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RTE ACT 2009 AND ISSUES IN ITS IMPLEMENTATION

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Abstract: The Right to Education has become one of the reformative legislations in the Indian education system, though it promotes the children education from the age of 6 to 14 whereas the turnout ratio of the girl children education is comparatively less. The reservation of the children in schools especially in the private school become the challenging task for the middle- and lower-income group because of the socio-economic factors which makes the children to be deprived of their fundamental Right guaranteed under Article 21 of the constitution of India. The quality education, experienced teachers, good infrastructure and implementation of the plans and policies of the legislation could be considered to be areas of concern. National Education policy is the recent development in the education system which focuses on the holistic approach of the education system but there is need to have policies and programs to make the education policy effective only when the implementation of legislation is done in the true spirit, this research focuses on various issues and the challenges in implementing the RTE Act 2009.

keywords – Academic Integrity, Fundamental Rights, Educational Development, Holistic Education.

INTRODUCTION:

Education is a powerful instrument that beginnings from birth. It is the main component for the development and success of a country. Each woman, man, youth and child have the option to be instructed, which is the wellspring of the acknowledgement of other essential fundamental freedoms. Right to training is the most intense instrument for the headway of an individual. Right to schooling is a central right of each kid under part III of the Indian Constitution. It is perceived as standard freedom all around in different International Conventions and Declarations.

The 86th Amendment¹, 2002 embedded another Article 21-An in Part III of the Constitution, makes the RTE Act, 2009, which came into power 1 April 2010, and India joined a gathering of 135th nations on the planet who announced training as a necessary right of each child. The RTE Act primarily focuses on children's education and aims to bring every child to the forefront by giving awareness.

¹ (United Nations instruments, 2022)

THE PROVISION OF THE RTE ACT 2009

Free and compulsory education was made a principle directly under Article 21A of the Constitution in December 2002, by the 86th Amendment. The Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE), 2009 is the milestone sanctioning that makes instruction a fundamental right of each child between the ages of 6 and 14 and determines the least standards in primary schools. The Act came into power on 1 April 2010, and India became one of the 135 nations which have made education a fundamental right of each child. It was the initial time throughout the entire existence of India that another law was carried into power with the discourse of the prime minister of the country.

Right of each child to free and compulsory education to every child of the age of six to fourteen years will reserve a privilege to free and mandatory education in a local school till fruition of elementary training. This Act gives the degree to seek after and complete the elementary training with no sort of expense or charges or costs. It requires all non-public schools to hold 25% of seats to children².

The child over six years old has not conceded in any everyday schedule conceded, couldn't finish their elementary education, then, at that point, the person in question will be conceded in a class proper to his or her age. The Act gives an option to get uncommon preparing if the child is straightforwardly conceded in a class proper to their age. The Act additionally gives that no child will be kept down, removed, or needed to finish a board assessment until the completion of the elementary education is prescribed under the act³.

The Act gives a child will reserve an option to look for a move to some other school inside the state or outside the state to seek after the additional finish of primary education by collecting the transfer certificate. The Act Provides the Government and the local authority will build up a school, where it isn't the case set up, within the period of 3 years from the date of the Act come into force. The Central Government and the State Governments will have simultaneous obligations regarding giving assets to completing the provisions of this Act. The Central Government will be responsible for a system of a public education program with the assistance of scholarly power, create and implement norms for preparing instructors, offer specialized help and assets to the State Government for advancing developments, innovations, planning to construct the building and the structure⁴.

More importantly, there are strict obligations of Every Government and local administration to be accomplished viz., give free and necessary elementary schooling to each child, guarantee that the child having a place with poverty and the child have a place with impeded gathering are not victimized and kept from seeking after and finishing elementary education on any grounds, guarantee convenient endorsing educational plan and courses of study for elementary education without collecting any charges and fees for providing for the education of the children¹.

The National and the state commission for Protection of Child Rights, the Commissions for Protection of Child Rights Act, 2005, which are empowered to make appropriate suggestions and the recommendation for the implementation of the Act and also to take necessary steps in protecting the child's right under section 8 of the Act.

² Righttoeducation.in. 2022. [online] Available at: <https://righttoeducation.in/sites/default/files/policy_brief_on_rte_reservation.pdf> [Accessed 27 April 2022].

³ Righttoeducation.in. 2022. [online] Available at: <https://righttoeducation.in/sites/default/files/policy_brief_on_rte_reservation.pdf> [Accessed 27 April 2022].

⁴ Legislative.gov.in. 2022. [online] Available at: <https://legislative.gov.in/sites/default/files/A2009-35_0.pdf> [Accessed 27 April 2022].

1. Age factors under the RTE Act

The RTE specifies the education to the children from the age of 6 to 14, whereas the UN charter specifies that the education to the children has to be given till the age the child turns 18 years of age. Till the age of 14 years, the child will not be complete secondary education and RTE is silent about the education of the children from 14 to 18 years which becomes an essential element where a person can lead a decent life.

2. Out of School Children.

The children who come under the age group of the RTE Act who are traditional depend on the customary practices where the education is prioritised for the male child than female, and the girl child is helping with the household and taking care of the younger siblings in the familyⁱⁱ. Distance is the primary concern where the girls' children from the rural population are concerned about the distance and the fewer facilities of the public transport to the villages, leading to an increase in the country's dropout rates. Since the Government institutions do not have the facilities like proper infrastructures like Toilets and water facilities, good classrooms are the reason which makes the children to drop out from the school while pursuing the educationⁱⁱⁱ.

3. Children with special needs (CWSN) were left out of the RTE bill.

The RTE does not talk about the section of the people like those who belong to the section of disabled people. The facilities like infrastructure teaching and teacher who are trained and qualified to engage with the Disabled Children are the major issues in Implementing the RTE to the children of the disabled section of the society⁵. Though there is a grant of Rs 3000 – 3500 per child, enforceability, implementation, and awareness are lacking with an extensive section of society.⁶

4. Private school and the reservation policy by the Governments

It has been noted that the 25% reservation has to be given in the Private Schools and it has mandated the many institutions to provide free education the major concern is that, the Government does not compensate the entire cost of the free education which has been given to the children in the private schools since the cost of the infrastructure and the salaries to the teachers and the administration cost are borne by the Private management this will result in increasing the fees of the other students to compensate the expenses which are incurred while giving the free education to the children who belong to the middle class and belong to the poor families⁷.

5. Status of the poor children who are studying in private school.

Education for poor people has become a very challenging task to afford for children's education for various reasons even in some private school the tuition fees is waived off but other costs relating to the uniform, stationery, books etc are not sponsored by the RTE Act. More importantly, the sociological issues and the living standard differ from person to person, therefore managing the social issues in the private school has become very challenging to the poor and the marginalized society.

6. No quality Control RTE appears to be Input oriented.

The RTE guarantees admission for free in Govt schools and the 25% Admission guaranteed for children between the age of 6 to 14 in private school but doesn't promise quality education to the children which have been a challenging task for them. The comprehensive method of evaluation has been changed from the traditional kind of evaluation process, which has been not effectively implemented.⁸

⁵ India Today. 2022. *8 reasons why the NEP's move to teaching in mother tongue could transform teaching and learning in India*. [online] Available at: <<https://www.indiatoday.in/education-today/featurephilia/story/why-nep-teaching-in-mother-tongue-could-transform-education-in-india-1711187-2020-08-14>> [Accessed 27 April 2022].

⁶ <https://samagra.education.gov.in/inclusive.html>

⁷ Legislative.gov.in. 2022. [online] Available at: <https://legislative.gov.in/sites/default/files/A2009-35_0.pdf> [Accessed 27 April 2022].

⁸ India Today. 2022. *8 reasons why the NEP's move to teaching in mother tongue could transform teaching and learning in India*. [online] Available at: <<https://www.indiatoday.in/education-today/featurephilia/story/why-nep-teaching-in-mother-tongue-could-transform-education-in-india-1711187-2020-08-14>> [Accessed 27 April 2022].

7. Automatic promotion and Quality Teachers.

Under the RTE Act 2009, since the school cannot fail the students, it ends up like the children are not serious about their studies. They tend to fail in the Board exams. In the end, this results in children dropping school and not being able to complete their studies issues concerning the teaching. The teachers are also not trained enough to impart quality education to the children. The Government school ratio of the students and the teacher is not up to the guidelines provided by the Government and the legislation under the RTE Act. Unqualified teachers have also been appointed as the teachers that have created a significant problem in imparting quality education to children from qualified teachers.

8. Private schools have been recognized under the RTE Act 2009.

Certain norms and parameters have been made available to the private institutions concerning the infrastructure and student teacher's ratio. The salaries need to be paid by the standard prescribed by the Government after implementing the RTE Act within three years. From 2006-14 there has been raise in, admission in private schools has been increased from 16% to 31%.⁹ Though there are many guidelines to private schools under section 18 of the Act, the procedures are silent on the Aided and the Government Schools.

9. Autonomy of the Private Schools.

In TMA Pai Foundation v. The State of Karnataka¹⁰: The 11 benches of the Supreme court held that the real essence of the private school is the Autonomy that the management has towards the institutions. The Provisions of the RTE Act, which the Private Institution implemented, made the Private school face issues with impractical implementation and the scrutiny done by the authorities to check about the performance of the provisions of the RTE Act in giving admission to the 25% of Children where influential people manipulate the centralised legislation without understanding the practical problems and force the private management to provide free education to the children belong to SC ST and OBC

10. Issues with School Management Committee.

The RTE Act emphasizes the aspect of SMC to have been socially connected to society by involving the parents/ social workers and the local elected representatives. The Real Purpose of the SMC is to bridge the gap between the state, school and society, which make the schools consider the method of decentralization where there has been a decision taken with consultation with the committees for the effective operation of school functioning. The SMC members need to volunteer their time and effort s, which can affect the poor parents since they have to contribute towards the fund and discharge their responsibility in a better way. Collection of funds and management and making use of the proposed plans by the committee is another concern in the implementation of the statute.

11. Accountability in the implementation of the RTE Act.

RTE 2009 is the central legislation; the education comes under the Concurrent List. The State Government authorities have failed to implement the programmes and the scheme that strengthens the children's education. The Education of children for free and compulsory education involves a considerable cost, and the state government allocate the fund to various other projects. Also, the central government does not provide the fund on time for welfare purposes. Therefore, it is noted that the allocation of funds results in the lack and delay in implementing the education policies and programmes in India.

12. National Education Policy 2020 and RTE Act 2009

The National Education Policy 2020¹¹ has been tremendous change and growth in the education system in India. NEP is considered the first legislation in the 21 century in the Indian education system. Where the education of the children is considered to be from 3 years to 18 years of age and the structure of children's education has been changed, there is no clarity of implementation of the policies, the area of concern is that the RTE specifies that the education of the children from 6 to 14 but NEP speaks about the education of the children from 3 to 18 years age. There has been no mention of the Minority status, and NEP is silent.

⁹ (Annual Status of Education Report, or ASER)

¹⁰ State of Karnataka v. T.M.A. Pai Foundation, (2003) 6 SCC 790

¹¹ Legislative.gov.in. 2022. [online] Available at: <https://legislative.gov.in/sites/default/files/A2009-35_0.pdf> [Accessed 27 April 2022].

13. Language barrier of in Primary Education.

The RTE Act allows the children of multiple entries and exit options and empowers the children to get their transfer certificate to continue their studies in any part of the country; the issue is here that the migrants who migrate from different parts of the country need to continue their studies in the regional language because of which many children discontinue their studies because of the various reasons¹².

14. The language policy of NEP

The National Education Policy has created tremendous changes in Education in India by stating that primary education has to be given in the Mother Tongue of children¹³. The issue is here if Education has to be delivered in Mother Tongue the places like, Mangalore and North-eastern parts of India etc., different community speak different languages as their mother tongue. Therefore, the Government has to take measures for proper implementation to avoid confusion.

SUGGESTIONS AND CONCLUSION:

1. To acquire more transparency in the framework, each state ought to set up many model principles to execute the right to instruction, with the interest of the local area and different partners.
2. More grounded administrative casing for non-public schools is required. Guarantee straightforwardness and responsibility measures are established. Lack of certified teachers must be appointed together by the suitable Government to provide food quality training to the youngsters in Government schools.
3. Rather than shutting the unnoticed schools, programmes need to be initiated to help such schools to work on their offices by asset support and furnishing linkages with monetary organisations.
4. Provisions and policies have to be made to bring the youngsters younger than six years or more to 14 years to acquire the ambit of this Act. This should be possible by reporting grants to the exemplary understudies who can't bear the cost of private schooling.
5. Financial assistance must be given to the school for the developmental projects and with collaborating with the different legal bodies like the Human Resource Development Ministry, Labour Ministry, Women and Child Development Ministry, Panchayati Raj Ministry and Rural Development Ministry to guarantee the legitimate execution of the relative multitude of honourable arrangements of the Act and for the accomplishment of the shared objective.
6. There is a desperate requirement for the audit of the educational program and course readings in the schools to guarantee they are of a level equivalent to the absolute learning levels of the understudies.
7. Set up an excellent administrative system for non-public schools to guarantee their consistency with the RTE standards, guidelines, and arrangements and on issues like the guideline of expenses through a focal enactment on the equivalent.
8. Taking consideration of the institutions and the management who run their institutions at the local level and taking into confidence regarding the practical issues in implementing the rules and the regulation in implementing the RTE Act in the state

To conclude, Regardless of its restrictions, this order opened additional opportunities for working on the nature of school training in the nation. Much work must be done at the ground level. An endeavour ought to be made to give a stage to collaborators and common society associations from different States to meet up and hold the Government - both Centre and State-responsible for its execution. Various states remain at multiple levels as far as elementary education, and state-explicit issues should be tended to. The obligation of facilitating through Centre-State consultative instruments for proprietorship by s as training is a simultaneous rundown subject

¹² <https://www.degruyter.com/document/doi/10.1515/ijsl-2018-0028/html?lang=en>

¹³ India Today. 2022. *8 reasons why the NEP's move to teaching in mother tongue could transform teaching and learning in India*. [online] Available at: <<https://www.indiatoday.in/education-today/featurephilia/story/why-nep-teaching-in-mother-tongue-could-transform-education-in-india-1711187-2020-08-14>> [Accessed 27 April 2022].

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