



EDUCATION AS A FUNDAMENTAL RIGHT IN INDIA

Sajid Ajamuddin Patel

Asst. Prof. in M.Law, D.A.V. Velankar College of Commerce, Solapur.

ABSTRACT

Education plays a vital role in personal development of individual as well as in development of nation like India. In India there are special legal provisions for education. By using various articles in Indian constitution particularly Articles 21 and 45 Supreme Court and High Courts declared Right to Education as a Fundamental Right. Eighty sixth amendments to the constitution is the result of this judicial process. In order to implement and enforce right to education in better manner Right to Education Act was passed. The effect of this legislative development is that now right to education is in the form fundamental right to get free and compulsory education for children of age 6 to 14. This paper focuses on the development in the field of law making the education in India a Fundamental Right.

KEYWORDS: Education, Constitution of India, Judicial Decisions, Fundamental Right of Education and Right to Education Act

INTRODUCTION

Education promotes good and dignified life. Education plays an important role in personal development of individuals as well as development of nation. In India there are special provisions in laws including constitution of India. In many cases it was held by Supreme Court that Education is a Fundamental Right. Right to Education Act was passed by Indian Parliament in 2009. Education in India has become a fundamental right.

EDUCATION

The term "Education" is derived from Latin word "educate" which means to learn and to know. In its strict or narrower sense education connotes learning process in schools, colleges and universities. In this sense education is limited within buildings and premises of educational institutions. But in its liberal or broader sense education connotes a perpetual learning process which is not limited within the four walls of educational institutions.

INDIAN CONSTITUTION AND EDUCATION

In India there are special legal provisions for education. Most important amongst all is constitution of India which is Supreme Law of India. In constitution there are special provisions regarding Education. In many cases it was held by Supreme Court that Education is a Fundamental Right which directly flows from Article 21 which provides for right to life.

Education has become one of the aspects of right to life. Article 21-A which was added to the constitution by constitution (Eighty Sixth amendment) Act, 2002 provides a fundamental right to get free and compulsory education to all children of the age of six to fourteen years. This amendment is effect of judicial process making education as a Fundamental Right.

Part IV of constitution provides for Directive Principles of State Policy which are the directions to government regarding incorporation of certain policies while making laws and planning for India. Article 38 of constitution imposes duty on government to secure social order for promotion of welfare of people. Unless and until proper provisions for education are made proper social order and welfare of people of India is not possible. Under Article 39 it is the obligation of state to coordinate its strategy towards verifying that wellbeing quality and the youthful period of youngsters are not manhandled and that the kids are given chances and offices to create in a sound way and in states of opportunity and respect and that adolescence is ensured against a wide range of abuse. It is conceivable just when kids are given appropriate offices of instruction. Article 45 says that it is the obligation of government to give early youth care and training for all kids until they complete the age of six years. As per Article 46 the state needs to advance with uncommon consideration the instructive and financial enthusiasm of the flimsier segments of the general population and specifically of the booked ranks and the planned clans. Under Article 47 of constitution it is the obligation of the state to improve way of life.

These mandates of constitution will be fulfilled by the state only when proper provisions for education are made and so by using several provisions in constitution specially Articles 21 & 45 Supreme Court in many cases said that Right to Education is a Fundamental Right. As a result of it in year 2002 by Eighty Sixth amendments Article 21-A was added to constitution which provides Fundamental Right to free and compulsory education to children of the age of six to fourteen years.

ROLE OF JUDICIARY

Indian Judiciary, especially the Supreme Court of India is very active for protection and enforcement of Fundamental Rights and other provisions in constitution of India. Various issues regarding education have been raised before Supreme Court and High Courts and they said that Right to Education is a Fundamental Right which is a part of Right to life under Articles 21 of Constitution of India.

In Mohini Jain Vs. State of Karnataka (1992) 3SCC 666 popularly known as the "Captivation Fee Case" the Supreme Court has held that the right to education is a fundamental right under Article 21 of the constitution which can not be denied to a citizen by charging higher fee known as the Captivation Fee.

In Unni Krishnan Vs. State of Andhra Pradesh (1993)1SCC 645 Supreme Court again said that Right to Education is a Fundamental Right under Article 21 of the constitution as it directly flows from right to life. But in this case Supreme Court made it clear that the right to free education is available only to children until they complete the age of 14 years. But after that the obligation of state to provide education is subject to the limits of its economic capacity and development. In M. C. Mehta Vs. State of TamilNadu (AIR 1997 SC 699) which was a case relating to child labour Supreme Court said that child labour is a big problem and has remained intractable even after about 50 years of independence despite various legislative enactments

prohibiting employment of a child in a number of occupations and processes. The court gave suggestions to achieve the objectives in Articles 41, 45, 39 and Article 24. It means that if we want to free children from shackles of child labour we must provide them education.

In Jayashree Ravi Vs. University of Delhi (1993), Supreme Court said that right to education is inherent in right to life under Article 21 of constitution. In Smt.Ranjana Ben Patel Vs. State of Gujrat (2000) it was held by Gujrat High Court that Municipal corporation has to provide preprimary education and village areas can not be deprived of their right to education which is a part of right to life. In Vinay PandyaVs. Union of India (2005) Supreme Court held that right to education is a constitutional right and state shall provide free and compulsory education to all children. There are number of cases in which it has been held by various High Courts and the Supreme Court that the Right to Education is a Fundamental Right which is a part of Right to life under Article 21 of constitution.

RIGHT TO EDUCATION ACT

The Right of Children to Free and Compulsory Education Act, 2009, which is prominently known as the Right to Education Act (RTE Act) was passed by Parliament to execute Article 21-A of constitution. The Act guarantees free and necessary instruction to all kids inside the age gathering of 6 to 14. No youngster will be kept down, ousted or required to pass a board examination until the finishing of basic instruction.

Under the Act the administration schools need to give free instruction to every one of the kids and the schools will be overseen by school the board councils. Under the Act it is officeholder for tuition based schools to concede at any rate 25% of the kids in their schools with no expense. The National Commission for rudimentary Education will be established to screen all viewpoints for basic instruction including quality. A tyke who finishes basic training will be granted an authentication. Understudies Teacher proportion is fixed. Under the Act consideration has been given towards progress in the nature of training. Teachers needs sufficient expert degree inside five years or else will lose poke. School foundation should be improved in like clockwork generally acknowledgment might be dropped. Under the Act money related weight will be shared between the state and the focal government.

Along these lines Right to Education Act has been authorized to guarantee appropriate to Education by method for nothing and obligatory instruction to offspring of age 6 to 14

CONCLUSION

Responsible citizens which are pioneer of development of nation are the outcomes of education. So education acquires importance. It is now crystal clear that education is a legal right, moreover it is a fundamental right which is a part of right to life under Article 21 of constitution as said by Supreme court and High courts. In order to strengthen its constitutional importance in year 2002 by Eighty Sixth Amendment to the constitution Article 21-A was added which provides for free and compulsory education for children of age 6 to 14. For better implementation the Right of Children to free and compulsory Education Act, 2009 was passed providing a well-planned structure and machinery for proper exercise of Right to Education.

BIBLIOGRAPHY

1. Indian constitutional Law – M. P. Jain - Edition V (2011)

2. Constitution of India – V. N. Shukla – Edition X (2006)
3. Fifty Years of Higher Education In India 1951-2006 by Dr. M. H. Pimpalkhare& Dr. PrakashGambhir.
4. Judicial Creativity in Constitutional Interpretation – V. R. Jaydevan (2011)
5. The Constitution of India – P. M. Bakshi – Edition X (2010)
6. The New Encyclopedia Britannica (1977)
7. Law Reporters
8. Online Sources