

Right to Education Act, (2009): Issues and challenges

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ABSTRACT

The year 2009 is a land mark year in the history of elementary education, as the Government finally managed to pass the 86th amendment to the constitution that made Right to Education (RTE) a fundamental right. 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 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. The present paper aims at examine the Right to education Act, 2009 and its provisions as well as issues and challenges in implementation based on secondary data and suggest measures for better execution of the act.

1. Introduction

Education is a dynamic process that starts from birth. Education is the mirror of the society and base of the Socio-Economic development. It transforms human beings from ignorance to enlighten from underdevelopment to faster economic and social development. Moreover, education is a process of character building and expansion of intellect (Anil Kumar Biswas, 2012,p.3). Also education finally helps in increasing the productivity of the nation and strengthens all bonds-Socio-Economic and Cultural. To reap the benefits of the demographic dividend, quality of education and infrastructure will have to be built across the country, especially in rural Sector(Kurushetra, 2012, p.2). Education in India has a history stretching back to the ancient urban centers of learning at Taxila and Nalanda. Western education became ingrained into the Indian society with the establishment. Traditional education in India served a very limited purpose of a particular section of the society belonging to certain cost. During medieval period, education was elitist, favoring rich. These pre-existing elitist tendencies were reinforced under British rule.

In post- independent period, Universalisation of Elementary Education (UEE) has been accepted as a national goal in India. Constitution of India recognised UEE as a crucial input for nation building and included it in part-III of Indian Constitution, which contain the Directive Principles to be implemented within a period of ten years. Article-45 of the Constitution states, "The state endeavour to provide with a period of ten years from the commencement of this Constitution for free and compulsory education for all children until they complete the age of fourteen years". Though, the Indian constitution came into existence on 26th January, 1950, completing nearly six decades by 2009, the Governments are not able to provide free and compulsory educations to children. Moreover, the directive principles cannot be enforceable through law. Thus, provisions free and compulsory become unsolvable issue and depend on mercy of the governments. In this context, Indian government made several efforts to enact legislation on free and compulsory

education and finally enacted Right to Education Act, 2009 (M.H.R.D,2009). Thus, India has reached a historic milestone in country's struggle for Children's Right to Education. The Constitution (86th Amendment) Act 2002making elementary education a Fundamental Right and its consequential legislation, the Right of Children to Free and Compulsory Education (RTE) Act 2009, comes into force. The enforcement of this right represents a momentous step forward in 100 year struggle for universalizing elementary education. The RTE Act has many provisions (RTE,2009) and aims providing free and compulsory elementary education to children age 6-14 years with eight years of schooling, focusing on social disadvantaged communities and weaker sections.

Right to Education Act, (2009) is a land mark initiative of Government for strengthens education system in India. Under , it is mandatory to complete elementary education (class-I to VIII) of all children of age 6-14 years (M.H.R.D, 2009). At present, Education is fundamental Right of Every Indians at primary stage. The Government will be responsible for providing education to every child up to the eight standard at free of cost, irrespective of class, class, religion, gender rural and urban etc. The Right Education Act coming into force on 1st April, 2010.With this effort, India has joined the league of over 130 countries which have legal guarantee to provide free and compulsory education to children(The Hindu, 2010). The Right to Education is now a fundamental Right of every child in India. With the new education act, now India has joined some 20 other countries including Afghanistan, China, and Switzerland, which have laws guaranteeing free and compulsory education for eight years of elementary education. The act certainly helpful in India, where more than 65.0 percent of Indian population fall below the poverty line (AnishaTamang, 2015,p.15) and also majority being social deprived groups.

2. Importance

The issues and challenges raised in the paper will help all the stakeholders to become aware of their rights, take an active

role in the enforcement of RTE Act provisions and implement this Act more effectively and fruitfully to have a better quality education for the students for whom this act is meant.

3. Objectives

The objectives of the paper are to narrate the provisions of Right to education Act, to examine the issues and challenges in implementation of the act and to suggest the suitable measures to implement the act effectively to obtain fruitful benefits.

4. Methodology

The paper is based on secondary data collected from Gazette, books, Published reports, newspapers; journals, websites, blogs based articles on Right to education Act. Present paper is based on secondary data; therefore it has limitation in examine the issues related to RTE Act.

Provisions: Key provisions of the act are overviewed as follows:

Right to Free and Compulsory Education (Section-3 (1)): Acts provides Right to Free and Compulsory Education for children 6-14 years and 18 years for disabled children from class 1st to 8th. 'Free Education' providing elementary education to all children with no direct costs like fees/capitation fees, or indirect costs like kind/services / fees for stationary, etc. to be borne by the parents of child. The Government shall provide free textbooks, notebooks @ 1 notebook per subject and other writing material, midday meals with Nutritional values, uniforms in neighborhood schools run by the Government.

Provisions for Socially Disadvantaged and Weaker Sections (section 12): Child belonging to socially disadvantaged group such as the schedule caste, schedule tribe, orphans, Migrant and Street children, Children With Special Needs and HIV affected/infected children and a child belonging to Weaker Sections such as Backward Caste, Minorities and includes Other casts whose parents' income does not exceed Rs. 60,000/- per annum are get benefits from the Act through free education(RTE Model Rules, 2009).

Prohibitions(Section-31): The Act prohibits screening test for admissions, documents for admission, capitation fees, corporal punishment. Screening procedures shall be punishable with fine. No child shall be subjected to physical punishment/mental harassment (RTE Model Rules, 2009). No child is subjected to caste, class, religious or gender abuse in the school.

Neighborhood School: Neighborhood area of a school in the habitations in a safe walking distance of 1 km for a Primary School, 3 kms for an Upper Primary / High School having classes VI to VIIIth. Out of School Children in the age group of 6-14 who has not completed elementary education (never enrolled or dropped out)and Pupils of an elementary school absent for more than one month shall also be considered to be an out of school children are having chance in getting enrollment in Schools (Section-6)..

Access to admissions and transfers: The normal period of admission into any school, for the purposes of this Act, shall be from 12th June to 31st August of the academic year. Extended period of admission shall be three months from the date of closure of the normal period of admission. Where a child is admitted in a school after the extended period, he or she shall be eligible to complete studies with the help of special training, as determined by the head of the school.RTE Act access to admission round the year, easy to get transfer certificate; School cannot deny admission to any child on the grounds of lack of birth / transfer certificate. School shall has to be admit out of School children in their age appropriate class(RTE Model Rules 2009).It is a duty of parents/guardians to admit their child, in the neighborhood school (Section-50(1)).

Age appropriate class and Special Training: Children will study in their age appropriate class and special training will be provided for out of school children (never enrolled or dropout) who are being enrolled and need to catch up elementary education (RTE Model Rules, 2009).

Reservation of Seats(Section-14(1)):The school shall give reservation of minimum of 25 percent in class-I for the children of disadvantaged groups and children of weaker sections from the neighborhood area. In case, the private an aided school, it shall provide free and compulsory elementary education to such proportion of children admitted therein as its annual recurring aid or grants so received bears to its annual recurring expenses, subject to a minimum of 25 percent. The school having pre-school education shall also give reservation of at least 25 percent of its enrolment at the initial stage of admission to the children of disadvantaged groups and the children of weaker sections of the neighborhood area under section-12 of the Act. Private/unaided schools will reserve 25 percent of seats for children of disadvantaged communities.

Child Centered Education: Children will learn through activities, discovery and exploration and will be assessed through continuous comprehensive evaluation. The Act provides for the development of curriculum in consonance with the values enshrined in the Constitution and for all round development of the child (RTE Model Rules, 2009).

Effective Curriculum for all round development: The curriculum should provide for learning through exploration; building up child's knowledge, talent and potentialities; development of physical and mental abilities to the fullest extent; learning through activities, discovery and exploration in a child-friendly and child-centered manner; making the child free of trauma, fear and anxiety and helping the child to express views freely; comprehensive and continuous evaluation of child's understanding of knowledge (RTE Model Rules, 2009).

Non-Detention: No Child shall be held back, expelled or required to pass a board examination until completion of elementary education. A child who completes elementary education (class-I to VIII) shall be awarded a certification completion of Elementary Education (Section-30(1)).

School Management Committee (Section-22(1)): A School Management Committee (SMC) shall be constituted in

every school, other than an unaided school, within its jurisdiction, within six months of the commencement of the Act and reconstituted every two years. It consists of the elected representatives of the local authority, parents or guardians of children. It actively involves in the preparation of school development plan and monitors of working of the schools.

Protection of Child Rights: The State Government shall constitute an Authority viz., the Right to Education Protection Authority (REPA) within 6 months of the commencement of the Act. It monitors grievances related to Rights of School Children apart from The National for Protection of Child Rights at National level (RTE Model Rules, 2009) with significant role.

Pupil-Teacher Ratio (section-25): Act calls for a fixed student-teacher Ratio. The student-teacher ratio for class I-Vth is 30:1 and for class VI-VIIIth is 35:1 and 40:1 for schools with more than 200 students. At least three subject teachers for class-VIIIth (RTE Model Rules, 2009).

Quality of Education: Mandates improvement in quality of education with qualified teachers. School teachers will need adequate professional degree within five years or else will lose job (RTE Model Rules, 2009).

Duty of Teachers (section 29): Regular to schools, and teaching. No teacher shall be deployed for any non-educational purpose except population census, elections and natural calamities. No teacher shall engage himself or herself in private tuitions (RTE Model Rules, 2009).

Withdrawal of Recognition (Section-18(1)): Where a school contravenes the conditions of recognition or any provisions of the Act, the authority withdrawal of recognition. Schools infrastructure to be improved in three years, else recognition cancelled. Provided further that if the school does not claim recognition within the period specified in the provisional certificate, it shall be deemed to be an unrecognized school and running of such a school shall be punishable under section 19 of the Act.

Financial share: Financial burden will be shared between state and central. As per the Act, fiscal burden has to be shared between the center and the states in the ratio of 55:45 and 90:10 for the North-Eastern States. The government of India has increased spending in the education sector. For the year 2012-13, 25.6 crore Rupees have been provided for Sarva Shiksha Abhiyan representing an increase of 21.7 percent over 2011-12. Over 6,000 schools are proposed to be set up at block level as model schools in the Twelfth Plan and 3,124 crore Rupees have been provided for Rashtriya Madhyamika Shiksha Abhiyan (RTE Model Rules, 2009).

Infrastructure and equipments: A school must have clean classroom, safe drinking water, toilets, (separate for girls/boys), playground, compound wall, electricity, library facilities, and Kitchen for mid-meal preparation and equipment such as Teaching/ learning equipments, play material, games, sports equipments etc (RTE Model Rules, 2009)..

Key Issues and Challenges: Though Right to Education Act, 2009 have many encouraging provisions for providing free and compulsory education to children, there are many key issues and challenges in implementation of the Act, which are summarized briefly hereunder.

Age Group of children in RTE: RTE talks about the age group which starts from the age six. However, in India the elementary education starts with the age of two and half years of age. The schools take the kids in pre-nursery at three years of age. A child who has an early schooling since the age of 3 will be far ahead in education from the child who enters the school at the age of six. Therefore, the act does not take care of the age below six. The age taken cannot be justified and right. The act should be reviewed again and the age should be revised in this regard.

Financial Challenges: Government of India is already beset with various financial hurdles and challenges because of the implementation of RTE. Many states of India like Bihar, Uttar Pradesh and Punjab have already expressed their incapability to mobilize funds that they would not be able to implement the Act in the absence of funds from the center. The achievement as far as the financial matters are concerned largely depends upon the co-operation between the states and the center. In view of the fact the Act involves improving the infrastructure of schools, training of teachers, creating more facilities in the schools besides the manifold increase in intake, big investments would be involved and it is an uphill task to predict how the economics of it all will be worked out, thus, financial source is challenging aspect in enforcement of Act.

Challenge of Requiring Qualified Teachers: The scarcity of good and qualified teachers for government schools is going to be one of the hardest tasks to be achieved in implementing the provisions of the act. The teachers are considered to be the backbone of education, in their absence the act cannot achieve the expected goals. The act makes it evident that school drop outs and others kids who are unable to get education, would be brought back into the education stream again, it demands more number of teachers. India's Human Resource Development Minister himself has accepted that there is a shortage of about five lakh teachers.

Challenge to Provide Infrastructure: The surveys on the Government Primary Schools revealed that there are no many basic facilities such as separate toilets girls, separate office, kitchen to prepare mid-day meals in schools etc. To achieve requisite infrastructure that the Act expects is a great challenge to provide. The Act also demands that the buildings of all the schools should be weather proof. Basic facilities of drinking water, playground for kids, and barrier free entries are also lacking in most of the government schools. There is no clear demarcation in the responsibilities between center and state and it seems to be a challenge to work out the details.

Playground: RTE Act mandates playground for every Schools. However, now most schools in the urban area may not be able to meet the criteria due to non-availability or high prices of land.

Quality in Education: Human Resource Minister has paved the way for huge challenges ahead by promising quality education to all. As it has already been brought out that it will be difficult to quality education in the absence of good teachers. The Act says that no student would be dropped from school or not passed till the age of 14 years. The starkest finding reveals more than half of class-V students across India's government primary schools, can't read basics of class-II text book. This raises the quality issues being compromised through the act. It is a fact that, about one-fourth of the teachers of government school remains on leave in India at any given point of time and most of them are not able to do full justice to their professions due to several reasons. The NFHS (1998-99) data also show that, in India in 1998-89, the school attendance rate was 82.5 percent and the primary school completion rate was 61.7 percent. We argue in this paper that it is challenging, a priori, to expect both of these rates to rise to 100 percent by 2015.

Enforcement of 25 percent Quota for Weaker Sections: The act gives a clause of reservation of 25 percent of seats for weaker sections by private unaided schools turns out to be a boon or a bane. A well monitored mechanism needs to be set up to ensure its fair implementation of the clause. Also, it is tough task to bring together children from varying economic and social backgrounds on the same platform. Some of the parents opined that they would like to avail this Right and put their child in a good private School. They preferred private school, as they feel that they provide better education and infrastructure, it would indeed be challenging for the teachers to maintain equilibrium and create an environment for them to blend together to same level.

Policy Deficits: The 'non-detention' policy of the RTE Act, according to which no child from Class-I to VIIIth will fail irrespective of how poorly he or she fares in exams. As per the Right to Education (RTE) Act, it has become a mandatory to pass all students up to middle class. Though various state governments believes that this will increase the literacy rate and benefit unprivileged students, get students enthused about learning rather than simply excelling in exams. However, many educationists and parents feel it would further lower the standard of education in government schools. Mere declaration of non-detention policy is not enough to eliminate the root cause of stagnation. To make the declaration effective, issues like comprehensive and continuous evaluation, teacher-pupil ratio, training of the teacher, all weather classrooms are addressed and that the objective of education is to produce all-round development of children, besides equipping them with life skills. Parents are also unsure about how the policy would benefit students and feel that learning to deal with failure is incredibly important in life. Though there are many issues and challenges in implementation of RTE Act, it has benefits also.

Scenario of RTE Act Indicators: At a Glance: Annual Status of Education Report (ASER, 2011) depicts Recent Scenario of RTE Act Indicators as follows.

- ✓ At the All India level, there has been a marginal improvement in the proportion of schools complying with RTE norms on pupil-teacher ratio, from 38.9 percent in 2010 to 40.7 percent in 2011,

Kerala stands out with 94.1 percent of schools in compliance, and in Jammu and Kashmir, Nagaland and Manipur, more than 80 percent schools are in compliance with these norms.

- ✓ At the All India level, there has been a marginal decline in the proportion of schools with at least one classroom per teacher, from 76.2 percent in 2010 to 74.3 percent in 2011. In Mizoram, 94.8 percent of schools comply with the teacher-classroom norms and in Punjab, Uttarakhand, Rajasthan, Uttar Pradesh, Gujarat and Maharashtra more than 80 percent of schools are in compliance.
- ✓ All India figures for 2011 show no significant improvement in the proportion of schools with an office-cum-store. This figures remains at 74 percent. Similarly, for the country, as a whole, about 62 percent of visited schools had a playground, both in 2010 and in 2011. However, there has been an increase in the proportion of all schools that have a boundary wall, for 50.9 percent in 2010 to 54.1 percent in 2011.
- ✓ Nationally, the proportion of schools with provision for drinking water remained almost the same-17 percent in 2010 and 16.6 percent in 2011. In the North-East, the proportion of schools with no water provision ranged from 23.8 percent in Assam to 87.3 percent in Manipur in 2011.
- ✓ The proportion of schools with a usable drinking water facility has remained steady at about 73 percent. Kerala has the best record with 93.8 percent schools that have useable drinking water facilities.
- ✓ The All India proportion of schools where there was no separate girls toilet has declined from 31.2 percent in 2010 to 22.6 percent in 2011. Also, there has been a substantial improvement in the proportion of schools that have separate girls toilets which are usable. This figure has risen from 32.9 percent in 2010 to 43.8 percent in 2011.
- ✓ The proportion of schools without libraries has declined from 37.5 percent in 2010 to 28.6 percent in 2011. Children were seen using the library in more schools as well-up from 37.9 percent in 2010 to 42.3 percent in 2011.

5. Conclusion

In order to meet the challenges and surmount the hurdles that stand in the way of implementing Right to Education Act, it is needful to concentrate all efforts with full dedication and commitment. Not only the central and state governments but the nation as a whole should take responsibility in this regard. N.G.Os, Community participation and support can make marked difference in achieving this goal. There exists a need for greater coordination amongst different agencies and functionaries involved in this task. To overcome population pressures and budgetary constraints, cost effectiveness and accountability must be ascertained at every level. Efforts should be focused at each stage on qualitative improvement of the whole programme.

6. Suggestions

1. It is necessary to involve the Local Governments especially Panchayat Raj Institutions (PRIs) in rural areas for universalizing the elementary education through implementation of RTE Act effectively. Whenever, PRIs in rural areas have taken the initiatives to protect child rights, the development indicators in areas like education, health, and child trafficking improved dramatically.
2. Budgetary allocation for RTE Programme should be adequate to meet the Centre's commitment of 65 percent since most governments are struggling with severe budget deficit. Due to paucity of funds with the Government for allotment under the act, substantial public-private participation in

elementary education may be considered for its effective implementation.

3. The most important challenge, if the ground reality is taken into account is the abject poverty coupled with population explosion emerges as the root cause of depriving the children their right to education. If the Government is really serious about effective implementation of RTE, then poverty has to be accepted as a biggest challenge. In addition to that, the spectrum of implementation issues covering finance, accountability and monitoring need to be addressed forthwith.

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