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RIGHT TO EDUCATION ACT: MYTH AND REALITY

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ABSTRACT

Education plays a very important role in the life of the human being and it is asset which nobody can steal. The children's are also the wealth of the nation. If they properly cared and educated then nation becomes superpower nation in the world. At the childhood the young kids mind are like a clean state on which you can write whatever you want and it continues through his life. The schools for the children are breeding grounds for the great leader to take the birth. That's why the quality basic education is very important. This is largely beneficial especially as compared to countries like China, Japan which has an ageing population. India also has one-third of the world's illiterate population which are not good for India. The more efforts should be necessary that illiterates become literate.

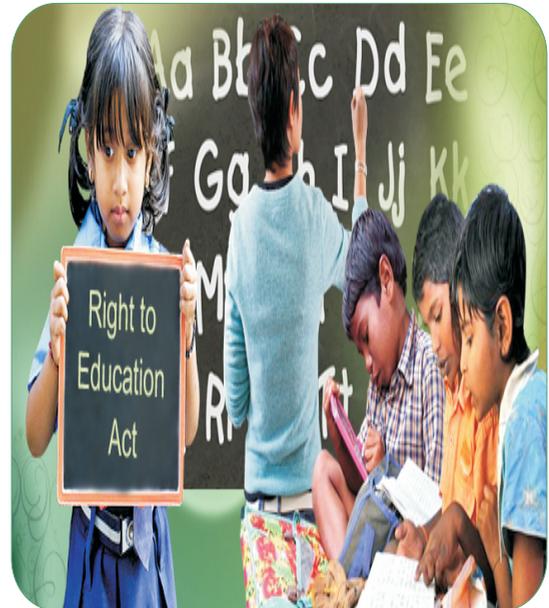
KEYWORDS :Education plays , childhood , Right of Children .

1.INTRODUCTION

Today India is standing at the cross road of the elementary education. The poor parents and certain classes are disinterested for the education of their children. The Government of India has taken the important step and made 86th Amendment in 2002 and insert Article 21A in the Constitution of India. It provides the right to free and compulsory primary education. Later on Parliament passed the Right of Children to Free and Compulsory Education Act 2009.

2. THE RIGHT TO EDUCATION IN THE INDIAN CONTEXT:

It is reported that in the Ancient time there was no concept of school. It was the father who gave lessons to his



son at home, in field of workshop. During the period of Rig Veda one finds that the school system, Gurukul, started with the Brahmanic School where the Brahmin teacher had the exclusive right to teach only Brahmin pupil. Later on the pupils of other castes were also admitted. No fee was charged but at the time of leaving the school the pupil gave guru Dakshina in any kind. The history of the right to education in India goes back all the way to 1882, when the Mahatma Phule explained the fact that whatever the education given by the British it only benefited to the elite class of the society. Primary reason for that is the primary education consider as the human right. In India prior to 2002 education only had the status of non-justifiable right in the form of Directive Principle of State Policy as laid down in

Article-45. Unfortunately this vision could not be realized and the 10 year period elapsed. Subsequently the Supreme Court had given the guideline to make the primary education free and compulsory. In 2002, Government of Indian and makes the 86th Amendment in the Constitution and inserted the Article 21A the Right to Free and Compulsory Education

3. INTERNATIONAL SCENARIO RELATING TO PRIMARY EDUCATION:

At the international level, the Universal Declaration of Human Rights, 1948 for the first time took care of elementary education. Article-26 is divided into three parts. It guarantees every one i.e. the right to education. The education at the elementary and fundamental stage shall be free. At the end it provides that the elementary education shall be compulsory. The Article 4 imposes a duty that they shall encourage illiterates by appropriate method to join the common stream of education. Those who initially did not go to school or were dropouts the member state shall encourage them to go to school. The International Covenant on Economic, Social and Cultural Rights, 1966 in Article 13 talks about right to education so as to participate freely and effectively in free society. The financial condition of the students and the quality of the teachers is the two roadblocks in the development of the primary education. The Article 14 imposes the duty on the parties to adopt the action plan within a reasonable number of years. The Covenant on the Right of the Child, 1989 for the first time has provided the detailed specific plan in this regard. The Article 28 particularly concentrates on school education. This means the state parties firstly shall make primary education compulsory and free. The problem of absence of students in school is faced by the all over countries in the world and the necessary steps shall be taken by the member countries that the students must be regularly going to school.

4. RIGHT TO EDUCATION UNDER THE CONSTITUTION OF INDIA:

The Constitution of India with respect to education provides a Triveni Sangam the right of person, duty of the citizen and the obligation of the State. When the Constitution of India came into existence the Article 45 is inserted in the Constitution of India i.e. the Directive Principle of State Policy. According to this Article the state shall endeavor to provide the free and compulsory education to the children within a period of ten years from the commencement of the constitution. The parliament has passed the constitution 86th Amendment Act 2002 and inserted the Article 21A. Article 21A state that the state shall provide the 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.

5. JUDICIAL INITIATIVES:

Number of times through the judicial decisions the court has take a positive step towards the education makes a fundamental right. In a case Mohini Jain V. State of Karnataka the court held that the right to education at all level is a fundamental right under Article-21A of the constitution and charging capitation fee for admission is illegal and amounted to denial of citizen's right to education. Again the matter was raised in a case Unni Krishnan V. State of A.P. In this case court specifically held that the right to education for the children of the age of 6 to 14 is a fundamental right. The court did not agree with the decision of Mohini Jains judgement that the children of the age have the right to education but held that the right to free education is available only to the children of up to the age of 14 years and overruled the Mohoni Jains case on this point.

Legislation will create a mechanism by which a citizen who is aggrieved that right to education has not been fulfilled should be able to get relief by filing writ petition in the High court's and the Supreme Court. Even though the strong public demand that the right to education a fundamental right

still there was no improvement in the situation after the number of years. Ashok Kumar Thakur V. Union of India the Supreme Court directed the Union of India to set a time limit within which the Article-21A is going to be completed implemented. The court also observed that root cause of social and educational backwardness is poverty. In Avinash Mehrotara V. Union of India the Supreme Court held that right to education attaches to the individual as an inalienable human right. It also held that right to education is more than a human or fundamental right.

6. THE MAIN COMPONENT OF RTE ACT:

- a) In India, every child is entitled to free and compulsory full-time elementary education (first to eighth grade) as facilitated by the Right of Children to Free and Compulsory Education Act.
- b) Parents of children covered under RTE are not liable to pay for school fees, uniforms, textbooks, mid-day meals, transportation, etc. until the elementary education is complete.
- c) If a child has not managed to secure admission in a school according to age, it will be government's responsibility to get the child admitted in an age-appropriate class.
- d) No child shall be held back (failed) or expelled until the completion of elementary education.
- e) Not following the RTE rules can invite a penalty of Rs 25000.

7. THE FEATURES OF THE RTE ACT:

- + The Act makes it incumbent on all the states to provide free and compulsory education to children.
- + No school can charge capitation fee if it charged the fine of up to 10 times the amount collected.
- + No child from disadvantaged groups to be denied admission and free education.
- + No child will be denied admission for lack of birth or transfer certificate.
- + No screening will be made a child and parents for admissions.
- + No child can be expelled from school.
- + Out of school children shall be provided special training and then admitted to appropriate class of his age.
- + The quality teachers are recruited.
- + Untrained teachers would have to upgrade themselves in five year.
- + The section 24 deals with the responsibilities of the teachers. Section 28 provides that no teacher shall engage in private teaching.
- + Any corporal punishment is unlawful.
- + No exams for children up to the class VIII.
- + The Centre and State Governments would have concurrent responsibility for providing funds for carrying out the provision of this legislation.

8. CONCLUSION AND SUGGESTIONS:

The passing of RTE Act by the Government of India is the important step towards the universalisation of the education. This Act is the first enactment in the world that puts the responsibility of ensuring student enrollment, attendance and completion of the elementary education on the Government. The survey of State Commission for Protection of Child Rights and the UNICEF shows that the state of primary education has not improved much since 2009, when the Act was first proposed and implemented. The population of the country has increased and the numbers of children of age from 6 to 14 years are in crores. Education is a fundamental right of a citizen would go for its enforcement. If there are no schools how the government would implement it only making education compulsory would not solve the problem.

The Right of Children to Free and Compulsory Education Act, 2009 is certainly a historic step but without wholehearted cooperation of the Government and the people and efficient working is not possible and things would not change much. Government of India took much of the time to realize the importance of providing free education to every child. The RTE Act denies the Common School System as in the RTE Act the neighbourhood school is some extent not beneficial. Some instances found that the English medium schools are not ready to give the 25 percent reservation to the socially and educationally backward children. If the United States concept of common School System is adopted and all those who are on Government payroll like MPs, MLAs, Judges, officials and teachers of schools, colleges and universities get their children admitted in neighborhood Government School, it will bring two major reforms in the school education of India.

The curriculum and the quality of teaching will improve. The state will begin to increase allocations for education as a political priority. Another benefit is the prevailing privatization and commercialization of school education will stop. The main drawback of the RTE Act is that it does not provide for regulating the fee structure. The HRD Ministry declared that all respective government to regulate fees shall become in fructuous since the Central ACT shall prevail wherever there is contradiction.

END NOTE:

1. Jariwala C. M.: Right to Free and compulsory Primary Education: Myth or Reality, NYAYA DEEP, The official Journal of NALSA, Volume 14, Issue 3 & 4, July & October 2013, page no.7 - 9.
2. Id at, page no.10.
3. Sharma R. N. and Sharma R.K.: History of Education in India: ATLANTIC Publishers & Distributers (p) LTD, New Delhi, page no.186-193.
4. AIR 1992 SC 1858
5. (1993)1SCC645.
- 6.2008(6)SCC 1.
7. (2009)6 SCC398.
- 8.http://www.business-standard.com/article/economy-policy/is-the-right-to-education-a-reality-for-india-s-children-113091300395_1.html



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