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VOICE OF CONSTITUTION ON FREE AND COMPULSORY
EDUCATION OF THE CHILD



M. Sreeramulu¹ and K. V. Chamundeswaramma²

¹Assistant Professor, Department of Law, S.K.University, Anantapuramu.

²Lecturer in Zoology, Govt. Degree College (M) Anantapuramu.

ABSTRACT

The Preamble of the Indian Constitution declares that India is a Sovereign, Democratic Republic, and embraces a Parliamentary form of Government, with Universal Adult Franchise as its foundation. The Constitution itself is the governing document framed by the elected representatives of the people, and governs not only the administrative machinery, social, economic and political development of the country but also the educational requirement of its society for a dignified and disciplined, standard of living of all its citizens irrespective of caste, creed and various other social disparities. The Preamble of the Constitution also paves the way for ensuring social and economic judicial, equality & fraternity apart from providing education to its citizens.

KEYWORDS :online shopping and advertisement promotional mix E-commerce.

INTRODUCTION

It is one of the primary duties of the State to provide basic education as a Constitutional right. Article 45 of the Constitution, under the Directive Principles of State policy insists this and the expression 'State' occurring in the article is defined in Art. 12, to



include the Government, and Parliament of India and all other local authorities within the territory of India or under the control of the Government. of India.

Further the constitutional amendment (86 Amendment) Act, 2002 a new fundamental right has been provided by inserting Article 21 A. It casts a duty on the State to provide free and compulsory education to all children between the age of 6 to 14 years. To implement this right the State will enact appropriate laws. Education being a concurrent subject laws may be enacted either by the union or the State.

By the same Amendment (86th) Article 45, a Directive Principle, relating free and compulsory

education for children has been replaced. Now this Article 45 directs the State to provide childhood care and education to children below the age of 6 years.

The 86th Amendment has added one more Fundamental Duty to Art 51A. Every parent or guardian has a duty to provide educational opportunities to his child or ward between the ages of 6 to 14 years.

Hence the Central and the various State governments including of the local bodies and voluntary organizations are bestowed with the responsibility of providing universal elementary education as joint venture.

But the fact is that the term compulsory education is likely to give rise to the objection that since every citizen is entitled to receive education on par with his or her liking, a provision for compulsory education may prove a fetter to this freedom.

Another aspect of the provision is that education should be free and compulsory for all the children who fall within the age group of 14 years. This again covers three different stages of an individual's education or academic career – the pre-primary, the primary and the basic education.

Education being a State issue, the State Governments have to shoulder the major responsibility of providing universal free and compulsory education. The striking feature is that the Union Government. Has a number of vital functions to throw light on, as mentioned below while administering the issue in providing education. It has to –

- 1) act as a co-ordinating agency
- 2) provide for developing research in elementary education
- 3) set up pilot projects
- 4) streamline the prejudices among various States and ensure equal opportunities
- 5) Extend extra financial assistance to the less advanced States.

Again Education being a State subject, it is the moral responsibility of the States to legislate elementary education, formulate compulsory education Acts and implement the same to ensure the enrolment of both boys and girls without any discrimination.

Priority is given to Compulsory education in our constitution, Elementary Education Programme has been received considerable attention in the Five Year Plans. Though the fact remains that we could not achieve the target as laid down in Art. 45, in the target period of ten years. The rate of expansion of primary education has risen considerably from 2% during 1931-47 to 9% during 1958-59. It was envisaged that the target of 100% primary education was planned to achieve by 1980. Hence, since then a steady growth has been witnessed in the literacy rate.

Yet it is to be noted that literacy alone is not the sole aim of education, but to prepare a child to be a multipurpose gadget in the later stages, by duly providing him education for not less than 7 to 8 years at school. Thus, it is to be taken granted that a child is imparted education until he/she attains the age of 14 and not 11, so as to help it study grade VIII and not V only

Going by the entry 11 of the seventh schedule of the State List 11, prior, to the 42nd Amendment Act, 'education' remained the responsibility of the State Governments inclusive of all the Universities within them.

Education, as a State subject was under the direct control of the State Education Minister from 1921 to 1976. The Central Government formulated the general policies and gave directions and provided aids. The State Governments were responsible for the proper implementation of the same. Listed below are the vital functions of the State Governments in this regard:

- a) To provide elementary education
- b) To open training institutions
- c) To frame the curriculum and set syllabus
- d) To appoint adequate supervisory staff
- e) To provide financial aid
- f) To appoint commissions and committees, and
- g) To hold examinations

The State also functions through various voluntary organizations and local bodies by providing grant-in-aid and postulates rules and regulations for the same and hence exerts its control over their services / activities.

But the 42nd Amendment, as the part the Constitution has put NIT education on the concurrent List. As such the responsibility is shared by the Center and other States. In turn every State has administrative machinery for the purpose of implementing the educational programmes.

EDUCATION FOR THE WEAKER SECTIONS:

Article 46 of the Constitution under the Directive Principles of State Policy States that, "The State shall promote with special care for the educational and economic interest of the weaker sections in particular of the scheduled castes and the scheduled tribes and shall protect them from social injustice and all forms of exploitations".

Article 17 declares that untouchability is abolished and its practice in any form is forbidden. This is a source of encouragement and shelter for the scheduled castes. The Government has taken steps not only to reach but also expand educational facilities for the weaker sections. It has provided scholarships hostels, and extended financial assistance. Special packages are given to the scheduled tribes. Much light is thrown on various measures for the upliftment of tribal languages, and other facilities meant for them. Special institutions have been set up for the education of physically challenged people.

Article 282 of the Constitution, regarding miscellaneous financial provision States that "The union or a State may make grants for any public purpose....obviously this includes education, a public purpose. Hence, the Government shoulders the responsibility to make grants for educational purposes".

Education as a State subject, is financed by the State Government and the expenditure is both direct and indirect. The expenditure incurred on educational institutions at various levels is termed as direct expenditure and that which is incurred on infra-structure, scholarships, supervision and other such items is defined as indirect expenditure.

According to Art. 257(1) 'The executive power of every State shall be so exercised so as to not impede or prejudice the exercise of the executive power of the Union and the executive power of the Union shall extend to the living of such directions of a State as may appear and the Government of India to be necessary for that purpose'.

The Constitution empowers the Union to lay down guidelines for all the States in a number of aspects. To cite a few examples – basic education has been declared as the material system of elementary education. Hindi is declared as the official tongue of India. The decision making rests in the hands of (CABE or the Conferences of State Education Ministry).

The decisions made by the State representatives are binding on all the States. As per Art 257, the decisions are Constitutionally and financially binding on all the States. The financial chords attached

to certain schemes launched by the Center render it obligatory on the mass stages to adhere to the schemes faithfully. The Planning Commission makes short term and long-term plans for education. The Ministry appoints Boards and sub-Committees and also guides them in various matters pertaining to education.

Articles 27 and 30 of the Constitution deal with the aspect of secular education and art 15 (1) provides for equal opportunities to all the citizens irrespective of gender, in case of employment and appointment to any office of the State.

Thus, the Constitution draws parallels between men and women. Education of the girls on par with the boys is a striking feature of the Indian Constitution. This paves the way for an increase in the literacy rate and further development of not only the individual but also the country at large. The overall economic and social progress of a country depends on the State of literacy among women. Social status and literacy among women are interdependent, hence spread of education among women leads to the improvement in their status, which again leads to further educational, social and economic development.

Liaison with UNESCO:

The VII schedule of the Union List or entry 12 States that the Union will have relations with foreign educational organizations like the UNESCO, which was established in 1946, with India as its founder member. Ever since then India has been participating in the programmes, co-operating with the same in various fronts to promote education, science and culture. In turn the UNESCO has extended its support to India in the development of the latter's socio-economic status. Some of the organizations established in India by UNESCO are:

- 1) Central Aid Zone Research Institute
- 2) South Asia Science Co-operative Office
- 3) Asian Institute of Educational Planning and Administration.
- 4) UNESCO Research Centre on Social and Economic Development in Southern Asia
- 5) Regional Research Centre on Social Implications of Industrialization in Southern Asia.

Indian citizens enjoy Commonwealth scholarships and fellowships and also employment opportunities in Commonwealth nations under the Commonwealth Education Co-operation Plan of 1959. In addition, Indian students receive scholarships from established organizations and foundations namely the U.S. Education in India. The British Council, the Ford Foundation, the Imperial Relation Trust, London on par with this India Ministry of Foreign Affairs offers facilities in various fields of study for the foreign nationals.

EXCLUSIVE AND CONCURRENT FUNCTIONS OF THE UNION GOVERNMENT:

A close look at the Constitution reveals the fact that though education happens to be a State subject, it is the Union Government that plays a vital role in the determination of policies, programmes, priority and planning techniques. Shri J.P. Naik cites the under mentioned as some of the exclusive and concurrent functions of the Union Government.

A) Exclusive functions include:

- i) Educational and cultural relations with other countries.
- ii) Promotion of Education in the Union Territories

- iii) Maintaining harmony in the aspect of education activities of the Center and the State, and
- iv) Telecasting and Broadcasting collected ideas and information.

B) Concurrent Functions include:

- i) Provision of free and compulsory education upto the age of 14 years.
- ii) Education of the physically challenged
- iii) Promotion and propagation of national language-Hindi
- iv) Patronage to study ancient Indian culture and study of Sanskrit,
- v) Promotion and propagation of national culture and art.
- vi) Advanced professional and vocational training for all.
- vii) Special interest and responsibility for culture and upliftment of the scheduled castes and Tribes.
- viii) Promotion and co-ordination of educational and scientific research.
- ix) Promotion of technical education relevant to the day-to-day scenario, and
- x) Maintenance of Central Institutions and agencies for education.

An Individual with a Right

Every individual in the society is bestowed with rights. It is Right to know your Right. In 1946, the United Nations established the United Nations International Children's Emergency Fund (UNICEF), a specialized agency to care for and cater to the needs of the world's children. On the eve of the International year of the child, 1979, a convention on the rights of a child was proposed. The same was approved on 20 Nov, 1989 and on the 30th anniversary of the adoption of the Declaration of the rights of the child. It is the manifesto, on which many issues pertaining to children are judged. It flouted 10 of the principles laid down in the 1959 Declaration of the Rights of the child and framed 54 articles. Of which, 41 are concerned with the rights of children. Each of these articles is dependent on the other and form a chain wherein, all are considered as a conglomeration while interpreting them.

The crux of the matter is embedded in Articles 1 to 41. The underlining factor is that the most of the 187 countries of the U.N Council have ratified the convention and made it as the part and parcel of their national laws. In spite of this, any Government cannot be sued for failing to live up to its commitment to the rights.

The convention takes off duly defining children as 'every human being below the age of 18 years, or otherwise the law is applied to the word majority is attained later. The convention persistently uses the phrase 'the evolving capacities of the child'.

Yet another distinguishing factor is that the rights apply irrespective of class, used completion, language, gender and other social strata. Article 6 of the convention grants guarantee of the right to life to all children. This in turn means that provision for adequate nutrition, immunization, social integration is granted. According to Article 30 it implies that every child is ensured to 'enjoy a culture, religion and language of its own'.

The second part of the Convention i.e. Articles 42-45, deals with the measures necessary to be put to practice.

Hence, it is essential to first create adequate awareness of rights by conducting awareness camps and also imparting knowledge concerning, 'The Rights of the child'. Recently one such camp was organized in Chennai, Tamil Nadu by the India Council for Child Welfare.

The concluding section consists articles 46-54 which cover the administrative issues:

Some of the basic rights of an individual are as follows:

- 1) Right to Name and Nationality: This is covered in Article 7 and 8. An individual is identified and his / her existence is confirmed by the registration and is served with a name and nationality.
- 2) The interest of a child: Articles 9, 10, 11 throw light on this aspect and it reads thus a child shall not be separated from its parents except when the parents are living separately or if after thorough consideration it is in the child's best interests. If the parent (s) has / have been separated through imprisonment, deportation or death, the child shall have the right to know what has happened to the parents.
- 3) Articles 12, 13, 14 deal with the right to freedom of expression opinion and religion respectively – "Children and young people have the right to express their opinions and be taken seriously in matters affecting them, so long as it does not disturb or offend others".
- 4) Every person has two sides of life public and private. Public life is personal and self sustained. Article 16 provides for privacy and promotes moments of solitude and seclusion – "No child or young person may be exposed to arbitrary or unlawful action. His or her letters and diaries belong to him or her". An extension of this is Article 17, which provides for a right to variety of information. To quote "The State part shall see to it that children and young people can get reliable information and material from newspapers, books radio and T.V."

The gist of articles 19, 34, 39 is for prevention of maltreatment and issues connected with it. Article 20, 21, 23, on the other hand, deal with aspects of adoption, and foster homes, physically challenged and young ones who suffer at home due to ill-treatment. The Convention provides for the right to purposeful life of the disabled.

In a vibrant society like India it is essential that the young are easily given to drugs and other vices. Article 33 pronounces that 'children and young people will be protected from the use of narcotic drugs'.

Article 37 States that "No child or young person shall be subjected to torture or other cruel and degrading treatment or punishment. Capital punishment or life imprisonment shall not be imposed for offences committed by persons below the age group of 18".

Yet the Convention itself is not the last word on what must be done to promote a child's multifaceted development, but is a gentle and firm effort in the apt direction.

The role of the media goes a long way in this regard as children's right are not to be politicized. The involvement of non-government organizations and voluntary organizations and other institutions that promote the welfare of children also have a responsible role to play.

Nearly, 14 per cent of the world's child-population is found in India. As such India is entitled to shoulder the responsibility of promoting and making progress in all the aspects pertaining to children. Some of its progress looms large in its involvement in eradicating polio. Yet discrimination of girl-child and education of the girl child persists.

The Government of India has given itself to streamline and reduce the problems of children in bostal schools; other areas that need to be concentrated are-street children, physical exploitation of children, and sexual harassment of girls, child abuse and erosion of moral values.

Involvement of the modern electronic and print media would help a lot in bringing down the rate of exploitation of children in various activities. It is essential to create awareness and impart knowledge of rights of the child to children through various programmes and campaigns and involve the parent generation in these activities.

Relevance to the judicial and legal system is also mandatory. The idea to make rights meaningful should be our motto. Only these can we promote a child on par with its level of maturity, knowledge and skills.

In India, the birth anniversary of Pandit Jawaharlal Nehru, the first Prime Minister and the architect of modern India, is celebrated as the Children's Day. It is a true, recognition of his love for children. Love affection, compassion towards them should be a must from the adults to spread, the convention. 'Making owes to the child is the best a nation has to give to the child' is aptly emphasized by the U.N. declaration.

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M. Sreeramulu

Assistant Professor, Department of Law, S.K.University, Anantapuramu.

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