

**EDUCATION: A FUNDAMENTAL RIGHT IN INDIA****Mrs. Vishavpreet Kaur***Asst. Prof, G.H.G. Khalsa College of Education, Gurusar Sadhar, Ludhiana.***Abstract**

*The importance of education cannot be denied in one's life. It sustains the human values which contribute to the individual and collective well-being. It forms the basis for lifelong learning and inspires confidence to face challenges. It provides the skills to individuals to become more self-reliant and aware of right opportunities. It also enhances the ability of individuals to act more responsible and more informed citizens and have a voice in politics and society, which is essential for sustaining democracy. It is essential for eradicating poverty and it allows people to be more productive and playing greater roles in economic life and earning a better living. The education is the key which allows people to move up in the world, seek better jobs, and ultimately succeed in their lives. So education is very important, and none should be deprived of it. The importance of primary education has been neglected by India since independence knowingly or unknowingly. However, Government of India now is willing to improve primary education by bringing legislation i.e. Right to Education. The paper tries to bring out the meaning of much awaited Right to Education (RTE) 2009, act as a fundamental right.*



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**INCLUSION OF FUNDAMENTAL RIGHTS IN INDIAN CONSTITUTION**

Before 1976, education was exclusively the responsibility of states; the Central Government was only concerned with certain areas like Co-ordination and determination of standards in technical and higher education etc. In 1976, through a constitutional amendment education became a joint responsibility. The founder fathers of the nation recognized the need and importance of right to education. So they made it a constitutional goal. Rights of the citizens were enclosed in the constitution.

Article-15 ensure equal opportunity for admission in educational institutions.

Article-15 (3) enables the state to make special provisions for women.

Article-15 (4) empowers the state to make provisions for the advancement of socially and educationally backward class. With regard to admissions in education institutions.

Article 21A in the Constitution which makes education a Fundamental Right for Children in the age group of 6- 14 years by providing that; “the State shall provide 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”.

Article 24 on child labour draw line between hazardous and non hazardous child labour and non hazardous child labour is allowed below 14 years.

Article 25 (1) of the Constitution guarantees all the citizens the right to have freedom of conscience and the right to profess, practice and propagate religion.

Article-26 (a) extends a fundamental right to every religious denomination or any section thereof the establish and maintain institutions for religious and charitable purpose.

Article 28 (1) states, “No religious instruction shall be provided in any educational institution if wholly maintained out of state fund.”

Article 28 (2) states, “Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or Trust which requires that religious instruction shall be imparted to such institution.”

Article 28 (3) states, “No person attending any educational institution by the state or receiving aid out of state funds, shall be required to take part in any religious instruction that may be imported in such institutions or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person a minor, his guardian has given his consent thereto.”

Article 29(1) states “Any section of the citizen, residing in the territory of India or any part there of having a distinct language, script or culture of its own, shall have the right to conserve the same.”

Article-30, right to establish and administer educational institutions, the scope" of their choice" under Article-30 ( 1 ), the power of the state and professional bodies to regulate the private and minority educational institutions imparting general and professional education, power of state to impose regulation for maintaining academic and professional standards and its power of affiliation, recognition and grant-in-aid etc.

Article-45, The State shall endeavour to provide, within 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.

Article-46 directed the state to promote with special care the educational interest of weaker sections of people thus, the constitution has made provisions for advancement of educational interest of citizens and for taking special care of the socially and educationally backward classes.

Article 350 B provides for the appointment of special officer for linguistic minorities to investigate into all matters relating to safeguards provided for linguistic minorities under the Constitution

**Right to education** :Education Act' or Right to Education Act (RTE), is an Act of the **India enacted** on 4 August 2009, which describes the modalities of the importance of free and compulsory education for children between 6 and 14 in India under Article 21A of the Indian Constitution. India became one of 135 countries to make education a fundamental right of every child when the act came into force on 1 April 2010. Education is a fundamental human right, essential for the empowerment and development of an individual and the society as a whole. According to the UNESCO's, about 135 countries have constitutional provision for free and non-discriminatory education for all. In 1950, India made a Constitutional commitment to provide free and compulsory education to all children up to the age of 14, by adding this provision in article 45 of the directive principles of state policy. With the 86th Constitutional amendment on 12<sup>th</sup> December 2002, by the Constitution in order to introduce Right to Education as a fundamental right.

**The Act has the following major provisions**

- Every child between the age of six to fourteen years, shall have the right to free and compulsory education in a neighbourhood school, till completion of elementary education.
- For this purpose, 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 elementary education.
- Where a child above six years of age has not been admitted to 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.
- For carrying out the provisions of this Act, the appropriate government and local authority shall establish a school, if it is not established, within the given area, within a period of three years, from the commencement of this Act.

- The Central and the State Governments shall have concurrent responsibility for providing funds for carrying out the provisions of this Act..
- The Act mandates that even private educational institutions have to reserve 25 per cent seats for children from weaker sections. As per the government's estimate, there will be a requirement of Rs 1.71 lakh crore in the next five years for implementation of the Act.
- The Act says no school can deny admission to a student and all schools need to have trained teachers. In case of schools not having trained teachers, they will have to comply with the provision within three years.
- As per the new law, the schools need to have certain minimum facilities like adequate teachers, playground and infrastructure. The government will evolve some mechanism to help marginalised schools comply with the provisions of the Act.
- The government has already prepared model rules which have been circulated to the states for preparing their own rules for implementation of the Act. The Centre has also prepared separate rules for the Union Territories which will be notified by the Law Ministry next week.
- However, the reservation for weaker section will not be implemented from this year as the admission season is almost over. It will be implemented from 2011-12.
- The state government and local authorities will establish primary schools within walking distance of one km of the neighbourhood. In case of children for Class VI to VIII, the school should be within a walking distance of three km of the neighbourhood.

### **Education in the eyes of law**

The Supreme Court and various high courts have made remarkable advances in the field of right to education through some important landmark judgments.

Mohini Jain V State of Karnatka, Popularly known as the captiation fee case the Supreme Court held the right to education is a fundamental rights under Article — 21 of the constitution. UnniKrishnan V State of A.P. has held that."The Citizens of the country have a fundamental right to education. The said right flows from Article 21 of the Constitution. This right is, however, not an absolute right. Its contents and parameter as have to be determined in the light of Articles 45 and 41". This Act is an essential step towards improving each child's accessibility to secondary and higher education. The Act also contains specific provisions for disadvantaged groups, such as child labourers, migrant children, children with special needs, or those who have a disadvantage owing to social, cultural, economical, geographical, linguistic, gender or any such factor. With the implementation of this Act, it is also expected that issues of school drop out, out-of-school

children, quality of education and availability of trained teachers would be addressed in the short to medium term plans.

**Conclusion:** To the extent that the impact of parental education on child education is causal, there are significant knock-on effects of public investment in education. In other words, they payoff to policy immediately goes up because investments in education at any one time have a multiplier effect, yielding additional benefits in the future. In the summary, education is a powerful tool for reducing poverty, unemployment and inequality, improving health and nutrition and promoting sustained human development led growth (World Bank (2004), 69.

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