



RESEARCH ARTICLE

THE RIGHT TO EDUCATION ACT, 2009- ANALYZING THE PROS AND CONS

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ABSTRACT

The Right of Children to Free and Compulsory Education Act, 2009 (in short the Right to Education Act, 2009) has definitely come with a new challenge to provide 'Education for all' in the Society irrespective of their societal status. The motto behind the legislation is definitely of far-reaching importance to make education available to people leaving in each and every corner of the country, but as each coin has two sides, the Act too has a defective side also. Unless and until an honest analysis of the Act is made, the outcomes cannot be derived in a proper manner. Through this Article the author tries to make an analysis of the pros and cons of the 'Right to Education Act, 2009' with a view to suggest certain points to the legislatures as a prudent citizen of the country to bring the Act in conformity with the societal needs.

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INTRODUCTION

India is a country rich with cultural as well as educational heritage. While making a discussion on right to education, one should not forget that it is not a matter of importance of today's society only, rather importance to the field of education was always been there even in the primitive society also as are evident from our great Epics like Ramayana and Mahabharata. During that period, education, which was commenced under the supervision of a Guru, was considered as one of the methods to achieve Moksha or enlightenment. It was open to all in the society irrespective of caste or creed. The disciples used to stay together irrespective of their societal status in the 'Gurukul' under the direct supervision of their Guru, which shows the importance given to education at that time also which was meant for all, be a prince or pauper. But with the passage of time, there appeared a drastic change in the minds of the people in the society due to the increase of superiority complexes amongst the people, that resulted in imparting education on the basis of caste and the related duties that one had to perform as a member of a specific caste like- study on scriptures and religion were taught to the Brahmins while the Kshatriyas were educated in the various aspects of warfare, the Vaishyas learned commerce and other specific

vocational courses while the Shudras were totally denied of getting education, being considered as the lowest caste. However, with the increase in population, the urban learning became increasingly common. Education in India has undergone a sea change through centuries together due to the advent of different groups to India; those influenced the system of education according to their own methods. Even after independence also, a lot many changes were made to the system of education. In fact, provision relating to right to education was always there in debate- even in the Constituent Assembly debate also, it was a question whether to insert right to education in the chapter III of the Constitution as a Fundamental Right or in Chapter IV as a Directive Principle. However, though initially it was added as a Directive Principle, but subsequently after the Constitution (Eighty-Sixth Amendment) Act, 2002, it has become a Fundamental Right as per Article 21A. Even prior to its addition to chapter III of the Constitution as a Fundamental Right also, the Judiciary has considered its importance as a part of the Fundamental Right within the purview of Article 21¹. In order to put more strength to the provision in 2009, the Right of Children to Free and Compulsory Education Act, 2009 has come into force. While bringing the law into force in 1st April, 2010, creating history, the then Prime Minister of India, Dr. Manmohan Singh in his speech, said that "We are committed to ensuring that all children, irrespective of gender and social category, have

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¹ Mohini Jain v. State of Karnataka, (1992)3 SCC 666, Unni Krishnan v. State of A.P, (1993) 1 SCC 645

access to education, an education that enables them to acquire the skills, knowledge, values and attitudes necessary to become responsible and active citizens of India”.

Right of Children to Free and Compulsory Education Act, 2009- An Analysis

Early education helps a child in many ways- it instills moral values in his mind, it restrains him from moving in wrong directions, it helps him in being a responsible citizen in the future and like-wise. The Right of Children to Free and Compulsory Education Act, 2009 (in short the Right to Education Act, 2009) has definitely come with a new challenge to provide ‘Education for all’ in the Society. This initiative is taken by the government to ensure that the children of the country should get proper education irrespective of their economic constraint. While inserting provisions for the non-admitted kids to be admitted in the appropriate classrooms, the Act has also laid down the duties of the government for proper implementation of the same. Very specifically, the Act lays down norms for the normal working hour of the school including the days of instruction and the number of teaching hours per day. Putting emphasis on the standard of teaching to be ensured, the Act provides for the student teacher ratio to be maintained by each school as well as the employment of properly trained teachers to impart quality education to the children. Apart from this, in order to fascinate more and more students to come to the schools, the Act provides for supply of all accessories necessary to pursue the education including books, school uniform, bag, shoes, stationery etc as well as a free mid-day meal to all the students of the school by the government. More recently, the Act exempted the minority institutions from its purview so far as it infringes their Fundamental Rights to establish and administer educational institutions of their choice.

The pros and cons of the Act can be discussed under the following heads-

Pros

1. The Act provides for education for all irrespective of their societal status.
2. It tries to ensure equality amongst all by providing equal opportunity to get educated.
3. By inserting the provisions for maintaining the quality of teachers, it tries to ensure not only providing education for name sake, but also quality education in true letter and spirit.
4. The supply of accessories necessary for education including the mid- day meal scheme creates a kind of fascination amongst the students belonging to the lower strata of the society to go to school instead of being involved in child labour to earn a day’s meal.
5. By imposing a statutory duty on the appropriate Government as well as the local authority to establish a school within a specified area where it is not so established, the legislature has shown the gravity of its concern over education.
6. Providing special care for children belonging to weaker sections and disadvantaged groups of the society shows the

concern of the Act relating to the vulnerable groups of the society.

7. By imposing a duty on the parents to send their wards to schools, the statute in one way pressurizes them to send the children to school instead of making them involved in one or other kind of house hold work.

Cons

Though the Act incorporates lot many pros in comparison to few cons, still then the cons cannot be ignored while waiting for the better results of the implementation of the Act.

1. The major loop-hole of the Act is the specification of the age- bar for completing elementary education.
2. The facilities provided up to completion of elementary education only is another drawback. Because after completion of the elementary education, one will not be that much rich to afford to go for further studies.
3. Even after completing elementary education only, one will not be able to get a job to earn for his family. Thus provisions should be made to provide facilities to get education minimum up to higher secondary level to make one eligible at least to apply for a job.
4. Sec. 16 of the RTE Act, 2010 that says, ‘No child admitted in a school shall be held back in any class or shall be expelled from school till the completion of elementary education’, is another major fault in the Act. As everybody knows, the strength of a child’s mind depends mostly upon the early elementary education as the fundamental of a child’s education is laid down during this period. It needs some kinds of strictness to be adhered to by the teachers to make a child fundamentally clear as well as to create a sense of discipline within him that would help him to be a better citizen in the future. But if no such action can be taken against a child to make him understand about his fault during his early education days, that might cause harm not only to his childhood but also to his future.
5. Whereas the Act imposes a duty on the parents to send their children to school to get elementary education, no punishment is provided for its violation.

Conclusion

After analyzing the pros and cons of the Right to Education Act, 2009, one would definitely come to the conclusion that whatever the outcomes might be, but by enacting this benevolent piece of legislation, the Government has tried to help children from the lower strata of the society to acquire a taste of education free of cost. The Act has tried to ensure literacy amongst the vulnerable group of the society, thereby making them eligible to compete with others. Though the facilities under the Act are available only up to the completion of elementary education that would not help much in acquiring a career, but it would definitely create exposure amongst them to literary works, which would stimulate young minds and spur them into betterment. The provisions under the Right to Education Act, 2009 that abolish interviews of the parents in schools to get admission of their wards, is a step of far-reaching importance, that would help even the children of illiterate parents to get educated. Again, the provision for

dropouts to take admission once again would also help encourage them to continue with education. With slight modification, if the Act can be implemented in its true letter

and spirit with spread of adequate awareness amongst the people that would definitely give a much needed boost to the Indian education system.
