



Child Education in India - A Critical Appraisal.

KEYWORDS

Right of the child, constitutional law, judicial trend, free and compulsory education, Protection of child rights.

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ABSTRACT *The Right to education for children is an important right recognized in constitution of India. Being the signatory of International Conventions India has made sincere effort to enforce educational pursuits as per the international agenda with full spirit and strength. Yet the right to education for children is impeded due to several factors. India attained success by enacting a comprehensive legislation on free and compulsory education in the year 2009. The focus of this article is to discuss about the recent effort of India to implement education under the 2009 Act. Some suggestions are made to enrich the goal as per the provision of the Act.*

Introduction:-

Education plays very important role for the overall growth of the child. Government of India has adopted education as the effective tool for the growth of children. Education therefore, is an integral component for moral, physical, psychological growth and spiritual enrichment. Education brings positive outlook and develop creative personality for democratic life. Britain government adopted the compulsory education in 1870¹ and they have adopted English education in India too, which was not compulsory.

After independence, school education was well improved and wide opportunity was opened for the school education. Slowly Indian government adopted educational policy and created monitoring agencies. The constitution maker of India has dreamt for compulsory education for children². Those dreams were refuted by the Indian Judiciary. It was held by the court that right to education is implicit under Art-21³. Approximately, 200 million children in the age group of 6 to 14 years living in India, half of them have not completed elementary education⁴. In this article, an attempt is made to evaluate the educational right of children in India under the legal norms.

Child Education and International Regime:-

The UDHR 1948 states that, "All human beings are born free and equal in dignity and rights". The convention the Rights of the child opened a new chapter in the area human rights of children. The right to education is enshrined in Art 26 of the UDHR. The International covenant on civil and political Rights and International covenant on economic, social and cultural rights substantively formulated the rights of child. It includes the right to free, compulsory primary education for all. The obligation of state is to develop equitable access to higher education in particular by the progressive introduction of free higher education⁵. The right to education includes the responsibility to provide fundamental education to individuals, who have not received or completed the whole period of their primary education. The main reason to provide basic education is to enlighten the individual, to lead the life properly through education and training⁶.

Constitutional mandate and Child Education:-

Our constitution makers were well aware that education can emancipate man from the bondage of ignorance and

create a good atmosphere for democratic living. They followed the international trend and given direction to the state to make education as constitutional goal. Article 15(3) empowers state to make special provision for children. Directive principles of state policy contained in chapter-IV of the constitution holds the ethos and spirit of the people to have a civilized society, where personal liberty can achieve the different dimension of meaningful life. Accordingly Article 39 (f), 41, 46 were placed in the constitution. These articles deal with various aspects of right to education⁷. Article 45 provides that, state to make provision within 10 years, for free and compulsory education for all children up to the age of 14 years. . Art 51 A (K) cast a duty upon parents and guardian to provide opportunity for their children for education. In this context government of India amended the constitution and incorporated Art 21- A in part-III of the constitution. This commitment is reflected though national documents. The apex court held that, right to education is fundamental right under article 21 of the constitution.

Judicial Trend on Right to Education:-

The Supreme Court of India has given creative twist to the right to education. The apex court held that, right to education is implicit in and flows from the right to life and personal liberty under Article 21 of to constitution of India⁸. In Mohini Jains Case⁹, the court declared that – "the right to education flows directly from right to life". In Francis C. Mullin's case¹⁰, held that, the activity of education was one of the "bare minimum necessities of the term life as it is described in Art 21. In Unni Krishnan J.P. case¹¹, - the court held that right to education though flows from Article 21 is not an absolute right, but must be read with Article 45 and 41 and it is subject to the limits of economic capacity of the state.

In modern school case¹², the apex court expressed that, right of education means that a citizen has a right to call upon the state to provide educational facilities. In state of Bihar and others case¹³, the court held that, imparting education is the primary duty of state. Lakshmanan remarked¹⁴ that, education is the most important function of the state and local government. It is the principal instrument in awakening the child to cultural values, in preparing him for later professional training and in helping him to adjust normally to his environment. In these days, it is doubt any

child may reasonably be expected to succeed in life, if he is denied the opportunity of education. Education is the very foundation of good citizenship. Justice S.B. Sinha indicated about the significance of education in the life of an individual and the nation. He said that¹⁵, the right to education has been treated as one of the transcendental importance in the life of an individual, recognized by this country since thousands of years and it is also recognized all over the world. In the Ashoka Kumar Tahkur's case¹⁶, Supreme Court said, India has suffered in the past because of severe under investment in higher education. This has been caused partly by thinking that looks at primary and higher education. The court observed that, large public investment is needed in both sectors, for the educational purpose.

RTE ACT 2009 and Important Provisions:-

- The Act provides compulsory and free education for every child between the ages of 6 to 14. Right to education is a fundamental right.
- The right to education of persons with disabilities up to 18 years of age entitled to such compulsory and free education.
- No child shall be held back, expelled and required to go for interview or entrance for admission to elementary education.
- The government shall determine every year the requirement of school, facilities and their locations deploy qualified teachers and create facilities for their training.
- The state shall develop mechanism to monitor enrolment and attainment status of every child.
- The state shall provide adequate infrastructure, learning equipment and shall ensure that child belong to weaker or disadvantaged group are not discriminated.
- Local authorities shall ensure good quality education confirming the standard and norms specified in the schedule.
- Parents and guardians are to admit his child or ward to an elementary education in the neighborhood school.
- The appropriate government must make arrangement to provide free pre-school education and prepare children above the age of three years for elementary education and early childhood care.
- Government schools and fully aided schools shall provide free education to all admitted children. Unaided schools or special category schools shall provide free education to at least 25% students and government shall reimburse the school to the extent of the "per child expenditure" in government school or school fee.
- All state or aided schools are enquired form school management committee (SMCs) with at least 75% of the members being parents and guardians. SMCs will manage the school and will have power to assess the performance of teachers.
- The teacher has the duty to complete the curriculum, regularly assess the learning level of the child and appraise parents or guardians about the development of the child. Teachers are subjected to disciplinary action and prohibited to offer private tuitions¹⁷.
- The medium of instruction shall, as far as practicable, in the child's mother tongue¹⁸.
- The Central government shall provide financial assistance to the state in accordance with the formula regarding sharing of costs as determined in consultation with the state governments.
- The appropriate government may issue guidelines to local and SMCs to implement the provision of the

Act.

- No legal action can be preferred against any authority without prior sanction of the authorized officer U/SS 13, 18 and 19 of the Act. No legal proceeding shall lie against the appropriate government,
- The National Commission for Protection of Child Right (NCPCR) and State Commission for Protection of Child Rights (SCPCR) SMC, Local authority or any person for discharging responsibility in good faith under the Act. The appropriate government may make rules for carrying the provision of the Act successfully¹⁹.

Suggestions and Conclusion:-

- The infrastructure is not adequate in many respects, including appointment of qualified teachers and teaching aid. The appropriate government should be attentive and monitoring authority should be effective in this ground.
- Children in the age group 3 to 6 years should be given opportunity to start learning.
- Well trained Teachers are required to create child friendly environment.
- Public awareness should be created to make our nations as significant contributor to the international agenda.

The reports which are available is common parlance, is not providing a rosy picture. The resources mobilized for child education seems to be inadequate. The political will gearing up the process of education is half hearted. In a civilized society child care and child education is a subject matter of top priority. The task is not small, though small initiative is made for big journey. Cooperation and coordination among stakeholders can reap the better result. At last it can be concluded with the words of Nelson Mandela 'Education is the most powerful weapon which you can use to change the world.' It is high time for introspection. "we the people of India" introspection for the enrichment of new paradigm of 21st century and social change. The foundation of state rests on child education.

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