

A STUDY ON CHALLENGES OF RIGHT TO EDUCATION ACT, 2009`

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Abstract: Education plays a major role in the lives of people. It is a basic human right that works to eliminate or eradicate poverty and ensure social and economic stability. In India, right to education is a fundamental right given to each and every individual. 86th Constitutional Amendment Act, 2002 added a new Article 21A which provides free and compulsory education to all children of the age 6 to 14 years. Parliament enacted Right to free and compulsory Education Act, 2009 to implement effective education system. Even after more than one and half decade, the Indian education system lacks few essentials. The paper aims to critically analyse the Indian education system and recommends few suggestions also.

Keywords: Education, Indian Constitution, Students, Fundamental Right.

1. INTRODUCTION:

One essential human right is the right to education. An amazing means of empowerment is education. It is necessary for all human rights to be promoted and protected. But not enough is being done on a national and international level to guarantee that the Right to Education is implemented effectively. Obtaining basic education is a major development challenge for the global community nowadays, as it is a fundamental human right that millions of children, youth, and adults still lack.

The importance of the fundamental right to education is emphasised in a number of UN bodies' writings, reports, and international conventions. The 1948 Universal Declaration of Human Rights (UDHR) contains a codification of the right to education. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESR), the Convention on the Rights of the Child (CRC), and so forth. At the 2000 World Education Forum, the international community reaffirmed the right to education. With the Millennium Development Goals, the international community specifically pledged to eradicate extreme poverty by 2025 and reduce it by half by 2015. The goal set by the international community is for all children, boys and girls alike, to be able to finish primary school by the year 2015.

2. CONSTITUTIONAL PROVISIONS OF EDUCATION IN INDIA:

The Directive Principles of State Policy are contained in Articles 37 to 51 of Part IV of the Constitution. The Directive Principles are a culmination of social engineering principles and social order ideals, which include the expectations and aspirations of the general public, especially those related to economic democracy. They really are a compromise between the real world and ideals. Regarding the nature of the Directive Principles of State Policy, Paras Diwan has remarked that they are similar to "a vast beautiful vase in which everyone was permitted to put a bunch of flowers of his own liking and choice, and the Directive Principles became more than percepts... the flowers of all the ideals, sentiments, aspirations, percepts and goals were placed in this base. The Gandhian, ideology the Hindu orthodoxy, ideals of socialism, aspirations of weaker section of society, sentiments of minorities, all found a place."

The following provisions about education are included in the Directive Principles of State Policy:

- a) Article 41 relates to the right to work, to education, and, in certain situations, to public assistance. It gives the State instructions to protect the populace within the bounds of its ability and progress in the economy.
 - I. Employment
 - II. Education and

III. Public assistance for those in need who are unemployed, elderly, ill, disabled, or in other underprivileged situations.

- b) The recently amended Article 45 stipulates that children under the age of six are entitled to early childhood care and education. It states that up until the age of six, the State shall make an effort to provide all children with early childhood care and education.
- c) Article 46 discusses the advancement of education and the economic interests of scheduled tribes, scheduled castes, and other marginalised groups. It states that the State must protect the scheduled caste and scheduled tribes from all forms of exploitation and give special attention to the educational and economic interests of the weaker segments of society.

The "Right to Education" is a Fundamental Right under Article 21 of the Constitution up until the age of 14, the Supreme Court ruled in the significant decision of *Unnikrishnan v. State of Andhra Pradesh*. After that, the State's obligation to provide education is subject to the extent of its financial resources. The court stated, "The right to life directly flows from the right to education." Thankfully, the Constitution (Eighty-Sixth Amendment) Act, 2002 has permanently incorporated this court decision. The State shall provide free and compulsory education to all children between the ages of six and fourteen in accordance with Article 21-A, which includes the right to education as one of the fundamental rights.

In order for the people of the state to truly fulfil their Fundamental Duties as outlined in Article 51-A, the state's education policy must foster and instil this culture in them. In actuality, the Fundamental Duties outlined in Article 51-A serve as the foundation upon which the provision of free and compulsory education to children must be shaped and carried out. The type of education that will be provided in educational institutions is related to the following Fundamental Duties:

- (a) To provide social services in response to requests.
- (b) To oppose practices that diminish the dignity of women and to foster peace and a sense of fraternity among all Indians, regardless of their differences in language, religion, region, or social class.
- (c) To appreciate and protect our composite culture's rich legacy.
- (d) To preserve and enhance the natural world, which includes forests, lakes, rivers, and wildlife;
- (e) To cultivate a scientific temper, humanise; and to foster an attitude of inquiry and reform.

According to the recently added subclause (k) to Article 51-A of the Constitution, parents have a fundamental duty to "provide opportunities" for their children's education in addition to sending them to a state-run school.

3. THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009

The Right of Children to Free and Compulsory Education Act, 2009 was put into effect by the Central Government nine years after the Constitution was changed to declare education a Fundamental Right. The Act guarantees children's empowerment by making education mandatory up until class VIII. Of the 193 million children in the six to fourteen age group, the law seeks to enrol 8.1 million of them in a quality education. To put it briefly, if the government doesn't provide free education, it may be sued.

There are 38 sections and one schedule in the Right of Children to Free and Compulsory Education Act of 2009. It is broken up into seven chapters. This law's requirement that schools employ one qualified teacher for every thirty pupils is meant to raise the standard of instruction in schools. The primary goals of the Act are to give all children between the ages of six and fourteen free and compulsory education. It will cover the entirety of India.

A "school" is defined as any recognised institution that offers elementary education, as stated in Section 2(n) of the Right to Education Act, 2009.

- 1) An educational institution founded, possessed, or managed by the relevant government or local administration.
- 2) A school that receives financial assistance, either in full or in part, to cover its costs from the relevant government or local authority.
- 3) A school falling under a particular category; and
- 4) An independent school that doesn't get any funding or assistance from the relevant government or local government to cover its costs.

The right to free and compulsory education is covered in Chapter II. Every child between the ages of six and fourteen has the legal right to free, compulsory education in a neighbourhood school until they have completed their elementary education, according to Section 3. It is not the responsibility of any child to pay any fees, charges, or expenses that could hinder them from pursuing and finishing their elementary education.

The responsibilities of parents, local government, and appropriate government are covered in Chapter III. It specifies that, in the event that one is not already established, the relevant Government and the local authority must

create a school within the neighborhood's boundaries as may be prescribed within three years of the Act's enactment. Funding for implementing the provisions of this Act shall be provided concurrently by the Central and State governments. The Central Government is responsible for the following:

- (a) creating a national curriculum framework with the assistance of the academic authority designated under section 29;
- (b) creating and enforcing teacher training standards; and
- (c) offering the State Government technical assistance and resources or encouraging innovations, research, planning, and capacity building.

When admitting a child, no school or individual may demand a capitation fee or subject the child, their parents, or legal guardians to any kind of screening process. There should be no physical or psychological abuse of children. Anybody who violates these rules will face disciplinary action.

Any individual who meets the minimal requirements set forth by an academic authority and approved by the Central Government through notification is qualified to be appointed as an educator. The Central Government may, by notification, relax the minimum qualifications required for appointment as a teacher for a period not to exceed five years if it deems necessary in cases where a State lacks sufficient institutions providing courses or training in teacher education, or where the number of teachers meeting the minimum qualifications is inadequate. Teachers who do not currently hold the minimum qualifications outlined in this Act will be required to obtain them within five years of the Act's inception. It is forbidden for educators to participate in private tutoring or teaching activities.

The following responsibilities fall under the purview of a teacher appointed under sub-section (1) of section 23: (a) maintain consistency and punctuality in attending school; (b) conduct and complete the curriculum in accordance with the provisions of sub section (2) of section 29; (c) complete the curriculum within the allotted time; (d) assess each child's learning ability and accordingly supplement additional instructions, if any, as required; (e) hold regular meetings with parents and guardians to inform them of the child's attendance patterns, ability to learn, progress made in learning, and any other pertinent information; and (f) carry out any other duties that may be prescribed. In accordance with the service rules that apply to them, a teacher who defaults on their assignments may face disciplinary action.

The Act calls for a child's holistic development and curriculum development that is in line with the principles outlined in the Constitution. According to Section 29 of the Act, the elementary school curriculum and evaluation process must be established by an academic authority that will be designated by notification from the relevant government. The following factors must be taken into account by the academic authority when establishing the curriculum and the evaluation process: (a) adherence to the values outlined in the Constitution; (b) the child's overall development; (c) the development of the child's knowledge, potential, and talent; and (d) the full development of the child's physical and mental abilities; (e) teaching children through play, exploration, and discovery in a way that is child-friendly and child-centered; (f) using the child's mother tongue as the medium of instruction whenever possible; (g) assisting the child in becoming fear-, trauma-, and anxiety-free and enabling them to freely express their opinions; (h) conducting a thorough and ongoing assessment of the child's comprehension of the material and his or her capacity to apply it.

In the event that a school is not receiving any form of funding or grants to cover its operating costs from the relevant government or local authority, it will form a school management committee. This committee will be made up of teachers, parents or guardians of students enrolled in the school, and elected representatives of the local authority. But at least three-quarters of the committee's members must be guardians or parents. Further proportionate representation will be granted to parents or guardians of children from underprivileged groups and weaker sections. This representation will take the following forms: (a) monitoring school operations; (b) creating and recommending a school development plan; and (c) overseeing the use of grants obtained from the relevant government, local authority, or any prescribed body. Each school management committee must create a school development plan in accordance with any guidelines that may be specified. The plans and grants that the relevant Government or local authority, as the case may be, will make are based on the school development plan that has been prepared.

4. CRITICAL ANALYSIS OF RIGHT TO EDUCATION ACT

The Act has drawn criticism because it does not apply to children between the ages of 0 and 6. This is the age at which a child experiences a critical developmental stage. It won't be beneficial to the child at this point if they aren't given enough chances to mature and develop. An additional issue is that if appropriate pre-schooling is not provided and is not included in the RTE preview, an uncontrolled system of pre-school education will be permitted. As a result, many people in society won't be able to take advantage of the Act's opportunities.

Second, there's still more reason for concern about education quality. In order for Article 21–A of the Constitution to be truly implemented, citizens must have access to high-quality education. It is clear that the majority of

the curriculum that students are taught is foreign to the typical child. Increased use of non-formal, activity-based, learner-centered education is required.

Thirdly, private schools are proliferating these days. They are meeting the expectations of the parents and have a good infrastructure. As a result, private schools are preferred by the majority of parents over public ones. Even after the RTE Act was passed, the government schools continue to be a major source of the problem of poor-quality education. Fourth, the Act stipulates that money will be shared between the state and the federal government in order to carry out the Act's provisions. There is a severe lack of funding intended for implementation.

Fifth, the Act is criticised for prohibiting the provision of high-quality education to children due to the No Detention Rule.

Thus, the following recommendations are made:

1. The right to education ought to include quality and appropriate education.
2. The RTE Act, 2009 and Article 21-A of the Constitution should be amended right away to include the age range of 3 to 5 years old as a fundamental right to education.
3. The RTE Act of 2009 and Article 21A of the Indian Constitution must be urgently amended in order to add four more years—from ninth to twelfth grade—to the free and obligatory education system.
4. Children between the ages of three and eighteen should have access to free and compulsory education.
5. The ideal age for the right to free and compulsory education should be the same as the age of majority, the right to work, the right to marry, and right to vote.
6. To protect students from underprivileged backgrounds and weaker sections, school management committees should be established in unaided private schools.
7. Parents who don't enrol their kids in elementary school should be barred from using all government services, including the ration card, water, electricity, LPG, job card, and so on.
8. The RTE Act should nationalise the elementary education curriculum of all private schools, both aided and unaided by the government.
9. The primary schools should be informed about the provisions for 25% of seats reserved for children from economically and socially disadvantaged backgrounds, as well as the role that school managing committees play in this regard.
10. The most difficult input in the area of the right to education is performed by teachers. A highly qualified and driven teaching staff is essential to implementing the curriculum in an efficient manner. They provide motivation for the process of teaching and learning.
11. It should be made explicit by the State that a child in unaided schools must pay fees in order to receive an elementary education. If not, the management of the private, unaided school would set the fee arbitrarily and exorbitantly.

5. CONCLUSION:

RTE's chances of success or failure would mostly depend on how much political attention it received. Funds allocated by the budget should be adequate in this regard. Every person who can read and write should also come forward and tell parents who cannot read or write how important education is in preventing social evils. At all costs, social injustices and group monopolies should be prohibited. All people must have access to free education up to a certain point.

The government bears the responsibility for education. RTE must first submit an application to the public schools. The Act makes it very evident that the State Government is in charge of making sure there are enough schools and that the necessary facilities are in place. The government must first use the powerful tool known as the RTE to raise the enrollment and standard of instruction in fully aided schools. This paper has shown that, for all children between the ages of six and fourteen, the right to education is now a Fundamental Right. Put simply, it means that all children, regardless of gender or class, will receive free education up to the eighth standard from the government.

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