

AS INTRODUCED IN THE RAJYA SABHA
ON THE 13TH MARCH, 2026

Bill No. XXVII of 2026

THE RIGHT OF CHILDREN TO FREE AND COMPULSORY
EDUCATION (AMENDMENT) BILL, 2026

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BILL

*further to amend the Right of Children to Free and Compulsory
Education Act, 2009.*

BE it enacted by Parliament in the Seventy-seventh Year of the Republic of
India as follows:—

1. (1) This Act may be called the Right of Children to Free and Compulsory
Education (Amendment) Act, 2026.
- (2) It shall come into force at once.

Short title and
commencement.

2. In section 23 of the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the Principal Act),

(a) in sub-section (1), after the words “minimum qualifications”, the words “subject to the provisions of sub-sections (4), (5) and (6)” shall be inserted;

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(b) in sub-section (2), the second proviso shall be omitted; and

(c) after sub-section (3), the following sub-sections shall be inserted, namely:—

“(4) Notwithstanding anything contained in this Act or in any rule, notification, direction or guideline made thereunder, no teacher who was appointed to a school prior to the commencement of this Act in accordance with the recruitment rules, qualifications and procedures then in force, shall be required to acquire any additional qualification, as notified before the commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2026 or as may be prescribed thereafter, as a condition for continuance in service, promotion, seniority or terminal benefits.

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(5) The requirement of passing any Test or such other additional qualifications as may be prescribed under this Act shall apply prospectively and only to appointments made after the commencement of this Act or after such prospective date as may be notified by the appropriate Government.

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(6) No teacher appointed or in position prior to the commencement of this Act or the date notified by the appropriate Government under sub-section (5) above shall be subjected to compulsory retirement, termination, denial of promotion or any other adverse service consequence solely on the ground of failure to pass or non-acquisition of any Test or such other additional qualifications, respectively, as may be prescribed under this Act.

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(7) The appropriate Government shall prescribe guidelines for professional upgradation, training and capacity building of teachers appointed or in position prior to the commencement of this Act, without linking such measures to service security or promotional eligibility.”

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Insertion of
new section
23A.

3. After section 23 of the principal Act, the following section shall be inserted, namely:—

“23A. (1) Notwithstanding anything contained in this Act or in any rule, notification, direction or guideline made there under, the service conditions, promotional avenues and retirement benefits of teachers appointed or in position prior to the commencement of this Act shall not be altered to their disadvantage by the introduction of any new qualification requirement.

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(2) Any qualification prescribed after the commencement of this Act or after such date as may be notified by the appropriate Government, shall be deemed to operate prospectively.

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(3) The provisions of this section shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.”

Protection of
service
conditions of
pre-existing
teachers.

Amendment
of section 38.

4. In section 38 of the principal Act, in sub-section (2), after clause (1), the following clause shall be inserted, namely:—

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“(1a) framing of guidelines for professional upgradation, training and capacity building of teachers appointed or in position prior to the commencement of this Act, under sub-section (7) of section 23;”;

5. After section 39 of the principal Act, the following section shall be inserted, namely:—

“**39A.**The appropriate Government may, for the purpose of giving effect to the provisions of this Act, issue such directions, clarifications or guidelines as may be necessary, to protect teachers appointed or in position prior to the commencement of this Act from any adverse service consequences.”.

Insertion of new section 39A.

Power to issue protective directions.

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STATEMENT OF OBJECTS AND REASONS

The Right of Children to Free and Compulsory Education Act, 2009 (Act No. 35 of 2009) [hereinafter referred to as 'RTE Act'] was enacted to give effect to Article 21A of the Constitution and to secure the fundamental right of every child to free and compulsory elementary education of equitable quality. Section 23 of the RTE Act empowers the prescription of minimum qualifications for teachers, on the basis of which the Teacher Eligibility Test (TET) has been prescribed as a qualification criteria for appointment as a teacher.

While the goal of enhancing teacher quality is necessary, recent judicial interpretation has resulted in the retrospective application of TET requirement to teachers who were appointed prior to the commencement of the RTE Act in accordance with recruitment rules, qualifications and procedures validly in force at the time of their appointment. The issue has assumed urgency following the Supreme Court judgment dated 01.09.2025 in 'AnjumanIshaat-e-Taleem Trust vs State of Maharashtra & Others'. By interpreting Section 23 of RTE Act, Apex Court held that TET constitutes a mandatory minimum qualification not only for fresh recruitments but also for teachers recruited prior to the Act. Supreme Court directed that in-service teachers having more than five years of remaining service must qualify TET within two years of the judgment, i.e., before 01.09.2027, failing which they will face compulsory retirement. Teachers with less than five years of remaining service were granted limited relief, but remain ineligible for promotions without TET qualification.

Such retrospective application has generated widespread concern among teachers as many of these teachers have rendered decades of dedicated service and have substantially contributed to the expansion and consolidation of elementary education, particularly in rural, remote and socially disadvantaged areas. They form the backbone of elementary education and any disadvantage to them for want of TET qualification would not only undermine legitimate service expectations and principles of natural justice, but also risk destabilising the continuity and institutional stability of the education system in the country.

The Constitution envisages that legislative policy must operate with fairness, reasonableness and proportionality. The doctrine of legitimate expectation, the principle against arbitrary retrospective penal consequences, and the need to balance quality reform with institutional stability require a calibrated and prospective approach in the implementation of qualification norms.

The proposed Bill seeks to clarify that the requirement of passing the Teacher Eligibility Test or such other additional qualification criteria under the RTE Act shall operate prospectively and shall apply only to appointments made after the commencement of the Act or after such notified date as may be prescribed. The amendments further seek to provide statutory protection to teachers appointed prior to the commencement of the Act by safeguarding their continuance in service, promotional avenues and retirement benefits, while simultaneously enabling structured professional upgradation and training without linking such measures to punitive consequences.

The Bill, therefore, seeks to harmonise the objective of improving educational standards with the equally important constitutional mandate of fairness, equity and protection of vested service rights, thereby ensuring both quality education for children, and dignity and security for in-service teachers.

The Bill seeks to achieve the said objectives.

JOHN BRITTAS.

ANNEXURE

EXTRACTS FROM THE RIGHT OF CHILDREN TO FREE AND
COMPULSORY EDUCATION ACT, 2009
(Act No. 35 of 2009)

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- 23.** (1) Any person possessing such minimum qualifications, as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointment as a teacher.
- (2) Where a State does not have adequate institutions offering courses or training in teacher education, or teachers possessing minimum qualifications as laid down under sub-section (1) are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be specified in that notification:
- Provided that a teacher who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of five years:
- Provided further that every teacher appointed or in position as on the 31st March, 2015, who does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of four years from the date of commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2017 (24 of 2017).
- (3) The salary and allowances payable to, and the terms and conditions of service of, teachers shall be such as may be prescribed.
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- 38.** (1) The appropriate Government may, by notification, make rules, for carrying out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—
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- (1) the salary and allowances payable to, and the terms and conditions of service of teacher, under sub-section (3) of section 23;
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- Qualifications for appointment and terms and conditions of service of teachers.
- Power of appropriate Government to make rules.

RAJYA SABHA

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BILL

further to amend the Right of Children to Free and Compulsory
Education Act, 2009.

(Dr. John Brittas, M.P.)