

RIGHT TO EDUCATION ACT, 2009 AN INTRODUCTION

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ABSTRACT

The Right to Education Act, 2009 has come in to force on 1st April 2010. The Act has made free and compulsory education a fundamental right of every child in the age group of 6 to 14 years. The standards for teaching and school infrastructure have been defined by the act. The enforcement of this Right has made it a joint responsibility of Central and State governments to provide free and compulsory education to all children by all means.

Key words: RTE Act, Historical background, Outlines of provisions of RTE act, 2009.

1.0 Introduction

Since independence, India has made impressive progress in terms of growth of educational institutions at different levels, physical access to schooling for children and diversification of educational programme. With schematic interventions from the Erstwhile Operation Blackboard, Bihar Educational Project, Lock Jumbish Project, District Primary Education Programme and Government current Flagship Programme of Axom Sarva Siksha Abhiyan Mission, over 98% of our children are estimated to have access to elementary schooling (within 1 Km of their habitation and almost 92% on upper elementary schooling with 3 Km of their habitation). This has been revealed in

the study conducted by Islam and Chakraborty (2013). The same study has also reported that gross enrolment ratio has increased significantly across all social categories, out of school children rate at elementary level have declined and transition from lower primary to upper primary stage has improved.

The country is diverse in terms of geographical conditions, religions and languages, which exhibit composite culture. Similarly educational institutions are also diverse. There are high fee charging private school having well equipped infrastructure. In contrast to it a large number of government schools mainly meant for masses with insufficient resources. To build the nation, the government schools must be able to provide quality education. Therefore,

initiatives of government are very essential factor.

2.0 Objectives of this paper:

- To give a brief description of Right to Education Act, 2009.
- To study the historical background of Right to Education Act
- To study the provisions of Right to Education Act.

3.0 Methodology:

To prepare this paper descriptive method was used.

3.01 Source of data collection:

This paper is based on fully secondary data. Data were collected through different books, journals, thesis, articles and websites.

4.0 A Brief Description of Right to Education Act, 2009

Time has come to make education as fundamental right to all the children irrespective of their religion caste, gender and location to ensure an equality of educational opportunities. Therefore, education has been considered as a very powerful weapon and special focus has been given in Indian Constitution. In the Indian Constitution it is clearly mentioned that the state shall endeavor to provide free and compulsory education until they complete the age of fourteen years. From all the census reports up to the year 2011, it is seen that a lot of achievements has been made in this regard. But yet it cannot be said that the country has fulfilled this dream.

Table: 1
Literacy rate of India from 1951-2011

Period	Literacy Rate	Male Literacy	Female Literacy
1951	18.33	27.16	8.86
1961	28.30	40.40	15.35
1971	34.45	45.96	21.97
1981	43.57	56.38	29.76
1991	52.21	64.13	39.29
2001	64.83	75.26	63.67
2011	74.04	82.14	65.46

(Source: Census 2011: Provisional Population Total - India retrieved from [iipsenviis.nic.in/ Database/ population-4087.aspx](http://iipsenviis.nic.in/Database/population-4087.aspx))

Observing this fact in 93rd amendment of the constitution one bill related education was passed which is well known as Right to Education (RTE) Act, 2009. RTE is an Indian legislation enacted by the Parliament of India on 4 August 2009, which describes the modalities of the importance of free and compulsory education for children between 6-14 age groups in India under Article 21A of the Indian constitution. India becomes one of 135 countries to make education a fundamental right of

every child. RTE act has come into force from 1st April 2010. The programme is being implemented in partnership which the states to address the children in the age group of 6-14 years. The achievements of SSA till September 2012 are opening of 3,52,816 new lower primary and upper primary schools (up to December 2012), construction of 2,84,032 school buildings, construction of 14,42,867 additional classrooms, provision of 2,17,820 drinking water facilities, construction of 6,18,089 toilets, supply of

free text books to 8.32 cores children during first half of 2012-13, appointment of 12.48 lakhs teachers. 18.64 lakhs teachers received in-service training during first half of 2012-13. There has been a significant reduction in the number of out of school children on account of SSA interventions. The number of out of school children has come down from 134.6 Lakhs in 2005 to 81.5 lakhs in 2009. (Source: Outcome Budget, 13-14, Dept. of School Education, MHRD, Govt. of India, New Delhi).

The fulfillment of the right to education can be assessed using 4 As framework which asserts that for education to be a meaningful right it must be available, accessible, acceptable and adaptable. This 4 as are:

- a. Availability - founded by government education is universal, free and compulsory. There should be proper infrastructure and facilities in place with adequate books and materials for students', school building should meet safety and sanitation standards, clean drinking water.
- b. Accessibility - all children should equal access to school services regardless of gender, race, religious, etc. There should be no forms of segregation or denial of access to any students. This includes ensuring that proper laws are in place against any child labour from obtaining primary or secondary education. Education should be affordable to all, with textbooks, supplies and uniforms provided to students at no additional costs.
- c. Acceptability - the quality of education provided should be free of discrimination relevant and culturally appropriate for all students. Method of teaching should be objective and unbiased. Health and safety should be emphasized in schools.
- d. Adaptability - educational programmes should be able to adjust according to needs of the society. Observance of religious and cultural holidays should be respected by school in order to accommodate students.

5.0 Historical Background Of Right to Education Act:

It is an expectation of the educationists of the country that RTE Act will break an inertia and create a momentum of thought in prioritizing the need of elementary education and setting a trend of urgency to evolve ways & means to fulfill well established fundamental needs i.e. Right to Education.

During pre-independence days, educational rights were unknown. In fact, education was considered a privilege rather than a right. The state's obligation to provide education was recognized with the inclusion of a directive principle to this effect under Article 45 in the Indian Constitution (Directive Principles, unlike Fundamental Rights, are not legally enforceable).

This concept was adopted from the British law of Free and Compulsory Education (FCE) and incorporated in the Constitution. This FCE became a constitutional commitment in India from 26th January 1950. It would be pertinent to point out that between 1950 and 1960s; Article 45 did not receive the importance that it deserved. The state and union budgets treated education as a peripheral subject, allocating on insubstantial amount for this purpose. Much later, a movement towards equitable education began in 1964, when the Education Commission (1964) was appointed under the Chairmanship of Dr. D. S. Kothari to look into the problems of the education system in India. This commission recommended achieving universalisation of education and compulsory education up to 5th standard within the year 1976 and up to the 7th standard within 1986. Moreover, the commission strongly recommended the adoption of a 'Common School' system, which would help remove or minimize inequality of educational opportunities. It also stressed on the need of maintain the 'quality and standards of schools'. Despite all these efforts, the goal was completely fulfilled. The Education Commission (1964) had warned policy makers about the tendencies for segregation based on inequalities in the school education system. The gravity and objective of this recommendation was aptly summarized by J. P. Naik. "The recommendation of

the commission regarding the common school system is the integral part of the programme to promote the education of the poor, reduce its dual character in which 'haves' receive one type of education and 'have-nots' another, and to create a socially cohesive and egalitarian society". (Source: Naik J.P., The Education Commission and After New Delhi, A.P.H. Publishing Corporation, 1997 at 94).

In the constitutional amendment of 1976, placed education from the State list to the Concurrent List and thereby enabling the central government to contribute more to state-level education finance and to be more involved in educational planning at the state level. However, the problems in elementary education went beyond a lack of finance and it was necessary to bring about changes and improvements in the system through increased attention to non-monetary inputs (Government of India 1980-85: Section 2147).

The Union Government initiated a number of projects and programmes under Centrally Sponsored Schemes, most of which have been initiated after the National Policy of Education (1986) and World Conference on education for all held at Jomtien (1990). A part of the implementation of NPE, a new Centrally Sponsored Scheme (CSS) 'Operation Backboard' (OB) was launched. Non-Formal Education was revised and new Schemes for Teacher Education were also begun. The scheme had three components:

- (i) An additional teacher to single teacher primary schools.
- (ii) Providing at least two classrooms in each primary school.
- (iii) Providing teaching learning equipment to all primary schools.

To strengthen teacher education by establishing quality training institutions, such as the District Institute of Education and Training (DIET) was initiated in 1987. The scheme proposed to create viable institutional academic and technical resource base for orientations training and continuous up-gradation of knowledge competence and pedagogical skills of school teacher's in the country.

The Non-Formal education (NFE) scheme was

initiated in 1979 to cater learning needs of working, children and children in difficult circumstances in one of the other important component of centrally sponsored schemes. The NFE programme is for the children of 6-14 age groups who remained outside the formal system due to various reasons.

In 1993-94 Indian government has launched the District Primary Education Programme funded from multiple sources to be developed indigenously. The Programme aimed to provide at least four or five years of good quality education to 6-14 years old child and initially covered 42 districts across 7 states. In 1997, under a second phase of the programme, coverage expanded, from 219 districts in 15 states (Source: World Bank 2007).

The National Programme for Nutrition Support to Primary Education (launched in 1995) provides food grains/cooked meals to children in primary classes. The programme assures 100 grams of grains per day for attending schools for at least 80% of the total school days in a month. The programme had benefited more than 98 million children spread over 0.69 million schools. Up to the year 1999, about 9.90 million children were covered under the scheme (Source: Annual Report. MHRD 1999-2000).

In addition to the centrally sponsored schemes states have initiated schemes to give momentum to their efforts towards the goal of education for all. The Government of India has initiated a new flagship programme for achieving universal elementary education programme called Sarva Shiksha Abhiyan (SSA). This was launched by GOI (Government of India) in 2001, following the recommendation of a State Education Ministers Conference in 1998. Three major targets decided in this programme were.

- (i) To enroll all 6-11 years old children in schools or alternative centers by 2003, to ensure all 6-14 years old completed five years of schooling by 2007 and 6th 14 years old completed eight years of schooling by 2010.
- (ii) To achieve satisfactory education quality with an emphasis on "Education" for life.
- (iii) To eliminate gender and social gaps in primary schools by 2007.

The 86th amendment to the Constitution (2002) which had made Elementary Education a Fundamental Right (The right of children to free and compulsory education Act), has coincided with the launching of the SSA programme. It took until 2009 to finalize and implement the rules of the RTE Act. In the following year central government expanded the SSA framework, making it the primary vehicle to implement RTE.

A rough draft of the Bill was composed in year 2005. It received much opposition due to its mandatory provision to provide 25% reservation for disadvantaged children in private schools. The sub-committee of the Central Advisory Board of Education which prepared the draft Bill held this provision as a significant prerequisite for creating a democratic and egalitarian society. Indian Law Commission had initially proposed 50% reservation for disadvantaged students in private schools.

December, 2002: 86th Amendment Act (2002) via Article 21A (Part III) seeks to make free and compulsory education a Fundamental Right for all children in the age group of 6-14 years.

October, 2003: A first draft of the legislation envisaged in the above article, vis Free and compulsory education for children Bill 2003, was prepared and posted on this website in October, 2003 inviting comments and suggestions from the public at large.

June, 2005: The CABE (Central Advisory Board of Education) Committee drafted the Right to Education Bill and submitted to the MHRD (Ministry of Human Resource Development). MHRD sent it to the NAC (National Advisory Council) where Mrs. Sonia Gandhi was the Chairperson. NAC sent the Bill to Prime Minister for his observation and implication.

The Bill was approved by the Cabinet on 2nd July 2009. Rajya Sabha passed the Bill on 20th July 2009 and the Lok Sabha on 4th August 2009 as the Children's Right to Free and Compulsory Education Act. The law comes into effect in the whole of India except the state of Jammu and Kashmir from 1st April 2010. For the first time, in the history of India a law was brought into force by a speech of the Prime

Minister at that time. In his speech, Dr. Manmohan Singh stated that, "We are committed to ensuring that all children irrespective of gender and social category have access to education. An education that enables them to acquire the skills, knowledge, values and attitudes necessary to become responsible and active citizens of India." (Source: "Prime Minister's Address to the Nations on the Fundamental Right of children to Elementary Education" Pib. Nic.in Retrieve 1st September 2010).

6.0 Various Provisions of Right to Education Act 2009

6.01 Right of child to free and compulsory education:

- Every child of the age of 6-14 years shall have a right to free and compulsory education in a neighbourhood school till completion of elementary education.
- No child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the elementary education.
- The act provided that a child suffering from disability shall have the right to pursue free and compulsory education.

6.02 Special provisions for children not admitted to or who have not completed elementary education:

- Where a child above six years of age has not been admitted in any school or though admitted could not complete his or her elementary education then, he or she shall be admitted in a class appropriate to his or her age.
- Where a child is directly admitted in a class appropriate to his or her age, then, he or she shall in order to be at par with others, have a right to receive special training, in such manner and within such time-limits, as may be prescribed.
- Act provided further that a child so admitted to elementary education shall be entitled in free education till completion of elementary education even after 14 years.

6.03 Right of transfer to other school:

- Where in a school there is no provision for completion of elementary education, a child shall have a right to seek transfer to any other school.

4.04 Duties of Appropriate Government - Local authority and Parents:

- For carrying out the provisions of this Act the appropriate Government and the local authority shall establish, within such area or limits of neighbourhood, as may be prescribed, within a period of three years from the commencement of this Act.
- The appropriate government shall provide free and compulsory education to every child.
- Provide infrastructure including school building, teaching staff and learning equipments.
- Ensure good quality elementary education.
- Every local authority shall ensure that the child belonging to weaker section and the child belonging to disadvantaged group or not discriminated against and prevented from pursuing and completing elementary education on any grounds.
- Maintain records of children up to the age of fourteen years residing within its jurisdiction in such manner as may prescribed.
- It shall be the duty of every parent or guardian to admit or cause to be admitted his or her child or ward as the case may be, to an elementary education in the neighborhood school.

6.05 Responsibilities of schools and teachers:

- School shall provide free and compulsory elementary education to all children admitted

therein.

- No school or person shall while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any scrumming procedure.
- No child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education.
- No child shall be subjected to physical punishment or mental harassment.
- Teacher pupil ratio should be 1: 30.
- No private tuition by fulltime school teachers.

6.06 Protection of the Right:

- Independent Monitoring of the implementation of the Act is assigned to the National Council of Protection of Child Rights (NCPCR) the main responsibility of :
- Examine and review safeguards for rights under this Act, recommend measures for effective implementation.
- Inquire into complaints relating to child's right to free and compulsory education.
- Conduct Periodic social Audit of the status of implementation.

7.0 Conclusion:

Making education a fundamental right is surely a step in right direction to address the disparities of elementary education in India. It gives legislative framework through which we can question and improve the education system. The right to education act will be effective only if all its provisions are implemented in letter and spirit. By implementing all the provisions of right to education act , quality of elementary education can be developed in a positive way.

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