to mark this provision as one of the most significant provisions of the Act. It is of extreme importance that the provision be implemented and followed to its true spirit, not limited to providing seats to these children, but also an inclusive and discrimination-free environment. Hence, NCPCR took the initiative to assess the implementation of this provision in Delhi and to provide informed suggestions to the appropriate authorities for its better and effective implementation.

I express my sincere gratitude to Ms. Stuti Kacker, Hon'ble Chairperson, National Commission for Protection of Child Rights (NCPCR), for encouragement and support. The Commission is happy to collaborate with the Quality Council of India (QCI) for carrying out the study on behalf of the Commission, especially for conducting the field visits in select schools and putting together their observations and analysis. I am also thankful to Shri Rajnikant and Dr. (Ms.) Madhulika Sharma, Technical Experts (Education Division) for their contribution in initiating the study, for procuring data from all Districts and for finalising the Report. I am also grateful to the entire team of Education Division for their support throughout the process of this study. I extend my gratitude to the Secretary, Department of Education, Government of NCT Delhi and Director, Department of Education, Government of NCT Delhi for facilitating in obtaining data for analysis.

I do hope the report will be well received and be read widely by all stakeholders to contribute as per the responsibility given to them under the law and in the best interest of the child.



(Priyank Kanoongo)
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Abbreviations

RTE- Right to Education

EWS - Economically Weaker Section

DG- Disadvantaged Group

QCI- Quality Council of India

DoE- Directorate of Education

NCPCR- National Commission for Protection of Child Rights

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1. Introduction

Translating the fundamental right of children to elementary education given by Article 21A of the Constitution, the Right of Children to Free and Compulsory Education Act, commonly known as Right to Education (RTE) Act, 2009 came into force in 2010. Amongst entitlements for children and responsibilities for the authorities at different levels, the Act also spelled out responsibility of private unaided schools. The section 12 (1) (c) of the RTE Act, 2009 fixes the responsibility of private unaided schools to provide free and compulsory education to children from weaker and disadvantaged sections by admitting at least one-fourth of the total strength of class I or pre-school education.

The said section is rooted in the belief that the *values of equality, social justice and democracy can be achieved only through provision of inclusive elementary education to all*. To implement this provision, States have notified different rules and adopted different mechanisms.

To examine the compliance of the above-mentioned clause in true spirit there was a need to understand ground reality and work upon the areas of concerns and problems of states/UTs. The study carried out by Quality Council of India (QCI), as per the mandate given by NCPCR was conducted from February to April 2017.

The four main outputs that we aim to provide through this report are:

- Quantitative analysis of compliance of admissions of EWS/DG category students as per RTE 2009 in Delhi
- Quantitative analysis of dropout rate of learners admitted under EWS and DG category in Delhi
- Qualitative analysis of the inclusive environment prevalent in schools and perceptions of private schools' authority

"12. Extent of school's responsibility for free and compulsory education:

(1) (c) Specified in sub-clauses (iii) and (iv) of clause (n) of section 2 shall admit in class I, to the extent of at least twenty-five per cent of the total strength of that class, children belonging to weaker section and disadvantaged group in the neighborhood and provide free and compulsory elementary education till its completion:

Provided further that where a school specified in clause (n) of section 2 imparts pre-school education, the provision of clause (a) to (c) shall apply to such pre-school education."

2. Mechanism of admissions u/s 12 (1) (c) in Delhi

In Delhi, section 12 (1) (c) includes children belonging to weaker section and children belonging to disadvantaged group.

1. Children belonging to weaker section those whose parents have annual family income from all sources is less than one lakh rupees.
2. Children belonging to Disadvantaged Group includes children belonging to,
 - Scheduled Castes (SC)
 - Scheduled Tribes (ST)
 - Other Backward Classes (non-creamy layer)
 - Children with Special Needs and suffering from disability
 - Orphans
 - Transgender

The process of allocating seats to the children from Economically Weaker Section (EWS) and Disadvantaged Groups (DG) in Delhi takes place via the Directorate of Education, Delhi.

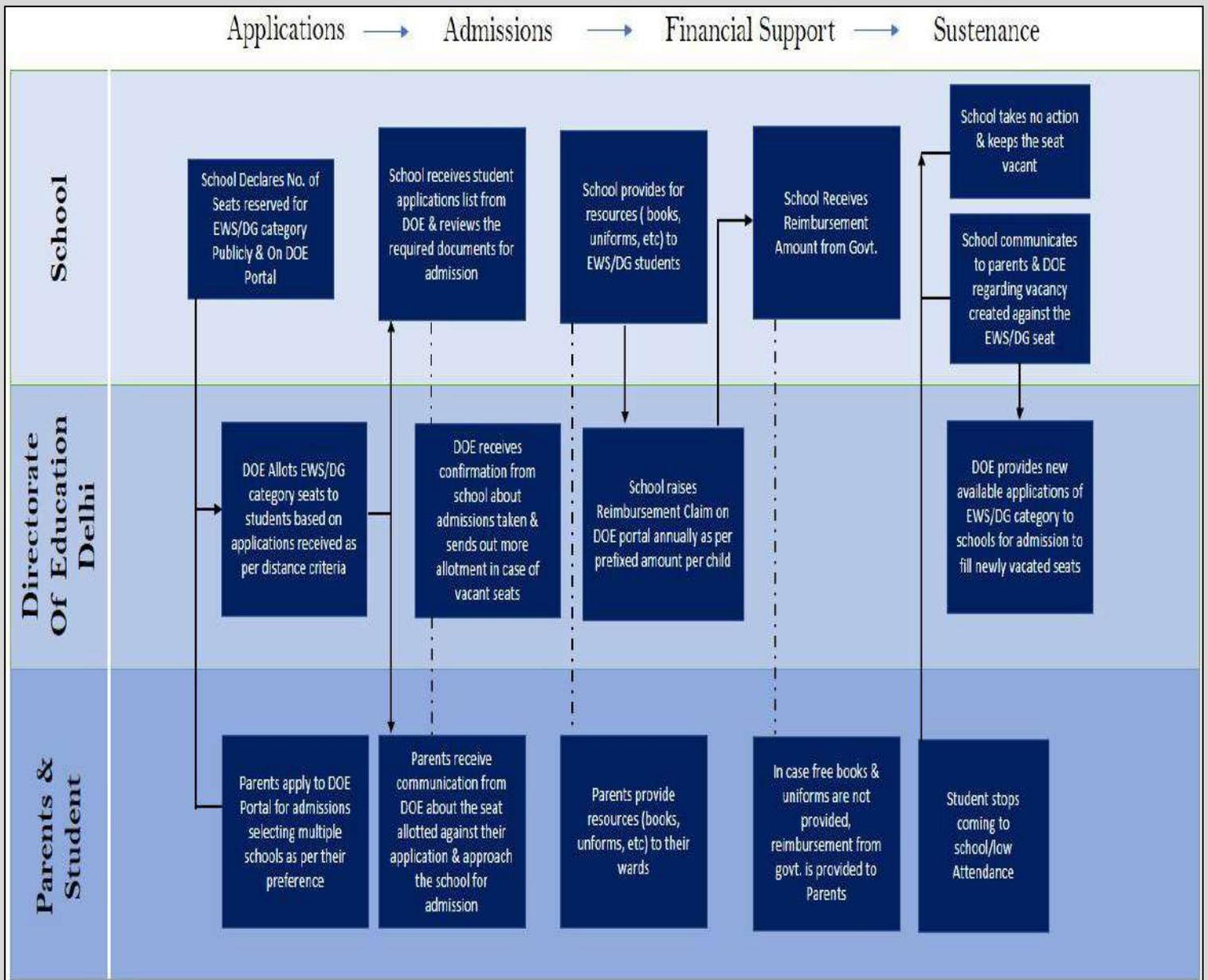
The documents required for children belonging to EWS: Income certificate issued by a Revenue Officer not below the rank of Tehsildar or BPL/AAY/Food Security Card issued by Food and Civil Supply department, Govt. of NCT of Delhi.

The documents required for children belonging to DG: SC/ST/OBC certificate issued by Revenue Officer not below the rank of Tehsildar or BPL/AAY/Food Security Card issued by Food and Civil Supply department, Govt. of NCT of Delhi. Children with Special Needs/Disabled- Certificate issued by govt. hospital. While orphan and transgender are required to provide documentary evidence. No income limit is prescribed for Children belonging to Disadvantaged Group.

All private unaided schools declare the number of seats reserved for EWS and DG students publicly as well as on the DoE portal. The parents of the students apply for admissions to multiple schools on the DoE portal as per their preference. The DoE then allots the EWS and DG seats to these applications considering the distance of their residences from the schools. The schools then receive the list of student applications from the DoE, and reviews their documents required for school admissions. Once the students have been allotted seats in the schools, the DoE receives confirmation regarding the admissions taken, and the number of seats filled. The parents of the EWS/DG students then receive information about the seats allotted against their application, and

approach the respective schools for their wards' admissions. Upon admission, schools provide these students with the resources (books, uniforms etc) required in schools. They raise reimbursement claims on the DOE portal annually, depending on the preferred amount spent per child, and receive reimbursement amount from the government.

In case the free resources have not been provided by the schools to the students, the parents receive the reimbursement amount. To sustain this rigorous process requires more than one round of applications. If some seats still are left vacant, fresh applications against the vacant EWS/DG seats are issued to the schools. The entire process of application takes place again until the vacant seats are filled.



3. Methodology

The study was conducted in two phases.

Phase-1: To get an understanding of the trends of compliance in Delhi with regards to the RTE Section 12 (1) (c) an analysis of the admission data submitted by schools to DoE for year 2010 to 2016 of 663 schools across Delhi was done district and zone wise. In addition, analysis of the admission data available at the DoE website of 1145 schools across Delhi for the year 2017 was analysed to understand the current status of schools.

Phase -2: Onsite visit was conducted on a sample of 44 schools spread across all districts to verify the data submitted by them to Directorate of Education (DoE). The schools were selected by QCI, randomly spread over all the districts and concerned stakeholders were interviewed based on a questionnaire with the aim to understand the issues in depth from the schools and recommend systemic reforms. The following points were covered during the visit:

- Validation of the data with admission documents and checked for discrepancies if any.
- Interviewed Teachers to understand the achievement gap prevalent between general category students and EWS/DG category students
- Conducted activity with students to understand if the students feel that they study in an inclusive environment
- Interviewed parents of EWS students to understand the impact of this clause on their lives and areas of improvement
- Observation method to examine the relation among children in school in different settings such as classrooms and playground.
- Captured challenges faced and best practices followed in schools

Challenges in Conducting the Study:

Two major challenges were encountered while conducting the study.

- *First*, to obtain data on the questionnaire developed by NCPCR regarding status of enrolment of children under section 12(1)(c) from different districts of Delhi. The data was sought through Director (Education) within a time-period of three months. The Commission summoned to receive complete data from the 12 districts of Delhi.
- *Second*, the surveyors received lot of resistance from various schools in providing requisite data at the time of on-site visit and the reluctant schools had to be summoned by the Commission.

4. Quantitative analysis of admissions of EWS/DG category students

4.1. Compliance of Admission of EWS/DG category students as per RTE 2009

All schools were required to submit their basic information like School Name, Address, DISE code and School ID along with their admission data from 2010 to 2016 in the format given below to the School of Education which was then submitted to NCPCR.

YEAR					
Class	Total No. Of Student In Class	Total No. Of Admission Under EWS/DG Category	Total No. Of Student Admitted Under EWS/Dg Category Who Have Taken School Leaving Certificate	Total No. of Name Admission	New Admission Under EWS/DG Category
PRE-NURSERY					
CLASS-1					
CLASS-2					
CLASS-3					

Format for admission data that was submitted by schools to School of Education

Based on the data submitted by school, analysis of the overall compliance of RTE in Delhi, region wise and year wise is presented below. **There is an increasing trend every year, but the rate of improvement has declined and there was no increase (0%) from 2015-16 to 2016-17.** (Fig. 1.1 & Fig. 1.2)

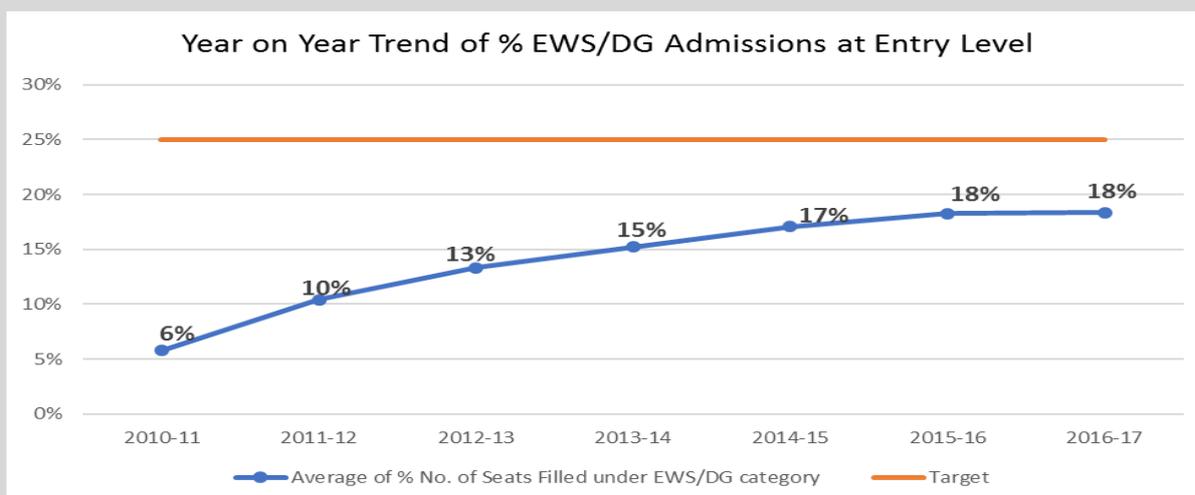


Fig. 1.1: RTE Compliance year wise based on the sample data of 651 schools of Delhi

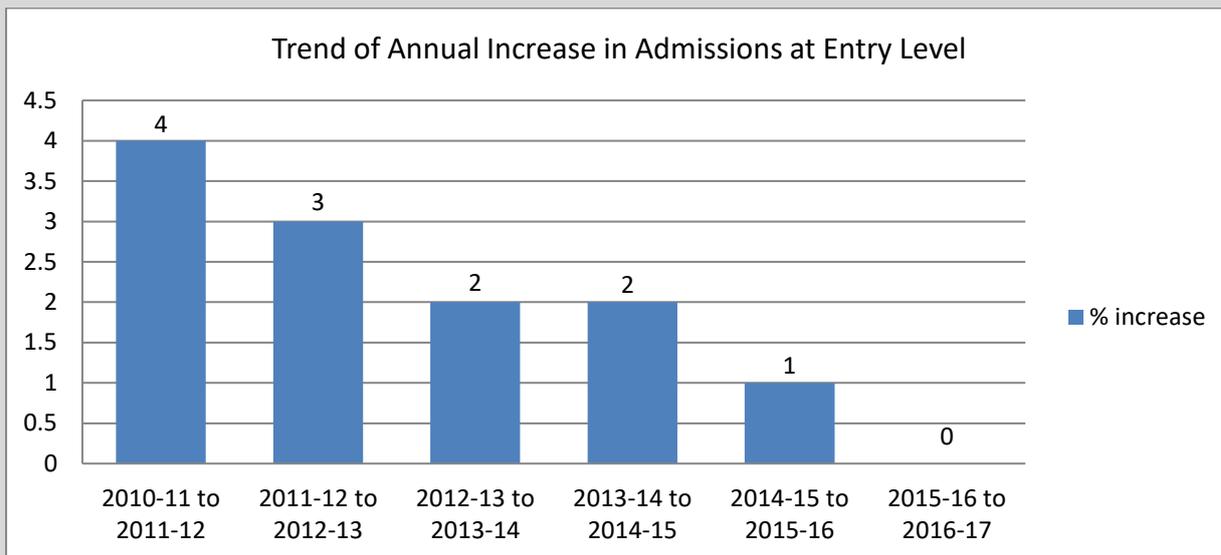


Fig. 1.2 Annual Increase in Admissions at Entry Level

Also, Fig. 1.3 shows the compliance at entry level. For schools that have pre-primary as entry level, compliance has increased from 2010-11 to 2015-16. However, it decreased from 21 percent to 19 percent from 2015-16 to 2016-17. For schools with first class as the entry level shows increasing trend from 2010-11 to 2016-17, however, the rate of increase has declined from 3 percent in 2010-11 to 2011-12 to 1 per cent in 2015-16 to 2016-17.

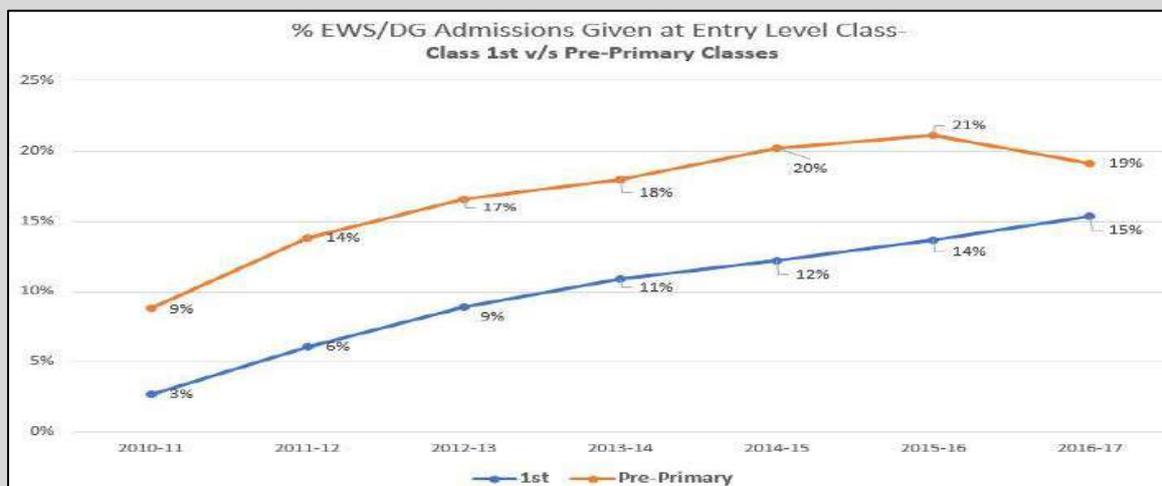


Fig. 1.3 RTE Compliance at Entry Level Class as Pre-primary and Primary (1st)

The map (Fig. 1.4) below shares the average shortfall from target of 25% EWS category admissions as per RTE across various regions of Delhi for the year 2016-17 at entry level class only. As per the analysis **South Delhi have the lowest shortfall with average 3 percent while north east has an alarming shortfall of 14 percent.**

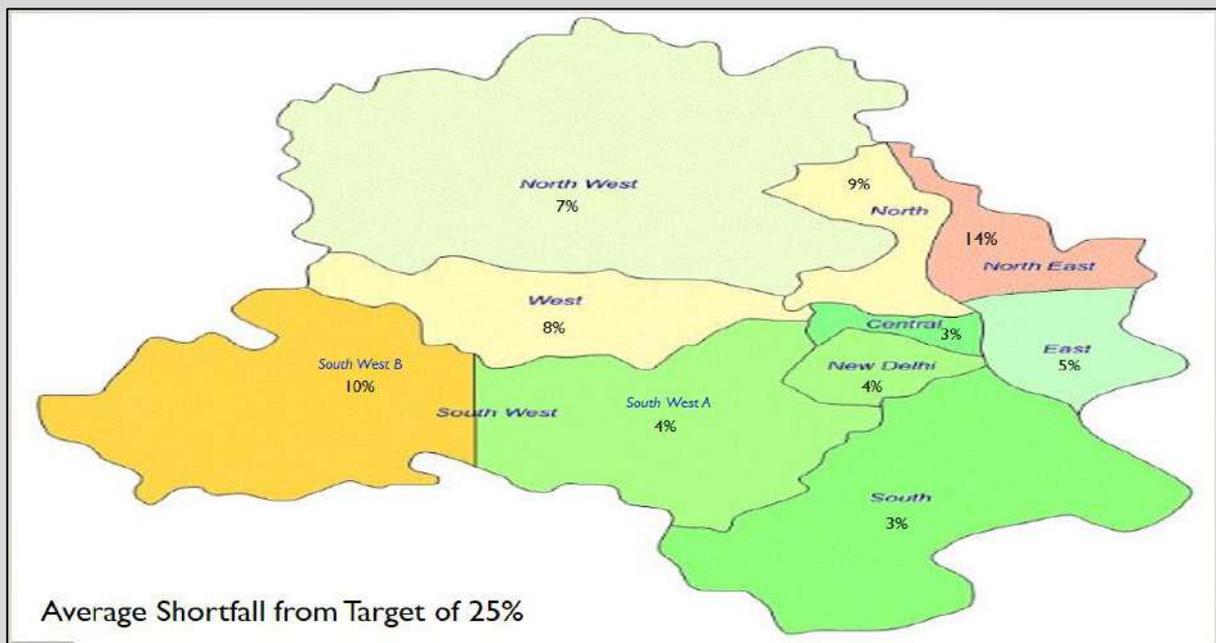


Fig. 1.4 District-Wise Map of Delhi Showing Average Absolute Shortfall from Target of 25% EWS/DG category admissions given (For year 2016-17 at Entry Level class only)

Also, Fig. 1.5 shows the trend at district & zone level of average percentage of EWS/DG category admissions given at Entry level with the count of schools. As per the data, zone 4 (North East) & Zone 22 (South West B) are performing the worst with high number of schools and very low compliance.

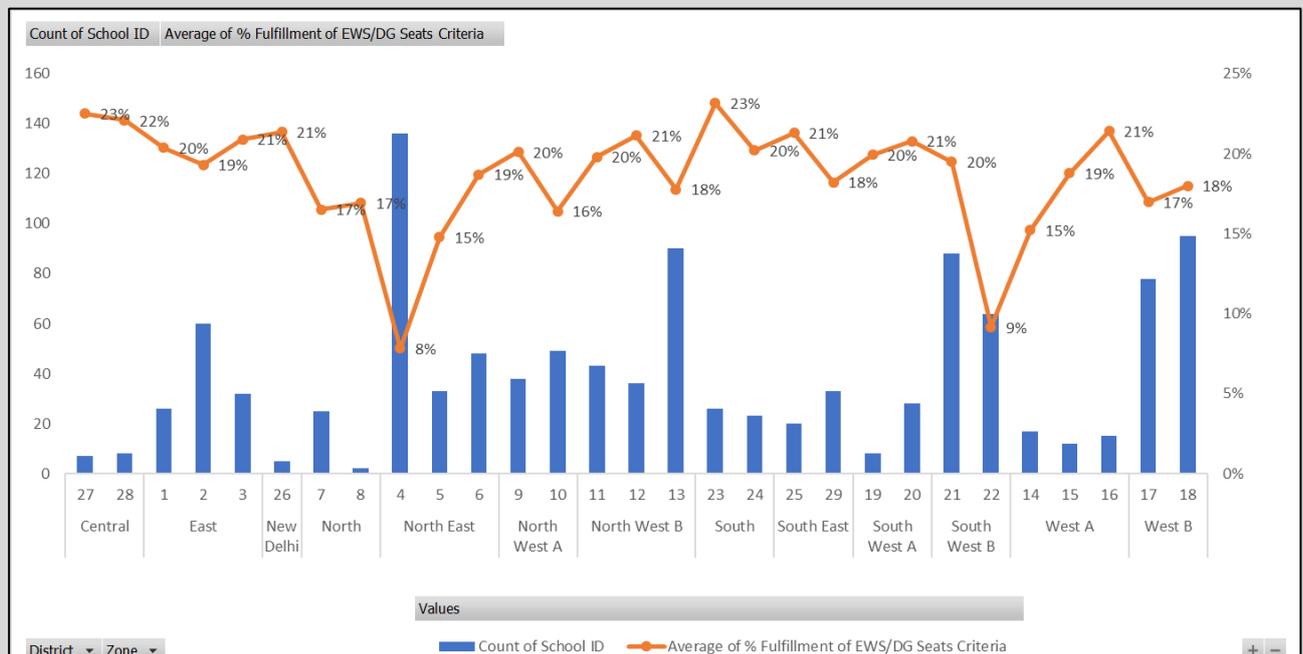


Fig. 1.5 Graph showing District & Zone-wise trend of Average % EWS/DG category admissions given at Entry level. Here, Count of School ID shows no. of Schools

Further, Fig 1.6 provides the split of the shortfall into intervals and shares the count of schools in the histogram.

- Out of the 1145 schools, 67.7 per cent schools have a shortfall of around 0-11 per cent, 16.5 per cent schools have shortfall of 11%-19% and 15.8 per cent have shortfall of 24% to 25%

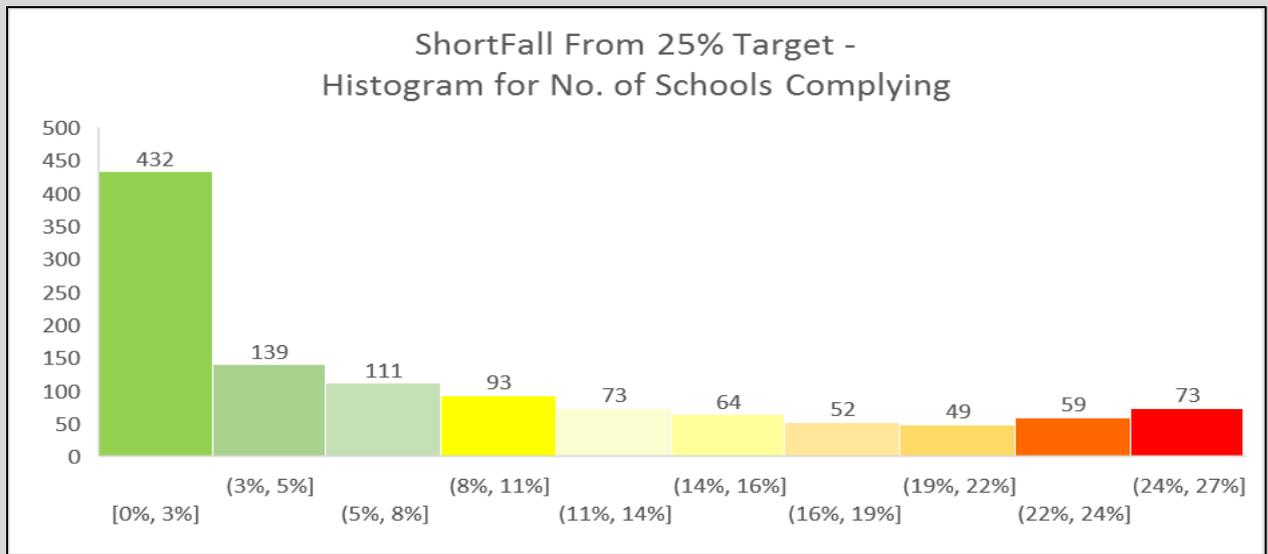


Fig. 1.6 Count of schools as per the level of shortfall from 25% target EWS admission as per RTE

4.2 Compliance of Admission of EWS/DG category students based on the Entry Level Class

As noted in the above graphs North East region has the highest shortfall in admissions of EWS/DG category students. Also, it has been noticed that,

- Most of the Entry level classes in North East are Class I which is unlike all other districts where most entry level classes are pre-primary (Fig 1.7)

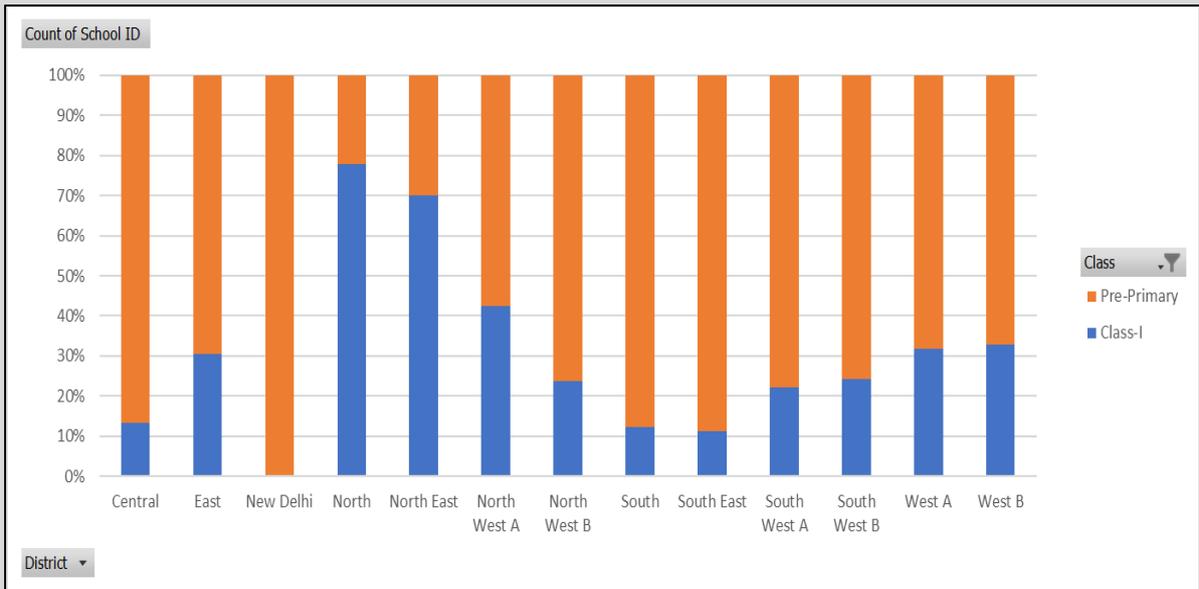


Fig 1.7 Graph showing % composition of Entry level class type in schools for a district

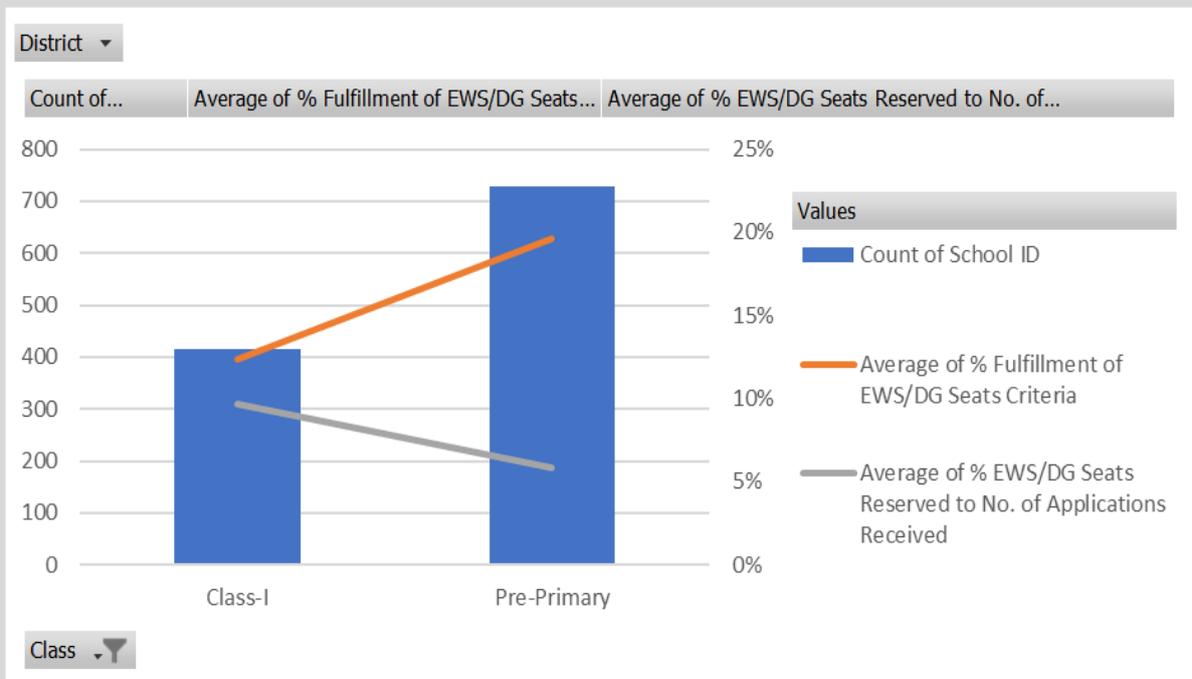


Fig. 1.8 Graph showing Entry level Class Type Trend for All Zones

In all Zones, for Class-I, lower no. of applications is received per seat reserved for EWS/DG category & the resultant % admissions are also less (Fig 1.8)

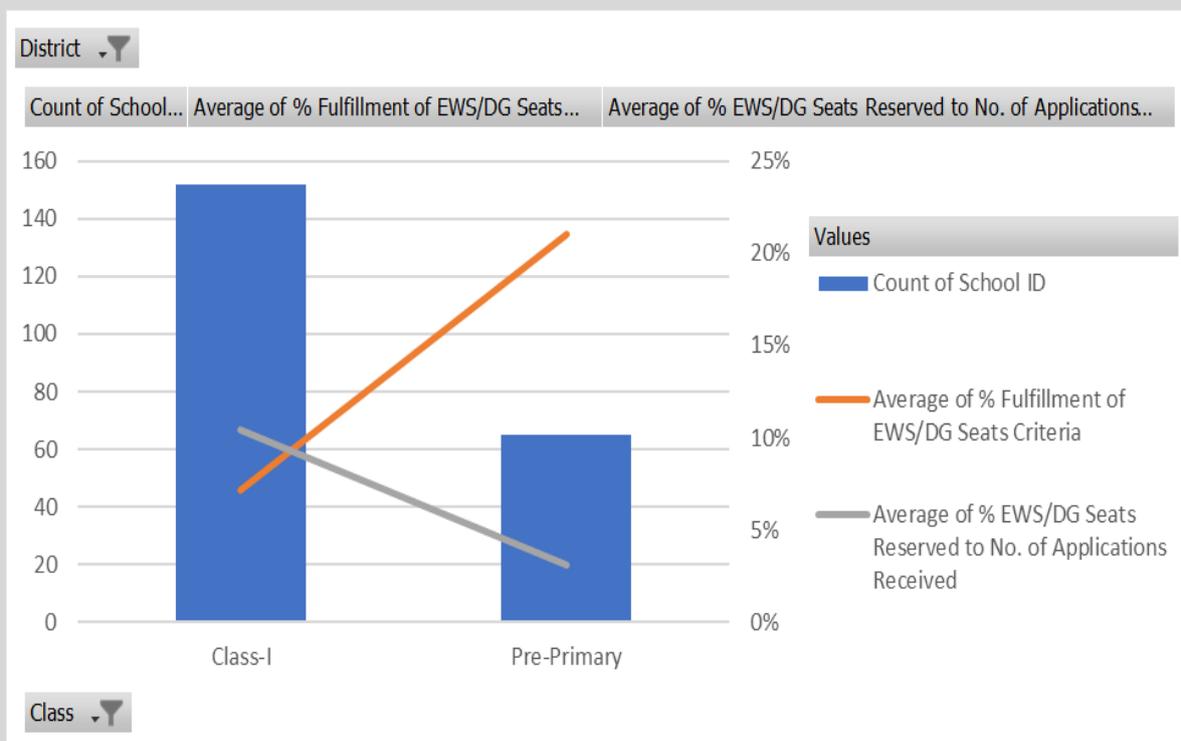


Fig 1.9 Entry-level class Type Trend for Zone 4 (North East)

For Zone 4 in North East, which is having 9% overall % EWS/DG admissions, the % EWS/DG admissions for pre-primary class is greater than 20% (Fig 1.9)

Trends show high preference among EWS/DG applicants for schools having entry level class as pre-primary. Assumable, since the EWS category students don't have the resources to make up for the education of pre-school, on their own, and directly take admission in Class-I, they prefer schools with Nursery as the Entry Level class. This maybe affecting North East district as most schools in the region are having Class-I as Entry level class.

4.3. Dropout rate of learners admitted under EWS and DG category

Based on the data submitted by schools analyzed year wise dropout rates of 650 schools across Delhi is shown in Fig. 2.1. In the initial phase in 2011 the dropout rate was at around 26% which has come down to 10% in 2014 but shows no major progress after that.

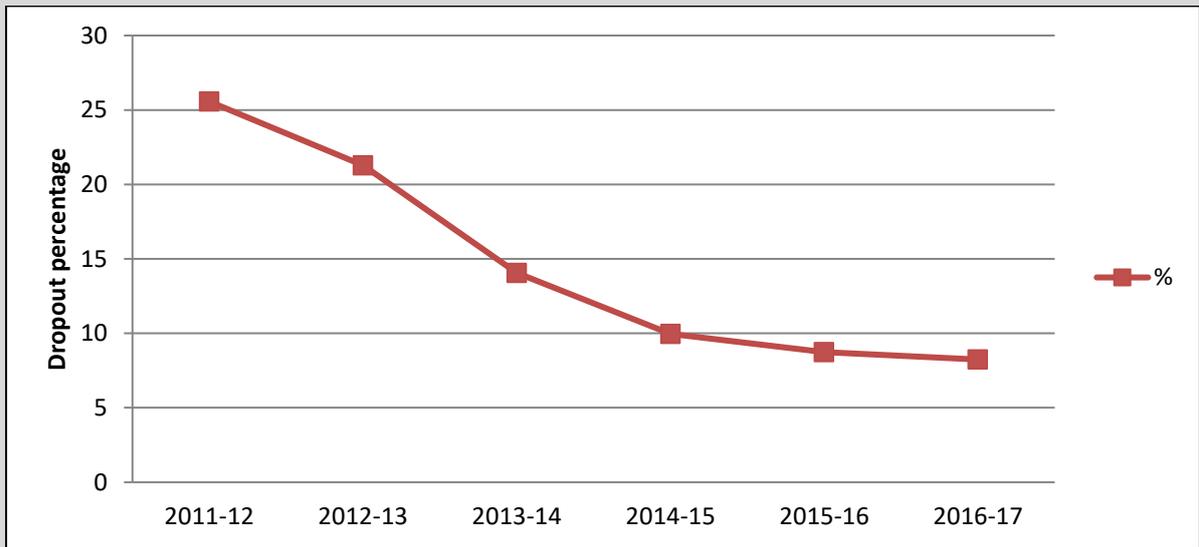


Fig. 2.1 Year-wise Drop-out rate of EWS/DG category students

Also, the next graph (Fig.2.2) shares the dropout percentage particularly at the entry level class i.e. primary and pre-primary and major share of the dropout is at the primary level.

During the on-site visit to schools, the assessors took details of the dropout cases from school administration and interacted with school Principals/administration and parents of the EWS category to understand the major problems they face that lead them to drop out of schools. One of the main excuses given by school is that after allotment parents did not show interest for admission but the school also didn't try to follow-up with the parents. Due to lack of follow-up by the school or authorities, the seats remain vacant. One of the private school stated that students of EWS/DG category tend to get less support from their immediate family due to which they tend to drop out in case the family has to move back to their hometown. Similar instances of drop out cases where family had stated its relocation to village as the reason for cancellation of admission were common across schools.

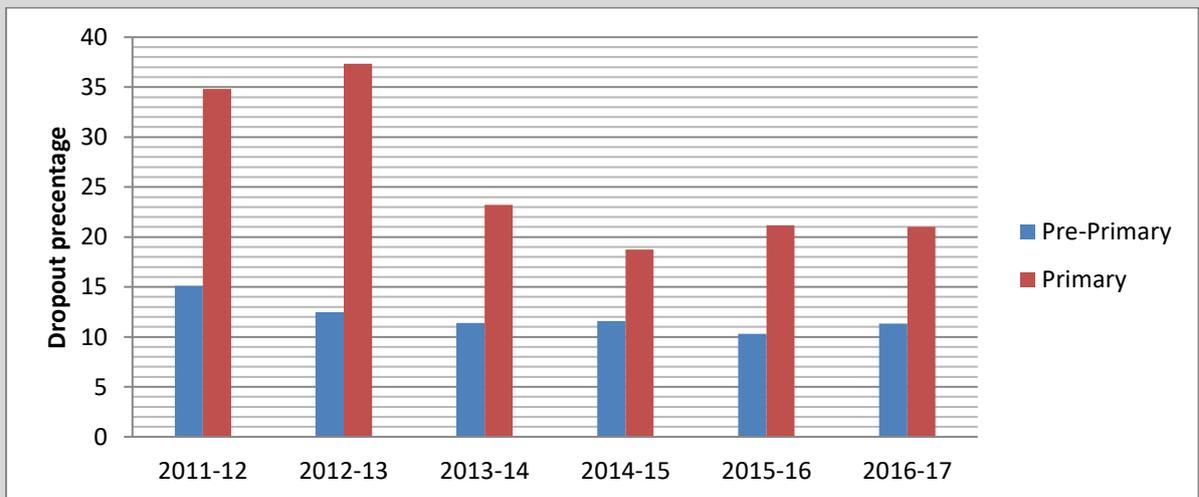


Fig. 2.2 Year-wise dropout Percentage of EWS/DG category students at entry level class

Parents claimed that books and extra-curricular activities cost a lot which pushed them to leave school. A special case was reported by a parent, her child was denied admission in class 4 because he was absent from school for two months. While they claim that it was informed to the school authority beforehand but without any warning notice her child’s admission was cancelled. The parent then filed a complaint with the Commission and the case has been resolved. The child has been readmitted to his school.

Another trend that was noticed with respect to dropouts are that the schools have no clarity on what next steps they need to be followed in case the EWS/DG category students leave school or don’t join at all. As per the documents collected during the onsite visit to schools, in case the child doesn’t join their school at all then the school needs to send a notification to the DoE stating that the child allotted to them has not joined and the seat is empty but the same is not practiced when the student leaves in between for personal reason.

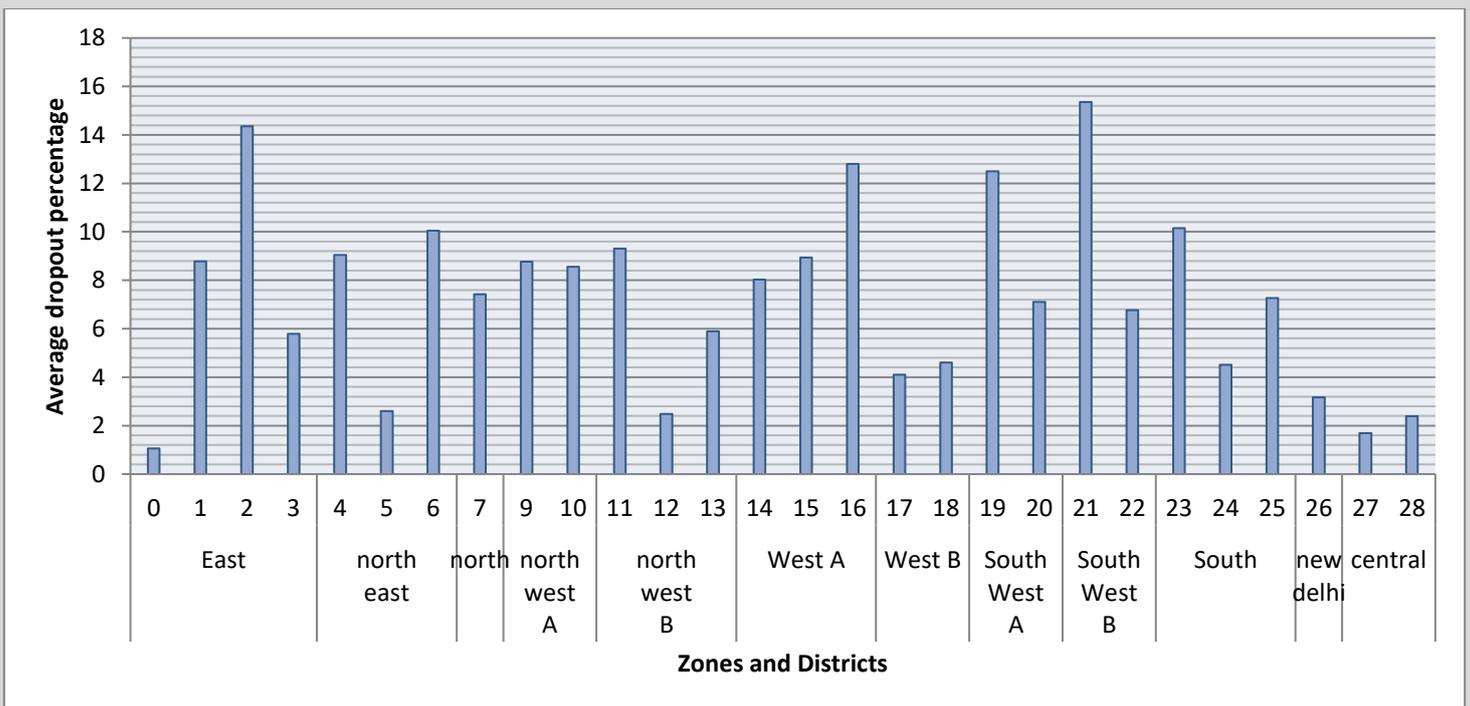


Fig. 2.3 Zone Wise Dropout Percentage of EWS/DG category students

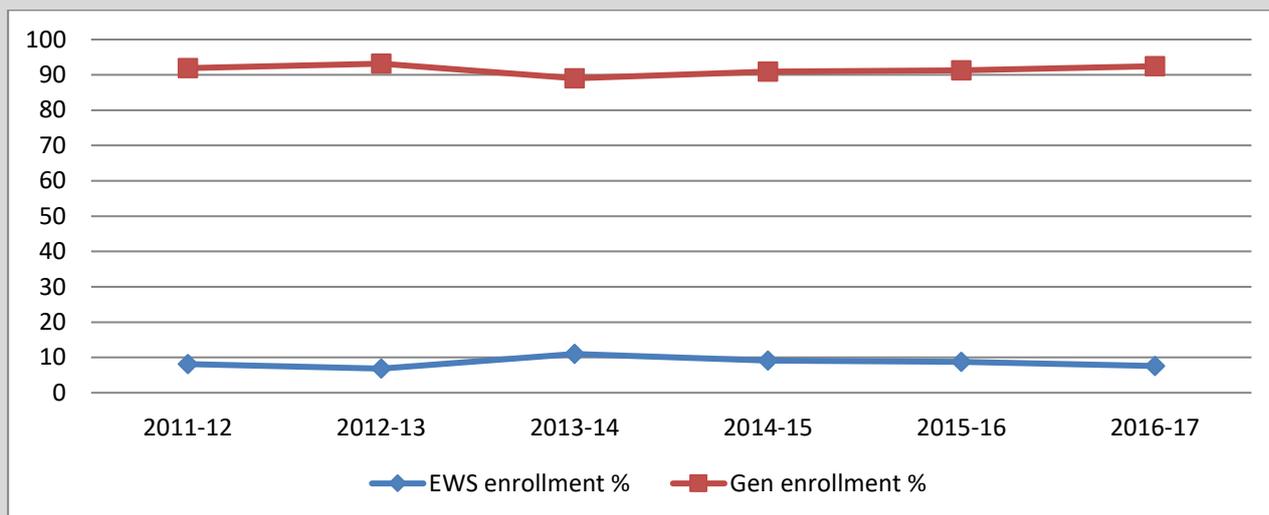


Fig 2.4 New Admission under general category vs EWS/DG Category

As per the analysis of the data, it is clear that most of the schools don't take any initiative to fill the empty seats while few try filling it with general category students. The schools quote absence of proper guidelines from the DoE to maintain the ratio till class 8th as a reason of not taking admission after entry class. However, section 12 (1) (c) clearly states that the school shall admit in class I, to the extent of 25 per cent of total strength of that class and provide education till completion of elementary education. The RTE Act, 2009 nowhere restricts the schools from taking admission in any other elementary level class to maintain the 25 percent ratio (Fig. 2.4).

4.4 Gaps found in Admission data & Fake Admission Documents

The admission data submitted by schools was found to be incorrect during onsite visit. Fake income certificate cases have been reported in one school, showing that online verified Income Certificates were rejected by SDM office when sent for physical verification thereby indicating that there is a mismatch in online & actual income certificate authentication data, evidence of same collected with student applications rejected in such cases. Though the issue of authenticity of applications received (i.e. verification of EWS/DG category qualification) is a process being comprehensively taken care of by school authorities through scrutiny of Income Certificates of parents applying for their ward's admission, it was brought to notice that online portal for Income Certificate verification must be fool-proof and binding. The administrative representative of another school reported that "Genuine applications are not received for EWS students, though the legal documents required are available to establish EWS status".

4.5 Achievement Gap and Private Tuitions

Teachers have reported major achievement gap in EWS category students due to reasons like family background, poor diet habits, lack of conducive environment at home. In one school the counselor pointed that out of 19 students who belonged to slow learner category, out of which 15 belonged to EWS category, major reason cited for achievement gap was lingual as English language is not learnt by EWS students well enough to cope up with studies in higher primary classes & above. A teacher stated that parents were less aware and accountable towards their students. Parents do not attend parents meeting after several notices through note and phone calls. However, parents informed that students are going for tuition of English Language but instances came to our notice that students have been stopped from taking private tuitions by the school to ensure uniform & standardized mode of learning for all students. Section 29(2) (f) of the RTE Act, 2009 states that the medium of instruction should be in child's mother tongue as far as practicable.

4.6 Reimbursement Policy for Tuition Fee, Books and Uniforms

As per the guideline of DoE all schools are allotted an amount of Rs. 1598 per EWS student per month as tuition fee reimbursement. For books and uniforms all schools are expected to fill in the details of the expenditure incurred in the format given below and submit it to DoE. The amount claimed gets reimbursed via cheque to the school and it is then distributed to the students. The schools are supposed to submit utilization certificate within a month of the receipt of the cheque.

<u>Class</u>	<u>No. of students</u>	<u>Rate of text book per child</u>	<u>Rate of Geometry</u>	<u>Total Amt of text book and G.Box</u>	<u>Rate of Uniform per child</u>	<u>Total Amt of uniform</u>	<u>Total Amt. of Text book, G.Box & uniform</u>

Parents have complained that cost of books and extra curricular activity is too high and the reimbursement amount is not enough. One of the parents said, "I pay around Rs. 3100/- per quarter to the school for my son. Apart from that I spend about Rs. 12,000 on his books. His uniform cost is extra. In case the school takes the child for picnic, I pay for it." One of the major reasons for higher cost of books in private schools is the violation of section 29 (1) of the RTE Act, 2009 i.e. when the curriculum and evaluation procedure laid down by the academic authority is not followed.

4.7 Social Discrimination

The onsite visit to the select school provided an opportunity to interact with all children, both admitted under EWS/DG category as well as those under general category. The children were also observed during classroom interaction, in playground etc. The following section presents the perception of Principals and teachers followed by analysis by NCPCR. It also includes analysis of observation of children's behaviour in a peer-group during classroom interaction, in playground etc.

4.7.1 Perception of Principal towards admissions under RTE Section 12 (1) (c)

Around 13.5 % of Principals are not in favour of admissions under RTE Section 12 (1) (c) due to various reasons stated by them. Please find below few reasons stated by the Principals and Schools:

- Non-Payment of Reimbursements for additional educational facilities by Government –Minimal amounts (Rs.600-1000/student) were received which are not sufficient enough to support them to buy the stationary, books or uniform. In few schools, Books and Uniform cost is being spent by Parents from EWS category. In addition, there are few schools which have not received reimbursements for last 2 years.
- False Income and Caste Certificate produced by EWS Parents – Few Principals have complained about the false Income and Caste Certificate produced by the parents of EWS Students. Also, there is no existence of proper mechanism to validate and authenticate the documents produced by the EWS parents. Principals suggested that the government should evolve some strict mechanism to control and prevent the wrong steps such as (false income and caste certificate) taken by parents to come under the EWS/DG category.
- Poor Conduct of EWS Students – Few Principals believes that EWS students are more prone to initiating fight with other children or stealing stationary items such as pencil box or pen. Abusive language & misbehaviour by EWS category students more difficult to solve due to wrong precedents set in home environment.
- Learning level of EWS Students - EWS/DG category students are slow learners or find English language difficult to follow and therefore find it difficult to concentrate in studies in the class.
- Health & Hygiene is a primary concern for EWS students.

Comments: *First*, Section 12 (2) of the RTE Act, 2009 states that the expenditure reimbursed by the State should be to the extent of per-child expenditure incurred by the State or actual amount charged from the child, whichever is less. This implies that the expenditure incurred by State in providing books will be reimbursed and submission of Schools that the same is insufficient to support the education of children admitted under EWS/DG category reinforces the fact that the cost of books in private schools is high. The main reason for increased expenditure is that the private schools are not following NCERT books and curriculum. *Second*, school is a learning place where children from different backgrounds gain knowledge together. It is the responsibility of school to provide a conducive learning environment suitable for their all-round development. *Third*, mostly, pre-primary classes are the entry level in private schools where a child is admitted after completing the age of 3 years. At this age, a child should not be expected to know any other language except her/his mother tongue. Hence, to generalise that all EWS/DG category students are slow learners and attributing this to not knowing English Language is a not supported with any logical evidence.

4.7.2 Discrimination between the students from the general category and the children from EWS/DG category

Contrary to the views expressed by the School Principals regarding issue of social differences among children, any kind of discriminating behaviour was not observed between the students from the general category and from EWS/DG category in more than 94% of the schools,. This observation raises an important question. If children do not discriminate among themselves than what is the reason that such thoughts float? As it is clear from the views expressed by Principals and teachers, lack of training to create opportunities for these children to effectively adjust in the school environment gives rise to such biased views.

4.7.3 Perception of Teachers about the Achievement gap in the children coming from EWS category

Around, 33% of teachers have expressed their views in favour of existence of achievement gap in the children coming from EWS Category. In one of the inspected schools, teacher and especially the school counsellor felt that most of the students from EWS category are not able to cope up academically with other students and end up feeling distant and discouraged due to the circumstantial limitations. Major Reason cited for Achievement Gap was lingual as English language is not learnt by EWS students well enough to cope up with studies in primary classes and above.

Comments: The admissions u/s 12 (1) (c) are made at the entry level. That means, a child's pre-primary schooling begins in the given school. Hence, the responsibility of achieving desired learning outcomes lies with the School. Parents or home environment cannot be held accountable for low achievement levels. This perception of teachers will not in any way help the first generation learners and they will continue to remain out of the mainstream.

5. Best Practices of Schools

- Psychological counsellors to address the issues of students and parents of Economically Weaker Section Category.
- Remedial classes are conducted to give special training to support the students with low learning outcomes.
- Bilingual medium of instruction to support the EWS students to cope up with the general students.
- Buddy Program in which the senior students support the children with low learning outcomes.

6. The Way Forward

- 6.1 Need to conduct regular orientation programmes for of teachers and principals on how to include the children in EWS/DG category in the mainstream.
- 6.2 Similar to in-service training of government school teachers, training of private school teachers should be conducted by respective schools through DIETs.
- 6.3 Section 12 (2) RTE Act, 2009 states that the total expenditure on education has to be reimbursed by the State. Hence, these children should be included in important co-curricular activities conducted in the school.
- 6.4 Section 29 (2) of the RTE Act, 2009 states that the medium of instruction should as far as possible be mother tongue. Hence, the school make efforts for multilingual teaching.
- 6.5 The NCF given by academic authority should be implemented strictly in private schools. That is the books should be as prescribed by SCERT in the respective States. This means section 29 (1) of the RTE should

be strictly implemented, especially in schools affiliated to CBSE/ICSE or any other private board.

- 6.6 The Parent's Teacher Association in private schools should have reservation for parents of EWS/DG category students admitted in the school.
- 6.7 It should be mandatory for the Principal/Head of the School to report absence of students as per rule 2B (2) of Child Labour Rules, 2017.
- 6.8 Per-child expenditure should be calculated including all expenditure on education of a child in schools.
- 6.9 Also, private schools need to be graded as per the infrastructure and facilities available in the schools and parents be asked to fill in the preferences as per the facilities available in the school. This will help the parents to make informed choice for admission of their child and will help in reducing the dropout.
