

INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 3 | Issue 5

2020

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Role of Right to Education of Children in Promotion of Sustainable Development

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ABSTRACT

Sustainable Development is an environmental term, but it has very deep meaning. Sustainable Development of the Nation is depending on its subjects. The Child Education is most important element by which the Sustainable Development Goal will be achieved. Now a day the Right to education is considered as key tool for development. Even though Indian Government passed the many policies and legislations relating to the Right to Education, but it failed to achieve the decided goals. Education is the element over which the other all goals are depends. If the nation achieved the goal of education and succeed to eradicate illiteracy, then the other goals might be achieved easily. Yet many of children remain deprived of educational opportunities, many as a result of poverty. So the present research paper will analyze the legal provisions and various policies and schemes relating to right to education and its role in promotion of sustainable development of nation.

Keywords- Children, Education, Sustainable Development, Fundamental Right.

I. INTRODUCTION

India has a long tradition of organized education. In India, the need to legislate for universal and compulsory education had been in focus since 1911 when the Gokhale Bill for elementary education was prepared. The first law on compulsory education was the Bombay Municipality (Primary Education) Act, 1918.²

India began its journey towards the goal of universal and free education little more than sixty seven years ago with the Indian Constitution stating , “The State shall endeavor to provide, within a period of 10 years from the commencement of this constitution, for free and compulsory education for all children until they complete the age of 14 years”.³ Supreme court first recognized the Right to Education as fundamental right in case of Mohini Jain v. Union of

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² Didla Venkateswara Rao, “Child Rights – A Perspective on International and National Law” (Manak Publications,2004)

³ Art. 45 SCC of The Constitution of India.

India.⁴

In 2002, the 86th amendment to the Constitution introduced Article 21-A making the right to education a fundamental right. Article 21A was introduced because the Article 45 of the Constitution failed to achieve the goal even after 67 years of independence. Before this Amendment the Education of children was comes under the Directive Principles of State policy and which was not binding. Though The Government of India, in partnership with the State Governments, has made strenuous efforts to fulfil this mandate and, though significant improvements were seen in various educational indicators, the ultimate goal of providing universal and quality education still remains unfulfilled.⁵ For the first time in independent India's history a fundamental right had been added to the Constitution. Unlike other fundamental rights the right to education required an enabling legislation to become effective.

II. LEGAL CONTEXT -

The constitutional guarantee of the right to education is highest protection that can be accorded at the national level. It serves framework for all other law and policies, which have to be in conformity with it. The Indian Constitution has therefore recognized education as the necessary tool of social transformation, as is evident from its education specific Articles. Recognizing the significance of child-care and development in realizing the goal of national progress, the framers of Constitution enacted several provisions concerning welfare and development of children, especially in Parts III and IV of the Constitution. The Fundamental Rights and Directive Principles of State Policy have provided an inspiration to all legislations concerning child welfare, education and development.

The Education in India falls under the control of both the Union list and State list with some responsibilities. This subject comes under the concurrent list thus, the both Union government as well as the State government can make the laws relating to the Right to Education. Before constitutional amendment 1976, education was the exclusive responsibility of the state and after the amendment it included in the concurrent list.

Article 21-A in the Constitution of India states, that, “the state shall provide free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right in such a manner as the State may, by law, determine”. This Article was added by the Constitution 86th Amendment Act, 2002. The Right of Children to Free and Compulsory Education (RTE) Act, 2009, which represents the consequential legislation envisaged under

⁴ AIR 1992, 3 666

⁵ The Constitution (Eighty-Sixth Amendment) Act, 2002

Article 21-A, means that every child has a right to full time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards.⁶

Article 21 of the Constitution by the Supreme Court of India underlies the primary importance of early childhood developments. Right to free education up to the age of 14 years was read into Article 21 by the Supreme Court of India.⁷ The Court while creating such right made an important observation that Right to Life has to be read in light of Directive Principles of State Policies, i.e. Articles 41, 45 and 46. Although the 86th Amendment brought a Directive Principle of State Policy, ignored until now, within the folds of Part III of the Constitution, it excluded children below the age of six, thus denying them education for proper growth and development.⁸

The RTE Act came into effect on 1 April 2010. The title of the RTE Act incorporates the words 'free and compulsory'. 'Free education' means that no child, other than a child who has been admitted by his or her parents to a school which is not supported by the appropriate State Government, shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education. 'Compulsory education' casts an obligation on the appropriate Government and local authorities to provide and ensure admission, attendance and completion of elementary education by all children in the 6-14 age groups.

With this, India has moved forward to a rights based framework that casts a legal obligation on the Central and State Governments to implement and protect this fundamental child right as enshrined in the Article 21A of the Constitution, in accordance with the provisions of the RTE Act. Constitution 86th amendment act, it was now up to the state to determine how and in which manner the free and compulsory education is to be provided.

"Free education" means no child is liable to pay any kind of fee, if the school is run by the government or under the authority of government irrespective of the caste, race, religion and sex.⁹ And "Compulsory Education" means the education will be mandatory for all the children between the age group of six to fourteen. The UNESCO Yearbook of Education (1986), viewed compulsory education as a right. It States that the, compulsory nature of education refers not only to the child's obligation to receive it but also to the states obligation to provide".¹⁰

⁶ Himanshu Sekhar Rout, Padmaj Mishra, "*Social Sector in India : Issues and Challenges*" (Cambridge Scholars Publishing, 2015)p. 176

⁷ Unni Krishnan v. State of Andhra Pradesh 1993 AIR 2178

⁸ Law Commission of India, Report No.259 "Early Childhood Development and Legal Entitlements" 2015

⁹ Jatin Singh v. Kendriya Vidyalay Sangathan (AIR 2012)

¹⁰ Nalini Juneja, "*Constitutional Amendment to Make Education a Fundamental Right – Issues for follow-up*

The Constitution of India under Article 45 incorporated the duty of the state to provide free and compulsory education to all children up to the age of 14 years by 1960, as a Directive Principle. After the substitution, the Provision for early childhood care and education to children below the age of six years was responsibility of the State. Before the 86th amendment the education comes under the directive principles of state policy and which was not legally enforceable. The idea behind the incorporation of the Fundamental Duties was to emphasize the obligations of the citizens in exchange of the comprehensive Fundamental Rights enjoyed by them. After the 86th Amendment, clause (K) was added after clause (J), which provide, “who is 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”. In other words this Clause states that the, parent and guardian shall have to provide opportunities for child’s education from the age of six to fourteen years. The Amendment made it mandatory on the state to provide education for children between 6-14 years, but the children below the age of six years the State should make provisions for education and parents/guardians were also taken into the ambit of providing education for children.

III. NATIONAL POLICIES AND SCHEMES –

For the development of nation it was necessary to make a plans, policies and scheme and implements them properly for development. Policy is a key factor for integrating Education for Sustainable Development (ESD) in all formal, non-formal and informal learning settings. India is progressing on the path of sustainable development through its planned economy and five years plans. Some policies and programs aimed at human development, are Integrated Child Development Program (ICDS), Mid-Day Meal Programme (MDM), and Universalization of school education through Sarva Shiksha Abhiyan (SSA) etc.¹¹

These four basic principles of the Preamble i.e. justice, liberty, equality and fraternity are the foundation stones of Education Policy in India. In this context, the Government of India appointed a Commission in July 1964 to advise the Government on the issue of “Education” under the Chairmanship of Dr. D.S. Kothari.¹² This commission, in 1966, submitted its report entitled "Education and National Development". It is on the basis of the recommendations of Kothari Commission that Government of India proposed a “Education Policy” in the year 1968 and introduced it in the Parliament. After Kothari Commission, the Janata Government

legislation” (National Institute of Education Planning and Administration, 2003)

¹¹ Mamta Vishvanath, “*Role of right to education act for promotion of sustainable development in India* (Asian Journal of Research in Social Sciences and Humanities, 2014)

¹² “Education and National Development” (Report of the Education Commission, 1964-66)

formulated its own educational policy in 1979 and termed it as the Second Policy of Education. National policy for children¹³ recognized that programmes for children should find prominent place in national plans for the development. It lay down that the state shall provide adequate services towards children, both before and after birth and during the growing ages for their full physical, mental and social development.¹⁴ The policy was an extremely important step forward in the protection of children's interests. National Policy for Education, 1986, specially focused on the investment for development of young children and gave priority to early childhood care and development amongst child development services.¹⁵ The policy stressed the importance of establishing Day Care Centres for pre-school education to enable young girls engaged in taking care of sibling to attend school and women from poor families to earn additional income.¹⁶ The Integrated child Development Services (ICDS) scheme, launched in 1975 pursuance of the National Policy for Children, 1974 is the chief public policy programme aimed at young children. The basic premise of ICDS, which is centrally sponsored and state administered nationwide scheme, is the assertion that early childhood education and care are inseparable issues and must be considered as one.

The 12th Five years Plan (FYP 2012-2017) has accorded high priority to the expansion of education, ensuring that educational opportunities are available to all segments of the society, and ensuring that the quality of education imparted is significantly improved. The Twelfth Plan targets for school education and literacy. The Sarva Siksha Abhiyan was launched in 2001 to ensure that all children in the age group 6-14 years attend school and complete eight years of schooling by 2010.¹⁷ Sarva Siksha Abhiyan is an effort to universalize elementary education by community ownership of the school system. It is a response to the demand for quality basic education all over the country. The Sarva Siksha Abhiyan programme is also an attempt to provide an opportunity for improving human capabilities to all children, through provision of community owned quality education in a mission mode. It is a policy which provides opportunity for states to develop their own vision of elementary education.¹⁸ It provides an opportunity for promotion of social justice through elementary education.

The Sarva Shiksha Abhiyan is to provide useful and relevant elementary education for all

¹³ National policy for children 1974 latter reaffirmed by the National Charter for Children, 2003 and the National Policy for children, 2013.

¹⁴ National Charter for Children 2004

¹⁵ Law Commission Of India, Report No.259, 2015 on, "Early Childhood Development and Legal Entitlements"

¹⁶ Asha Bajpai, "Child Rights in India- law, Policy and Practice" (Oxford Publication, 2003)

¹⁷ Dr. Mohan Azam Khan and Nagma Shadab, "Sarva Shiksha Abhiyan: Problems and Prospect" (Excellence International Journal of Education and Research, 2013)

¹⁸ Ibid.

children in the 6 to 14 age group by 2010. There is also another goal to bridge social, regional, and gender gap, with the active participation of the community in the management of schools.¹⁹

Useful and relevant education signifies a quest for an education system that is not alienation and that draws on community solidarity. Its aim is to allow children to learn about and master their natural environment in a manner that allows the fullest harnessing of their human potential both spiritually and materially. This quest must also be a process of value based learning that allows children an opportunity to work for each other's wellbeing rather than to permit mere selfish pursuits.

One of the most popular schemes adopted to attract children to schools is the Mid-Day Meals Programme launched in 1995.²⁰ Several other special programmes have been launched with varying degrees of success. Government also provides the free Text books to the children. Further the District Primary Education Programme (DPEP) was initiated in 1994, with aim to provide access to all children to primary education through formal primary schools or its equivalent through alternatives.

The National Literacy Mission (NLM) launched in 1988 aimed at attaining a literacy rate of 75% by 2007. It imparts functional literacy to non-literates in the age group of 15 to 35 years. The total literacy campaign is the principal strategy of National Literacy Mission (NLM) for eradication of illiteracy. The continuing education scheme provides a learning continuum to the efforts of the total literacy and post literacy programmes.²¹

Thus the various efforts are made by the government of India to achieve sustainable development by way of adopting different schemes and policies like, Rural Functional Literacy Project (RFLP) which was set up in all states and union territories and it was fully funded by central government and state and union territory administration are responsible for its implementation.²² But the current legal and Constitutional rights framework in India does not place enough emphasis on the right of the children.

The Protection of early childhood development in India thus depends on Policies and Schemes created and run by the Central and State Government. Till now all the National Policies on Education have suffered from one or the other lacunae and ultimately because of all of this the

¹⁹ Ibid.

²⁰ Annual Report, 2009-10, Gov. of India (Department of School Education and Literacy, Department of Higher Education and Ministry of Human Resource Development)

²¹ National Report for Confentea VI National Literacy Mission (Department of School Education & Literacy Ministry of Human Resource Development Government of India, 2008)

²² Annual Report, 2009-10, Gov. of India (Department of School Education and Literacy, Department of Higher Education and Ministry of Human Resource Development)

education system in India is not improving at the required rate. The new National Policy on Education ,2016 has been formulated after doing extensive ground level discussions so the nation is expecting tremendous educational reforms this time.

IV. CONCLUSION

Education which empowers the future generation should always be the main concern for any nation. India is the country of the youth people. Government have to vest large amount on the youth and children's who are the future of India. It is now fact that right to education can be realized on a national level only through Right to Education Act which provides free compulsory primary education to children.

To achieve the Sustainable Development Goals by 2030 it was necessary to provide pre-primary as well as the secondary education free and compulsory and not only the primary education. Being the party to the CRC and other International Legal Instruments it was necessary to implement the same at national level by passing laws. As per the CRC the state is under obligation to provide the free and compulsory education for all children, and under the CRC age of children is 18 years. Thus India is under obligation to provide the free and compulsory education to all children up to the age of 18 without any discrimination. Thus there is need to amend the RTE Act and Constitution for inclusion of four more years that is from 9th to 12th class in the free and compulsory education, to achieve Sustainable Development Goals 2030. It cannot be said that nothing is done towards realization of right to education in India but something more is necessary.

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