

Evaluation of Right to Education Act, 2009: A Study of Haryana

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Abstract:

The Right to education, 2009 is a historical right in India with a commitment to provide free and compulsory education to all children up to the age of 14. The Haryana government has notified its rules under the title “Rules for Haryana State under Right of Children to Free and Compulsory Education 2010.” The study is based on mainly secondary data. An attempt has been made to examine the government’s initiative to ensure its effective implementation and also suggest measures for the improvements. The results indicate that The Right of Children to Free and Compulsory Education Act, 2009 seems to have remained on paper more not only in the Haryana but in other states also.

Keywords: RTE Act, Education, Children, Legislation, Article - 21A .

Introduction:

The Right of children to free and compulsory education act, 2009 is one of the landmark legislation passed by the Indian parliament. It makes education a fundamental right for all children between the ages of 6-14 under the article 21A of the Indian Constitution. The act was notified on 1st April 2010. With the passing of this act, “India becomes one of the important nations, out of 135 countries in the world which has made education a fundamental right for all its children.”^[1]

In India, free and compulsory elementary education is not only a fundamental right but it is also the fundamental duty of the parents under the article 51A {k} of the Indian constitution to provide education to their children .The act basically deals with the education as a right for the children.

International Scenario:

At International level, the right of education firstly came into notice with the United Nations’ Universal Declaration on Human Rights in 1948 recognized under the article 26. After the advent of the right to education by United Nations, various international conventions, national constitutions and developmental plans also talked about the education as a right for the children. Although, many renowned countries of the world have realized its significance and signed the International conventions such as the UN convention for the right to children but only few of them have adopted it into their constitutional and administrative framework.^[2] For instance, only few nations such as “Belgian constitution {under article 24}, Indian constitution {under article 21A}, and Dutch constitution {under article 23}”^[3] has adopted it in their respective constitutions. With the passing of Right to education act 2009, “India has proudly joined the league of some 20 other nations including Afghanistan, China and Switzerland which has law guaranteeing free and compulsory elementary education.”^[4]

National Scenario:

The Right to education is a historical right in India. Even, with the other important issues for development during the drafting of Indian constitution the issue of importance of free and compulsory education was also discussed. As an outcome “in 1950, India made a constitutional commitment to provide free and compulsory education to all children up to the age of 14, by adding the article 45^[5] of the directive principle of state policy in the Indian Constitution.”^[6] The Indian government again took a new initiative in the form of 86th amendment 2002 in the constitution. With this amendment article 21A was introduced in order to determine Right to Education as a Fundamental right. And still after tracing a no remarkable improvements in its implementing status, a new development in the form of law guaranteeing a right took place.

Main Provisions of the Right to Education Act, 2009:

Basically, the act consists of 7 chapters and 38 sections. The main provisions of this act can be viewed under some categories which are discussed below:

Provisions for the Children:

- ✚ Free and compulsory education to all children between 6 to 14 years of age till the completion of elementary education {section 3.1}
- ✚ No child shall be held back, expelled or denied admission in a school for lack of age proof or other documents.
- ✚ No child is required to pass a board examination until the complementation of elementary education.
- ✚ Children with disabilities will be educated in mainstream schools.
- ✚ No provision of admission test, capitation fee for the students [section 18]
- ✚ A child will be admitted in a class appropriate to his age and have a right to receive special training {section 4}
- ✚ After the completion of elementary education, a child shall be awarded a certificate

Provisions for the Schools:

- ✚ No school can work without recognition {section 18.1}
- ✚ The provisions of this act will be applied in every school.
- ✚ There are fixed minimum working days and minimum number of instructional hours.
- ✚ No child shall be turned away if the admission cycle is over.
- ✚ School infrastructure {where there is a problem} to be improved within three years otherwise recognition will be cancelled.
- ✚ Schools should provide 25% reservation to economically disadvantaged children [costs to be reimbursed @ per child expenditure incurred by the states] {section 12}.
- ✚ All school except private unaided schools is to be managed by School Management Committees.
- ✚ This school management committees should include $\frac{3}{4}$ member from parents of children {section 21.1}

Provisions for the Teachers:

- ✚ Teacher: pupil ratio should be 1:30 {The Schedule, RTE act 2009}

- ✚ Teachers should have adequate professional qualifications within five years or else will lose their jobs {section 23.2}
- ✚ No private tuitions by fulltime teachers {section 28}

Provisions for the Government:

- ✚ Provisions of this act will apply to all of Indian states and union territories except Jammu and Kashmir.
- ✚ Government has power to issue directions and make rules for implementation.
- ✚ Financial burden will be shared between state and central government {as Education falls under the concurrent list of the Indian constitution [section 7.1]}
- ✚ To advise the government on implementation of the provisions of the act, the center government will constitute National Advisory Council and the state government will constitute State Advisory Council {section 33, 34}.

Provisions for the protection of Right to Education:

- ✚ The National Commission for protection of child rights (NCPCR) is created to be the Nodal authority to monitor its implementation {section 31.1}
- ✚ NCPCR will inquire into complaints
- ✚ It will conduct periodic social audit of the implementing status.
- ✚ It will examine and review safeguard for right to education.

Right to Education act in Haryana:

The Haryana government has notified its rules under the title “Rules for Haryana State under Right of Children to Free and Compulsory Education 2010”. It consists of eight parts and 26 sections. It is also known as ‘Haryana State Right of Children to Free and Compulsory Education Rules, 2010’ {Part 1 section 1.1}. The Haryana Government has also constituted the SCPCR (State Commission for Protection of Child Rights) and is also committed to prohibit the detention, expulsion of children in school. In addition, the State Govt. has also prohibited corporal punishment and mental harassment in all school of state. Plus, there will be no board examination till the complementation of elementary education.

Objectives of the Study:

- To study the implementation of RTE, act in Haryana.
- To find out the area where it succeed and left behind in achieving its aims.
- To examine the government’s initiative to ensure its effective implementation:
- To suggest measures for the improvements in the Act.

Research Methodology:

The research design is descriptive cum diagnostic. It is descriptive in nature as it has focused on the RTE, act and diagnostic as it has made an attempt to suggest the measures for improving the effectiveness of RTE, act in Haryana. The universe of the study is confined to the schools of Haryana .The data is collected from the secondary sources such as journal, reports, magazines, books, official gazettes, newspapers, etc.

Analysis of data & Findings:

After the formation of the act, the next crucial step is to ensure its proper implementation because the success of any act is decided only by its implementing status and there afterwards by its results. To make a Right of education a remarkable act for the children there is a pre-determined implementing process.

Status of Implementation of RTE Act in Haryana:

“The Haryana Government has implemented RTE act in all state run schools from Nov 11, 2011 coinciding with the birth anniversary of India’s first education minister Maulana Abul Kalam Azad”^[7]. The starting of the act was distinct in many ways such as “As a biggest ever social campaign in India, it was launched in the Nuh area of Haryana’s Mewat district by Lok Sabha speaker Meira Kumar.”^[8].with the notification of Haryana State RTE rules,2010 many other succinct provisions like proper defining the boundary of neighborhood and many other important provisions^[9] which are given below are also introduced;

- + Fee abolished
- + No board examination till 8th class
- + STET in place
- + Grants for libraries issued
- + New posts created and filled to address PTR
- + SCERT notified as academic authority
- + SSA plan synchronized with RTE requirements

Indeed, the rules notified by Haryana Government are valuable and progressive too but these days, one particular provision of providing the reservation to EWS (economically weaker section) has emerged as the bone of contention between the private schools and the State Government. Basically, under the rule 134 A of the Haryana School Rules, 2003 it is compulsory for all the private schools to enroll the economically backward child on 25% seats. Earlier ,the fees for these 25% students used to be adjusted from the fee of others 75% but this provision of fee adjustment was eliminated by state government in 2009 .And now, as the binding obligation for schools under the RTE act to reserve 25 percent of their total seats for the economically weaker section, it has again come out as a burning issue .According to the state’s private schools the main problem is the lacking of appropriate definition of who is poor child and source of expenditure for these EWS child.

Obstacles During the Implementation of Right to Education Act:

Obstacles from School’ Side:

- + “Challenges from Private Schools: As the act interfere in their fundamental right of livelihood.
- + Violations of the Act: Many school of the different states and Union Territories have violated the rules under RTE act such as
 - Delhi reported 65 cases of violence of the act
 - Haryana reported 25 cases of violence of the act
 - Madhya Pradesh reported 27 cases of violence of the act

Source: Survey conducted by NCPCR^[10]

The violation ranges from irregularities in admission to corporal punishment and poor infrastructure.

- ✚ Poor maintenance of records:
- ✚ Lack of adequate infrastructure: To implement the RTE, school really needs a well established infrastructure such as rooms, grounds, etc. but some studies conducted on the availability of infrastructure reveals the disheartening facts.
- ✚ Unable to create appropriate learning environment and teaching processes. Resultingly, its contribution to the right kind of child development is very less till yet.
- ✚ Lacking of Qualified Teachers

Obstacles from parents and children' side:

- ✚ Lack of Awareness : Parents and children are not awared about the educational right. Although, it is the fundamental duty of parents under article 51A (k) of the Indian Constitution to educate their child, still desired progress is lacking somewhere.
- ✚ Narrow Attitude towards Education: Many times, poor parents think that education would not bring anything to their life while if their children do work or labour then it can bring financial aid. So, many parents prefer to send their children to work instead of school.
- ✚ Bitter Experiences From School : An experience of harassment, corporal punishment creates the repulsive and negative attitude towards school. Resultingly, the rate of drop out of children get increases.

Obstacles from the Government' side:

- ✚ Absentism of Grievance Redressal Mechanism
- ✚ Problem of Audit: Social audit of the implementation of the act is really a tiresome issue because of the non-corporation from the authorities
- ✚ Slow drafting of central model rules and slowest drafting of state rules is themaint cause of delay in its implementation.
- ✚ Central vs. State dispute over finance: “The RTE act is a non-starter because of grossly inadequate budgetary provision attended by centre vs. state disputes over who will pay for rolling it out country wide.”^[11]

Government's initiative to ensure its effective implementation:

After seen the limited implementing success of the RTE act, the Government has taken many new and novel initiative to enforce the effective implementation of the act. Some of such measures are discussed below:

- ✚ For increasing the awareness: For this purpose, the centre has decided to display the main provisions of the RTE, Act on the wall of all Govt. school buildings.
- ✚ For people's participation: For this, NCPCR has started a system to initiate a dialogue between civil society networks and the Govt.

- ✚ For initiating the social audit :For this purpose, the state representative appointed by NCPDR will start working with school management committees as the basic monitoring unit.
- ✚ To strong the grievance redressal mechanism:“To ensure compliance of the Right to Education act, the Haryana Govt. has constituted the Right to Education Protection Authority (REPA)”^[12]
- ✚ To give effect to mandatory provisions of RTE act and state rules:“For this purpose in the Haryana, the administrative control of Master and C&V cadre is here by shifted to the directorate of elementary education, Haryana.”^[13]
- ✚ A positive and motivating gesture: After implementing the RTE act, “the state’s school Educational Department of Haryana has refunded fees amounting to Rs. 15.71 crores charged from the students during the April-September period last year.”^[14]

The way Forward: Conclusion & suggestions:

“Children are the future of the Nation”

So, to ensure the effective implementation of RTE act strong steps should be taken by the concerned authorities. Although, the implementation of the RTE act is not up to the expectations but here are some suggestions with the help of those the aim of RTE act can be achieved up to some extent. These suggestions can be broadly divided into three categories which are discussed below:

For the School:

- ✚ Quality of education should be improved by following the rules of the act.
- ✚ To promote education truly, all private schools should fill the 25% seats only with disadvantage and needy students.
- ✚ School should follow the rules of RTE because schools are meant only for education.
- ✚ School Management committee should be constructed at regular interval.
- ✚ Schools should not give any kind of harsh punishment because it only adds to the dropout, out of school children numbers.
- ✚ Schools are grassroots’ authority to implement the RTE act. so, schools should encourage the children to get enroll ad continue their education in a healthy environment.
- ✚ There is a need for schools to develop their infrastructure and staff according to RTE act rules as the Govt. has passed the act but schools have not been developed accordingly.

For the Governmental Agencies:

- ✚ Performance based pay scales need to be considered as a way to improve teaching.
- ✚ The act does not talk about the girl education. Usually in Rural area people do not prefer to send their girl child to school. So, to encourage the proper girl: boy student ratio in school there should be some provisions under RTE act.
- ✚ There should be an amendment in Child Labour Act to ensure the free and compulsory education.

- ✚ There is a provision of compulsory education till class 8th only. If the Govt. really wants to increase the human resource of the nation then there should be a compulsory education till class 10th.

For the Children and Parents:

***“These children & their parents should know
that getting an education is not only their
Right, but a passport to a better future
for the children and the country.”***

-Harry Belafonte^[15]

- ✚ There should be a proper and effective awareness campaign: As discussed earlier, the Govt. has started the campaign by writing the provisions of RTE act on School Wall but how it will help those who have not even seen the school in their entire life. So, some wider and usable awareness techniques should be used.

Moreover, there are many parents and children who do not have the skills of reading and writing then how it will help them. For instance, according to the Annual Status of Education Report, 2009 (ASER 2009) released on 25th Jan 2011 Only 50% class 5th students are capable of reading at class 2nd level.

In a nutshell, The Right of Children to Free and Compulsory Education Act, 2009 seems to have remained on paper more not only in the Haryana but in other states also. This is not because of the fact that the act has been criticized since beginning due to its inherent flaws but because of the lack of will to implement the act in a responsive and accountable way.

References:

- ¹ <http://www.thehindu.com/news/national/article365232.ece> retrieved on 25th Nov, 2014
- ² <http://www.right-to-education.org/node/233> retrieved on 2nd Dec, 2014
- ³ http://en.wikipedia.org/wiki/Right_to_education retrieved on 2nd Dec, 2014
- ⁴ <http://www.thehindu.com/news/national/article365232.ece> visited on 3rd Dec, 2014.
- ⁵ The State shall endeavor 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.
- ⁶ india.gov.in/spotlight/spotlight_archive.php?id=74 visited on 7th Dec, 2014.
- ⁷ http://www.moneycontrol.com/news/wire-news/haryana-to-implement-rte-actnov-11_602725.html visited on 10th Dec, 2014.
- ⁸ Ibid.
- ⁹ <http://planningcommission.nic.in/plans/stateplan/present/Haryana.pdf> visited on 4th Feb, 2015
- ¹⁰ <http://www.thehindu.com/2011/06/07/stories/2011062758430900.htm> visited on 24th Nov, 2014..
- ¹¹ <http://educationworldonline.net/index.php/page-article-choice-more-id-2720> retrieved on Dec 14, 2011
- ¹² <http://www.thetribuneindia.com/2012/20120206/Haryana.htm# 13> retrieved on feb 07, 2015.
- ¹³ <http://schooleducationharyana.gov.in/downloads-pdf/circullersrestructuring.HQ.pdf> retrieved on Dec 4, 2014
- ¹⁴ <http://right-to-education-india.blogspot.in> retrieved on Feb. 07, 2015.
- ¹⁵ African-American singer, social activist, UNICEF Goodwill Ambassador