Supreme Court says ‘no’ to review of Right to Education verdict

The Supreme Court has declined to entertain petitions seeking review of its judgment upholding the constitutional validity of the Right of Children to Free and Compulsory Education Act, 2009. The law provides for free and compulsory education to children between 6 and 14 years and mandates government/aided/and non-minority unaided schools to reserve 25 per cent of seats for them.

A Bench of Chief Justice S. H. Kapadia and Justices Swatanter Kumar and K. S. Radhakrishnan in one line dismissed the petitions filed by the Society for Unaided Private Schools of Rajasthan; the Independent Schools Federation of India; the Catholic Bishops Conference of India and two other institutions.

The Bench, while upholding the law by a majority of 2:1 in April this year, had however held that it would not be applicable to unaided minority schools. Justice Radhakrishnan gave a dissenting judgment.

The majority judgment said: “We hold that the Act is constitutionally valid and shall apply to a school established, owned or controlled by the appropriate government or a local authority; an aided school including aided minority school receiving aid or grants to meet whole or part of its expenses from the appropriate government or the local authority; a school belonging to specified category; and an unaided non-minority school not receiving any kind of aid or grants to meet its expenses from the appropriate government or the local authority.”

It said: “By judicial decisions, right to education has been read into right to life in Article 21. A child who is denied right to access education is not only deprived of his right to live with dignity, he is also deprived of his right to freedom of speech and expression enshrined in Article 19(1) (a). The 2009 Act seeks to remove all those barriers including financial and psychological barriers which a child belonging to the weaker section and disadvantaged group has to face while seeking admission.”

The Bench said putting an obligation on the unaided non-minority school to admit 25 per cent children in Class I under Section 12(1) (c) could not be termed an unreasonable restriction. “Such a law cannot be said to transgress any constitutional limitation. The object of the 2009 Act is to remove the barriers faced by a child who seeks admission to Class I and not to restrict the freedom under Article 19(1) (g).”