



ORIGINAL RESEARCH PAPER

Law

RIGHT TO EDUCATION UNDER THE CONSTITUTION OF INDIA

KEY WORDS: The Constitution of India – Parliament - Right to Education – Supreme Court of India.

Dr. Samir A. Runja

LL.M., GSET, Ph.D., Assistant Professor, Sheth D.L. Law College, College Road, Bhuj – Kachchh. 370001.

ABSTRACT

The ideology of the nation is called “The Constitution of India”, after the 1950, the legend fundamental right was added in the chapter-III of the Constitution i.e. “Article-21A RIGHT TO EDUCATION”. I originally right to education was available in the Constitution of India's Part-IV (DPSP), Article-45, but it was not as a Fundamental Right. Basic need of the every citizen is to get education. It is called basic international human right. UDHR acknowledge the Right to Education as a Human Right in 1948. It is also promotes individual freedom and empowerment. Education is most powerful instrument which can uplift people economically & socially. The Supreme Court of India has also play significant role to provide us this Right to Education. After that out legislative i.e. Parliament of India, provides us this fundamental right by The Constitutional Amendment Act. The said legendary right will change India's Socially, Economically & Politically views for the future.

INTRODUCTION

The Constitution of India is well known for Justice, Liberty & Equality. These three words are taken from Preamble of the Constitution. Justice like social, economic & political. Liberty like expression, belief, faith & worship and Equality like quality of statues of opportunity. These three pillars can say object of the nation. The object which is very difficult or impossible to achieve without Education.

On 23 November 1948, the Assembly took up Draft Article 45 for debate. The provision read – “Every citizen is entitled to free primary education and the State shall endeavour to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.” Before considered this article as Article 45, the Assembly was debate this right as a Fundamental Right. This proposal was proposed by Dr. B.R. Ambedkar, Sardar Hanuman Signh and K.M. Munshi. After the long discussion, a member of Assembly M Ruthnaswamy asked, “It is Justifiable Right ?” “Supposing Government have no money?” Alladi Krishnaswamy, who incidentally was part of the Sub-Committee that drafted this provision, then demanded: ‘I want the deletion of this clause’. The Committee then dispatched the provision to the non-legally enforceable Directive Principles of State Policy. While Right to education was fundamental right at the initial stage of framing the constitution. After the long discussion it was being replaced as DPSP.

86th Amendment act, 2002 of the constitution of India makes three drafting changes in the constitution regarding the education. (1) Insertion of new Article – 21 A, in the Part-III of the constitution. (2) Amended Article – 45 and (3) added new clause in the Article 51A (K). and the result of this Right to Education Act, 2009 comes with effect from 01, April 2010.

Honourable Supreme Court of India said “The right to life under Article 21 and the dignity of an individual cannot be assured unless it is accompanied by the right to education. The State Government is under an obligation to make endeavour to provide educational facilities at all levels to its citizens. [669F-G]”²

Supreme Court of India play significant role for the Education. Recently supreme court of India says “Education business not for profit making”³, Supreme court of India chronologically guides to Government as well as educational institutions for the betterment of the nation / citizens.

The Constitution of India and Right to Education

In this article researcher specially focusing on Right to Education as Fundamental Right. Article – 21 A, the language

of bare act is, “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.”⁴. The article clears that every child which age if six i.e. who is going to get admission in Standard-1 (primary education) must have get free education until the age obtain 14. This particular right is given to the entire Indian child who needs basic human right like right to education.

Article 45, originally provision was state will provide free education to child age up to 14 years, but the said provision was mentioned in the Part-IV DPSP, of the constitution of India, which was indicating that if the state have sufficient infrastructure, funds etc. for the giving the free education, then state will provide it, otherwise no one can claim in the court regarding this right as fundamental right. After the 86th Amendment, this article was amended that age group of child, new provision for age group is up to 6 years.

Article 51-A, this article is deals with Fundamental Duties of the citizen of nation. Here 86th Amendment, one sub clause was added in this said article and bare act language is “[k] 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.”⁵

Supreme Court of India and Right to Education

The Honourable Supreme Court of India, play significant role to provide us the right to education. Two major cases is directly connected with this right.

Case-1 : Miss Mohini Jain V/s State Of Karnataka And Ors, AIR 1858, 1992⁶.

In this case three major issues were raised by honourable court that (1) what education is Fundamental Right? (2) What capitation fees are legal? And (3) what if capitation fees is not justifiable, it is violation of Article-14?. In this case court said that Article-21 flows Right to Life and Right is Education is connected with this article. Means right to education is covers under the Right to Life.

Case-2 : Unni Krishnan, J.P. And Ors. Vs State Of Andhra Pradesh And Ors. 1993 AIR 2178⁷.

In this case, honourable court said that, Right to Education is under the Article 21 Right to life, but under this head, education as fundamental right is only Primary Education i.e. upto age 14 years. It is not covers higher education / technical education. So that parliament of India goes ahead for this right as fundamental right, and 86th Amendment Act, 2002 provide us Article 21-A Right to Education.

CONCLUSION

Education is the basic human right. Specially primary education is the foundation of the nation, it is provide future of the nation. Good and peacefully society needs the primary education. It is also helpful to reduce crime ratio. Education also helps to reduce child labour, bagging, poverty, trafficking etc. for education these institutions are working for education like, 1. United Nations Educational, Scientific and Cultural Organization (UNESCO), United Nation Children's Fund (UNICEF), World bank, International Labour Organization (ILO). This right will change India's future defiantly.

REFERENCES

1. Ins. by the Constitution (Eighty-sixth Amendment) Act, 2002.
2. Miss Mohini Jain vs State Of Karnataka And Ors, 1992 AIR 1858.
3. <https://timesofindia.indiatimes.com/india/education-business-not-for-profit-making-supreme-court/articleshow/95412543.cms>
4. The Constitution of India, 1950.
5. Ibid.
6. Ibid.
7. Unni Krishnan, J.P. And Ors. Etc. vs State Of Andhra Pradesh And Ors. on 4 February, 1993, 1993 AIR 2178.