



RIGHT TO EDUCATION FOR PERSONS WITH DISABILITY

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Introduction

Education is the basis for developing and empowering children with knowledge and skills, which facilitate their access to productive employment. The education system has several challenges like the changing dynamics of the population, requirement of quality education, affordable vocational trainings and access to higher education, innovation and research. Keeping in view these challenges, various educational programmes are being implemented by the Centre as well as State Government, some of them with collaboration of state government. To enhance the quality of technical education, institutes like Indian Institute of Technology (IIT) and Indian Institute of Management (IIM) have established. The Central Government has also initiated schemes like ‘Rashtriya Madhyamik Shiksha Abhiyan’, ‘Rashtriya Uchchatar Shiksha Abhiyan’ and ‘Choice Based Credit System’ (CBCS) to enhance academic standards and quality of higher education. All these contribution towards Economic Growth and Human Development.

The education system of India is divided into three main layers- Elementary, Secondary and Higher Education. The Elementary education ranges from Grades I-VIII and children in the age group of 6-14 are a part of it and are entitled to free and compulsory

education as mandated by the Right to Education Act 2010. The elementary level is further divided into 2 sub-categories- Primary (Grades I-V) and Upper Primary (Grades VI-VIII). A child undergoes Secondary education for four years (IX-XII), split into Secondary (Grades IX-X) and Higher Secondary (Grades XI-XII). The Higher Education is the last stage which is divided into two streams the academic stream and the vocational stream.

Education is the most important tool for social, economic and political transformation and a key instrument for building an equitable society. Before 1976, education was the exclusive responsibility of the states. Later, the Constitution Amendment of 1976 included education in the Concurrent List. The Union Budget 2018-19 has proposed to treat school education holistically without segmentation from pre-school to Grade XII. In order to improve school effectiveness and learning outcomes. The major objectives of the scheme are provision of quality education and enhancing learning outcomes of students, bridging down social and gender gaps in school education and ensuring equity and inclusion at all levels of school education. The expected outcomes of the programme are envisaged Universal Access, Equality and Quality, promoting Vocationalisation of Education and strengthening of Teacher Education Institutions.

Historical Background

The social development may also be ‘institutional’ which includes improvement in greater constant constructions such as shape of organization, roles and position content.

The adoption of democracy in India has made education in responsible and capable



citizenship virtually fundamental for the electorate. This may subsequently affect the content and the method of instructing in academic establishments as well as the teacher-student relationships. The alternate may also be in the structure and structure of the population.

In *Unni Krishnan V. State of AP*,¹ the Apex Court of India held that the 'Right to Education' is implicit under Article 21². It flows from the proper to Life and non-public liberty assured with the aid of Article 21³. In this case the Court has held that every child up to the age of 14 years has essential right to free education. Article 21 is required to be construed in the light of Article 41, 45 and 46⁴ Right to greater education of an infant after completion of the age of 14 years is now not absolute but challenge to limits of monetary capacity and development of the state. The limits of monetary ability rely on the subjective pride of the state.

After the case of **Unni-Krishnan**, a new Article 21-A has been incurred in the Constitution of India⁵. According to this Article the country shall grant free and compulsory education to all children's of the age of 6 to 14 years in such manner as the nation may, through law, determine. To provide impact to Article 21-A the 'Right to Education Act 2009' has been enacted.

India grew to be one hundred and thirty fifth countries to make education an indispensable right for each infant when the Act came into force on 1st April 2010. The Law came into enforce in the India, the first time in the history of India a Law used to be introduced into force by a speech by the former Prime

Minister Manmohan Singh. He stated, "We are dedicated to making sure that all children, irrespective of gender and social category, have get admission to education. An education that lets in them to accumulate the skills, knowledge, values and attitudes quintessential to emerge as responsible and lively residents of India."

The World Bank education expert of India, Sam Carlson, has observed: "The RTE Act is the first law in the world that places the responsibility of ensuring enrolment, attendance and completion on the Government. It is the parents' accountability to ship the teens to schools in the US and other developed countries.

The Right to Education of children's with disabilities until age of 18 years is laid down below a special law 'the Persons with Disabilities Act.'

Literacy Rate in India

The literacy rate of India increased from 74.04 percent in 2011 to 77.7 percent in 2021. Implying an increase of 3.66 percentage point during the decade (Table 1). Apart from recording the highest increase in literacy rates, India has been able to considerably reduce the gender difference in its literacy rates. In 2001, male and female literacy rates in India were 75.3 and 53.7 respectively, implying a difference of 21.6 percentage point. In 2021, the gender-wise literacy rate was 84.7 percent (male) and 70.3 percent (female), implying a reduced gender difference 14.4 percentage point. This was possible because the decadal growth in female literacy rate in India. This appreciable performance of India in promoting literacy

¹ (1993)1SCC 645

² The Constitution of India

³ Ibid

⁴ The Constitution of India

⁵ Eighty-Sixth Constitutional Amendment Act 2002.



can be ascribed to two factors. First, due to awareness of social justice the demand for education is now very high among all sections of the society and the second, the Central Government has considerably enhanced its expenditure on education.

Year	Trend of Literacy Rates in India in percent		
	Male	Female	Total
1961	40.4	15.4	28.3
1971	46.0	22.0	34.5
1981	56.4	29.8	43.6
1991	64.1	39.3	52.2
2001	75.3	53.7	64.8
2011	80.9	64.6	72.9
2021	84.7	70.3	77.7

Table 1⁶

Constitutional Provisions for Right to Education:

The Constitution makes provisions under Article forty five of the Directive Principles of State Policy that, “The united states shall endeavor to provide within a period of ten years from the graduation of this Constitution, for free and obligatory Education for all teenagers till they complete the age of fourteen years.”⁷

The expression ‘Nation’ which takes region in this article is defined in article 12 to consist of “the government and parliament of India and the government and the legislature of each of the states and all nearby or one-of-a-kind government internal the territory of India or underneath the manipulate of the government of India.” it is simply directed in article forty five of the constitution that the availability of universal, loose and obligatory

education will become the joint responsibility of the Centre and the states.

In the charter it used to be laid down that inner 10 years, i. E., with the aid of 1960 substantial obligatory education must be supplied for all more youthful people as much as the age of 14. However unluckily, this directive should now not be fulfilled. Full of life efforts are wanted to collect the aim of one hundred percent important education. The primary authorities need to make adequate financial provisions for the cause. At the prevailing cost of boom it is able to, but, be expected that this directive.

Convention on the Rights of Persons with Disabilities, 2006

I States Parties apprehend the suited of human beings with disabilities to education. With a view to realizing this suited barring discrimination and on the foundation of equal opportunity, States Parties shall make positive an inclusive education device at all levels and lifelong inspecting directed to:

- (a) The full enchantment of human viable and sense of dignity and self-worth, and the strengthening of admire for human rights, quintessential freedoms and human variety;
- (b) The enchantment with the resource of folks with disabilities of their personality, skills and creativity, as correct as their intellectual and bodily abilities, to their fullest manageable;
- (c) Enabling people with disabilities to take part successfully in a free society.

⁶ Census of India

⁷www.yourarticlelibrary.com/constitution/12-major-constitutional-provisions-on-education-in-india/45230



II In realizing this right, States Parties shall make certain that:

- (a) Persons with disabilities are no longer excluded from the generally taking place education machine on the groundwork of disability, and that youngsters with disabilities are no longer excluded from free and compulsory primary education, or from secondary education, on the groundwork of incapacity;
- (b) Persons with disabilities can get right of entry to an inclusive, fantastic and free most important education and secondary education on an equal foundation with others in the communities in which they live;
- (c) Reasonable lodging of the individual's requirements is provided;
- (d) Persons with disabilities acquire the assist required, inside the giant education system, to facilitate their high-quality education;
- (e) Effective individualized information measures are provided in environments that maximize educational and social development, regular with the cause of full inclusion.

III States Parties shall enable of us with disabilities to study lifestyles and social improvement advantage to facilitate their full and equal participation in education and as men and women of the community. To this end, States Parties shall take superb measures, which includes:

- (a) Facilitating the getting to know of Braille, choice script, augmentative and desire modes, functionality and codes of conversation and orientation and mobility

skills, and facilitating peer assist and mentoring;

- (b) Facilitating the getting to recognize of sign language and the merchandising of the linguistic identification of the deaf neighborhood;
- (c) Ensuring that the education of persons, and in precise children, who are blind, deaf or deaf blind, is delivered in the most appropriate languages and modes and skill of verbal trade for the individual, and in environments which maximize educational and social improvement.

IV In order to help make sure the realization of this right, States Parties shall take extremely good measures to hire teachers, consisting of instructors with disabilities, who are licensed in signal language and/or Braille, and to educate authorities and group of employees who work at all levels of education. Such education shall contain incapacity cognizance and the use of outstanding augmentative and choice modes, capacity and formats of communication, educational techniques and elements to resource humans with disabilities.

V States Parties shall make positive that men and ladies with disabilities are capable to get right of entry to well-known tertiary education, vocational education, grownup education and lifelong reading without discrimination and on an equal groundwork with others. To this end, States Parties shall make sure that realistic lodging is furnished to persons with disabilities.⁸

⁸<https://fee.org/resources/the-xyz-s-of-socialism>



Right to Education Act, 2009

- The 86th Amendment of the Constitution in December 2002 and its enactment seeing that 1st April 2010 has makes free and obligatory education for all young people in the 6–14 age corporations a justifiable critical right.
- The Act makes it a proper of each toddler to get education.
- The Act makes it compulsory for the suitable governments to make certain that each and every infant gets free vital education.
- The Act mandates that even non-public academic businesses have to reserve 25 percent seats for child from weaker sections. As per the government's estimate, there will be a requirement of 1.71 lakh crore in the next five years for implementation of the Act.
- The Act says no school can deny admission to a pupil and all faculties want to have educated teachers.⁹

In case of schools now not having educated teachers, they will have to comply with the provision inside three years.

- As per the new law, the schools want to have positive minimal amenities like enough teachers, playground and infrastructure. The authorities will evolve some mechanism to assist marginalized schools comply with the provisions of the Act.
- The authorities have already geared up model insurance plan policies which have been circulated to the states for preparing their very personal tips for implementation of the Act.

- The Centre has in addition geared up separate insurance policies for the Union Territories which will be notified thru the use of the Law Ministry subsequent week.
- However, the reservation for weaker location will now no longer be utilized from these 12 months as the admission season is nearly over. It will be utilized from 2011-12.
- The country authorities and regional authorities will set up fundamental schools inner strolling distance of one km of the neighborhood.¹⁰

In case of teens for Class VI to VIII, the school needs to be interior a taking walks distance of three km of the neighborhood. Now that the RTE Act has been enacted from 1st of April 2010 there is a blended response from all those who have been aspirants of this Act.

- I. Government has already shown its lack of ability to provide adequate money of 1.71 lakh Cores as it does no longer have sufficient assets and is eager to contain private quarter in the title of Public Private Partnership (PPP) which will be diluting the rights based totally thinking of fundamental education.
- II. There is no dependable statistics regarding out of school teenagers in India, who have been excluded from the mainstream education for decades.
- III. The RTE Act does no longer encompass its regulatory mechanism to private un-aided schools.
- IV. Government is eager to open “Model Schools” alternatively than introducing “Common School system” and for this

⁹<https://aboriginesofamerica.com/indigenous-peoples-rights>

¹⁰<http://shodhganga.inflibnet.ac.in/bitstream/10603/8530/12/12>



motive merchandising a multi layered education machine to system rich and horrible children.

- V. The high-quality in education is however an unanswered trouble in the RTE Act 2009.
- VI. The Act covers young people between 6 and 14 and does no longer cowl above 14 till 18 and below 6 years.
- VII. The Indian Child Labor Act (The child labor prevention and regulation Act-1986) and the article in the constitution (Article 24) on infant labor draw line between hazardous and nonhazardous infant labor and nonhazardous child labor is allowed underneath 14 years.
- VIII. As per the RTE Act and Article 21 A of the Indian constitution Education up to 14 years is a fundamental proper and it is free and compulsory. Necessary change prefers to be made to make to declare that all sorts of Child labor are hazardous and have to be banned.
- IX. The RTE Act covers young human beings between 6 and 14 years whereas the Art forty five of the charter envisaged all teenagers under 14 years to be covered interior 10 years to come under free and compulsory education.
- X. Also it is in contradiction to the definition of teens as per international covenants (CRC 1990)

The Persons with Disabilities Act on Education

According to 2011 census, there are 2.68 crore Persons with Disabilities (PwDs) in India who roughly constitute 2.21percent of the total population. Of these 1.50 crore are male and 1.18 crore are female. According to

the World Bank, 15 per cent of the world's population is affected by some disability or the other.

If we are to understand rehabilitation in the light of its objectives rather than applied services, rehabilitation implies making a person awake of his potential and then providing him with the means of attaining that potential the rehabilitation of the disabled can be successfully accomplished by the combination of medical, educational, social and vocational services.¹¹ After medical rehabilitation, education of the disabled gets the top priority as it is vital to process of rehabilitation, education of the disabled gets the top priority as it is vital to process of rehabilitation. It is instrumental in preparing the handicapped for adult roles as well as in assisting them to surmount the varied disabilities particularly of Scio-Psychological origin.

The appropriate Governments and the local authorities' shall¹²

- (a) Ensure that every child with a disability has access to free education in an appropriate environment till he attains the age of eighteen years;
- (b) Endeavor to promote the integration of students with disabilities in the normal schools;
- (c) Promote setting up of special schools in Government and private sector for those in need of special education, in such a manner that children with disabilities living in any part of the country have access to such schools;

¹¹ United Nations, Document |E|C No. 51259, Jan.1953.

¹² Sec. 26 of Pwd Act



(d) Endeavor to equip the special schools for children with disabilities with vocational training facilities.

The appropriate Governments and the local authorities shall by notification make schemes for¹³

- (a) Conducting part-time classes in respect of children with disabilities who having completed education up to class fifth and could not continue their studies on a whole-time basis;
- (b) Conducting special part-time classes for providing functional literacy for children in the age group of sixteen and above;
- (c) Imparting non-formal education by utilizing the available manpower in rural areas after giving them appropriate orientation;
- (d) Imparting education through open schools or open universities;
- (e) Conducting class and discussions through interactive electronic or other media;
- (f) Providing every child with disability free of cost special books and equipments needed for his education.

The appropriate Governments shall initiate or cause to be initiated research by official and non-governmental agencies for the purpose of designing and developing new assistive devices, teaching aids, special teaching materials or such other items as are necessary to give a child with disability equal opportunities in education.¹⁴

The appropriate Governments shall set up adequate number of teachers' training institutions and assist the national institutes and other voluntary organizations to develop 'Teachers' Training Programmes'

specializing in disabilities so that requisite trained manpower is available for special schools and integrated schools for children with disabilities.¹⁵

Without prejudice to the foregoing provisions, (be appropriate Governments shall by notification prepare a comprehensive education scheme which shall make provision for¹⁶

- (a) Transport facilities to the children with disabilities or in the alternative financial incentives to parents or guardians to enable their children with disabilities to attend schools.
- (b) The removal of architectural barriers from schools, colleges or other institution, imparting vocational and professional training;
- (c) The supply of books, uniforms and other materials to children with disabilities attending school.
- (d) The grant of scholarship to students with disabilities.
- (e) Setting up of appropriate form for the redressal of grievances of parent, regarding the placement of their children with disabilities;
- (f) Suitable modification in the examination system to eliminate purely mathematical questions for the benefit of blind students and students with low vision;
- (g) Restructuring of curriculum for the benefit of children with disabilities;
- (h) Restructuring the curriculum for benefit of students with hearing impairment to facilitate them to take only one language as part of their curriculum.

Section – 31 of PwD Act. All educational institutions shall provide or cause

¹³ Sec. 27 of Pwd Act

¹⁴ Sec. 28 of Pwd Act

¹⁵ Sec. 29 of Pwd Act

¹⁶ Sec. 30 of Pwd Act



to be provided amanuensis to blind students and students with or low vision.

Rights of Persons with Disabilities Bill, 2016

Among the significant highlights of the 2016 Bill is that it recognizes 21 specified conditions for disability as against seven in the Act, but on the downside it reduces job reservation for persons with disabilities from five to four percent in establishments including government and private sector. At the same time the Bill says that private sector employers shall be incentivized to ensure that at least five percent of their work force is composed of persons with disabilities. Every child with disability will have the right to free education till 18 years of age and all higher government institutions and government-aided higher education institutions shall reserve five per cent seats for persons with disabilities, as well as relax the upper age limit by five years. There is no doubt that the landmark Bill will give visibility to persons with disabilities many of whom are excluded from existing services and programmes.

Conclusion:

Educating the people with special abilities is the most important challenge for every nation. It is important for every nation to secure appropriate steps for the education of their citizens. The Right to Education of all children is enshrined in the United Nations Declaration of Human Rights 1948. Various efforts have also been made by the Indian legislature to safeguard the educational interest of children with special abilities, political turbulence and social reforms in the last quarter of 19th century aimed at improving lives of disabled people. By 1900 special educational institutions were established for the disabled. Although the

growth was sporadic but these institutions lacked understanding and professional approaches towards the needs of the disabled. In post Independent era for the first time Persons with Disabilities Act made special provision for education of the disabled children. Section 26 of the Act imparts an obligation on the government both at the central and state level to make provisions for free and compulsory education for the disabled upto the age of 18. It is a laudable provision and will go a long way in promoting the educational facilities for them.

This Act also aims at integrated education for the disabled and reservation of seats in aided educational institutions. True, it is a measure of happiness that the statutory book in India has an Act in its pages devoted exclusively for safeguarding the educational rights of the persons with disabilities. However these provisions are beset with numerous limitations and have, therefore a very limited capacity to protect the educational rights of the people, it is meant for. Thus, the whole purpose of a long battle by the disabled and their friends has been defeated because of increase in illiteracy rate of the disabled population of the country. These provisions can be concluded as toothless and clawless tiger at the best because legislative instruments are more like ornaments unless implemented.

The various landmark judgments relating to education and disability, it is glaringly obvious that reservation requirements in institutions of higher education are enforced with reluctance, despite section 39 of the Persons with Disabilities Act imposing a positive obligation on the state. Provisions relating to education are some of the most important provision of the Persons with Disabilities Act and it is crucial that a strong



implementation drive is taken up by the state to ensure that all children with disability have access to education. The enactment of the Right to Education Act, 2009 has put pressure on the state to enforce the right to education for all children across that country and it needs to be ensured that children with disability are not forgotten.

The author thus, concludes that the Children with Disabilities who go to special schools as compared to schools for normal children are better adjusted. But in the long run, certainly they are the suffers and losers. Sooner or later they have to step out in the larger society, where people are generally not very accommodating. So putting the children with Disabilities to special school is not the real solution to the issue. The solution actually lies in creating awareness in the minds of parents and schools authorities and providing disabled friendly atmosphere in the school.

