

Right to Education : An Analytical Study

Abhishek Mishra*

*Chatriya Bhawan, River view colony, Koni, Bilaspur, C.G

Abstract : *Children are regarded as the national property in developed countries and imparting of education should not be taken lightly. To provide the education and to achieve the constitutional mandate mentioned in the Article 45 , 51 A and 21-A several initiative are being taken by the government of which SarvShikshaAbhiyan, Mid-Day Meal Scheme, Right to Education Act 2009 are prominent.*

This paper deals with the steps taken by the government , schemes of the government and Acts passed by the Legislature and their outcomes. For this purpose several decisions of the Supreme Court, Newspapers, Articles, Essays, and Books are preferred.

Keywords : Education, Constitutional Provision, Acts, Amendments, The Supreme Court decisions.

“A nation is advanced in proportion to education and intelligence spread among the masses”.-Swami Vivekanand.

INTRODUCTION : Education is the basic foundation need for the growth and the development of both the personal and social surroundings. It is through education only we can achieve and deal with the objective which we have placed in front of us.

Universal elementary education is the salient feature of our national policy since Independence. After the Independence Commissions on the Education was setup as a factor vital to national progress and security notably, the Universal Education Commission(1948-49), The Secondary Education Commission(1952-53) after this the National Policy on Education of 1968¹ and 1986² and so on only to achieve this objective of the universal primary and elementary education. National Policy of Education 1986 provides for the free and compulsory education of the satisfactory quality before we enter 21st Century.

Large number of programmes had been also launched by our Government. For example Operation Blackboard, mid-day meal programme, State Primary Education Projects for different States, District Primary Education Programme, Teacher’s Education Programme etc. only to achieve the goal of both the universal undertaking by the India and objective goals of our Constitution.³

INTERNATIONAL PROVISIONS : After the establishment of United Nations Organization many international documents recognize right to education. Universal Declaration of Human Right provide “Everyone has the right to education ,elementary education shall be free.⁴International Covenant on Economic Social and Cultural Right provide that States Parties recognize the right of everyone education.⁵African Charter of Human Right and People Right also provide Right to education.⁶

INDIAN CONSTITUTION AND RIGHT TO EDUCATION : Our Indian Constitution focuses on to provide free and compulsory education as well as the early childhood care till age of 14 years.

(A)FUNDAMENTAL RIGHTS :

a.Right to life and personal liberty- Article 21 indirectly through judicial decision says about the Education as the Fundamental Right and it include inright to life and personal liberty.

b.Right to education- The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine. ⁷

(B) DIRECTIVE PRINCIPLES OF STATE POLICY : Article 45, has made a provision for free and compulsory education for all children up to the age of fourteen years within ten years of promulgation of the Constitution.

(C) FUNDAMENTAL DUTIES : Article 51- A cast duty over the Parent or guardian and say that “who is a parent or guardian to provide opportunities for education to his child, or as the case may be, ward between the age of six and fourteen years.⁸

In the opinion of the Seervai- “The newly added chapter IV-A is not a law and fortiori, not supreme law. If the directive principles are violated or ignored nothing happens; equally if fundamental duties are disregarded, nothing happens.”⁹

Hence to fulfill the objective of elementary education and to achieve the policy of good governance the Supreme Court in several decision makes the Education as the Fundamental Right. As The Supreme Court in the case of *Mohini Jain v. State of Karnataka*¹⁰ has made it clear that the right to education flows directly from the right to life under Article 21.

In case of *Unni Krishnan v. State of A.P.*¹¹ the Supreme court has made it clear that the right to education which is implicit in the right to life and personal liberty guaranteed by Article 21 must be construed in the light of the Directive Principle in Part IV of the Constitution.

Even the judiciary also show concerned over some other issues. The Supreme Court in *RohitSinghal&Ors. v. Principal, Jawahar N. Vidyalaya&Ors.*¹², held that Children are not only the future citizens but also future of the earth. Elders in general, and parents and teachers in particular, owe a responsibility for taking care of the well-being and welfare of children.

In *State of Orissa v. MamtaMohanty*,¹³, the Supreme Court emphasised on the importance of education observing that education connotes the whole course of scholastic instruction which a person has received. Education connotes the process of training and developing the knowledge, skill, mind and character of students by formal schooling.

The Supreme Court in the case of *Ashokku. Thakur v. Union of India and other*,¹⁴ Justice D. Bhandari quoted this in his judgement that Article 21-A's reference to "education" must mean something. We could not achieve this goal even after 50 years of adoption of this provision. The task of providing education to all children in this age group gained momentum after the National Policy of Education (NPE) was announced in 1986. The Government of India, in partnership with the State Governments, has made strenuous efforts to fulfil this mandate and, though significant improvements were seen in various educational indicators, the ultimate goal of providing universal and quality education still remains unfulfilled. In order to fulfill this goal, it is felt that an explicit provision should be made in the Part relating to Fundamental Rights of the Constitution.

EFFORT OF THE GOVERNMENT : Due to several efforts made by the Government we have made progress in terms of increase in the institutions, teachers and students. The number of school in school increased from 2,31,000 in 1950-51 to 9,30,000 in 1989-99, and the enrolment in the primary sector also multiply six times from 19.2 million to 110 million. At the upper primary stage the enrolment of girls also recorded a huge rise of 32 times. The Gross Enrolment Ratio at primary stage has exceeded 100 percent. 94 percent of the country's rural population has schooling facilities with in one K.M. Although the Country has made the impressive progress but the other and darker fact is that out of 200 million children in the age group of 6-14 years, 59 million children are not attending school. Of this 35 million are girls and 24 million are boys. There are problems like high rate of drop outs; there are one lakh habitations in the country are without school facility within a kilometer, poor Infrastructure, poorly functioning school, lack of qualified teachers, and inadequate funds etc.¹⁵

Hence Other than Constitutional and Legislative efforts several other efforts are being also taken by the government to fill the lacunas of which some are-

NATIONAL EDUCATION POLICY¹⁶ : Both the Policy of 2003 and 2014 focuses on the overall development of the youth in a very broad manner in all proportion of life.

RIGHT TO EDUCATION ACT : The Right To Education Act ,2009¹⁷ incorporates the words 'free and compulsory education' means that no child, other than a child who has been admitted by his or her parents to a school which is not supported by the appropriate Government, shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education. 'Compulsory education' casts an obligation on the appropriate Government and local authorities to provide and ensure admission, attendance and completion of elementary education by all children in the 6-14 age groups. With this, India has moved forward to a rights based framework that casts a legal obligation on the Central and State Governments to implement this fundamental child right as enshrined in the Article 21-A of the Constitution, in accordance with the provisions of the RTE Act.

The RTE Act provides for the:

- Right of children to free and compulsory education till completion of elementary education in a neighborhood school. (Section 3)
- It clarifies that 'compulsory education' means obligation of the appropriate government to provide free elementary education to all children in the age group of 6-14 years.