

## RTE Act 2009: Power or Plight for a Parent?

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### Abstract

*The paper is themed on the fact that RTE Act 2009 came into force with a hope of change for parents as well as children. The main discussion point is that, whether the children have actually got benefitted by it and parents have got the long-awaited breath of relief or not. Another focus point is, will this Act shorten the gap between underprivileged and middle class family children by bringing equal educational opportunities for all. From the following discussion, it can be stated ostensibly enough that RTE's implementation has further broadened the gap between two economic strata, leaving parents of both the groups wondering how RTE has changed the educational scenario. Finally the paper suggests that to gain its aspired results the government should take some steps like common school system in which all the groups can come onto one platform. It should also aim to create widespread awareness among parents about RTE Act to make them realize the power instead of plight of RTE.*

KEY WORDS: Right to Education Act, Power, Plight, Parent

### Conceptual background

From its genesis to the final avatar the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) has travelled a long haul to finally grace the children of nation with the power of free and compulsory EDUCATION in their hands. Ever since its implementation it has been

a source of great joy and hope for nation's politicians, educationists and social activists. For educationists like us it has brought double reasons to celebrate for we are teacher as well as parents whose utmost concern is their child's education. But surprisingly, with passage of time as the understanding of RTE

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grew, lots of questions and doubts regarding successful implementation of RTE have started arising. Now, after reading lots of articles about it from different perspectives and coming to know stories of its practical implementation in schools, has turned these doubts to deep disappointment.

We know that the sole aim of RTE is to empower nation's every child with education, therefore to make it a success, it becomes essential for every child to understand and use his right to get the education he aspires for himself. But in reality a child cannot do this on his own, it is his parents who actually have to understand and use the power of RTE on his behalf to ensure free and compulsory education for him. But what are the experiences a parent undergoes when he goes out to seek education for his child under RTE Act? Which class of parent has got privileges and in what manner child is being benefited by RTE? Here, it may be a debate that is RTE is a flag for lower income families only since middle class family and higher economic group has no effect of it. This article is an attempt to focus and raise such issues related to RTE from parent's prospective. It tries to identify and find possible solutions of various problems from a parent's standpoint while trying to secure quality education for his child under the umbrella of RTE.

To create a clear picture of the theme discussion is made under following points:

- Journey of Right to Education Act 2009
- RTE's directives for parents
- Privilege provided to BPL class children
- Privilege provided to Middle class children
- Suggestion for better implementation of RTE

### **Journey of Right to Education Act, 2009**

RTE has adopted its present shape after numerous bouts of debates among eminent educationists, politicians, social activist and civil society members. Let us have an overview of the milestones of difficult journey of RTE from a rough draft to an act promising a brighter future for coming generations.

### **Acharya Ramamurti Committee**

The inclusion of right to education has been a matter of great debate ever since the beginning of drafting of Indian constitution. The constituent Sub-committee on Fundamental Rights recommended the inclusion of right to primary education as a fundamental right in constitution but the Advisory Committee of the Constituent Assembly rejected this proposal and put it in the category of non-justifiable fundamental rights also called as directive principles of State Policy. It was the Acharya Ramamurti Committee that made an effort for the first time in 1990 to include fundamental right to

education in constitution by making an official recommendation of its need for the nation. On the 5-9 March of the same year India participated in the World Conference on Education for All in Jomtien and adopted World Declaration on Education for All. This has increased international pressure on India to make education a fundamental human right but it remained postponed for a couple of more years.

### **Supreme Court's decision on Mohini Jain and J P Unnikrishnan Case**

In 1992 The Supreme Court for the first time recognised the right to education as a fundamental right in Mohini Jain case vs. Union of India (1992) 3 SCC 666. This judgment stated that Right to life comprises of all those rights which are basic to dignified enjoyment of life. So Right to Education flows directly from Right to Life. The Right to Life under Article 21 and the dignity of an individual cannot be assured unless it is accompanied by the right to education.

In 1993 the Supreme Court narrowed the ambit of the fundamental right to education as propounded in the Mohini Jain case in the case of J P Unnikrishnan vs. State of Andhra Pradesh, 1993 SCC (1) 645. The Court observed that The right to education which is implicit in the right to life and personal liberty guaranteed by Article 21 must be constructed in the light of the directive principles in Part IV of the Constitution. So far as

the right to education is concerned, there are several articles in Part IV which expressly speak of it. It is in the light of Articles 45, 46 and 41 that the content and parameters of the right to education have to be determined. Right to education, understood in the context of Articles 45 and 41, meant: (a) every child/citizen of this country has a right to free education until he completes the age of fourteen years and (b) after a child/citizen completes 14 years, his right to education is circumscribed by the limits of the economic capacity of the state and its development.

### **RTE Coming into Force**

In 2002, for the first time in independent India's history a fundamental right had been added to the Constitution. The 86th amendment to the Constitution introduced Article 21-A making the right to education a fundamental right. In subsequent years several drafts of bill had been made until finally, in 2008, the Union Cabinet stamped its seal of approval on it. It was then passed by the Rajya Sabha in July 2009. The bill then proceeded to the Lok Sabha, where it was passed by the house on August 2009 but RTE act finally came into force on 1, April 2010.

### **RTE's Directives for Parents**

Before discussing the reality of RTE Act as most of parents from different class realised, it is essential to quote directions given by RTE to parents for their children's education. *The Gazette*

of India, RTE act 2009, Chapter III named *DUTIES OF APPROPRIATE GOVERNMENT; LOCAL AUTHORITY AND PARENTS* enlists duties of local government and parents for a child's education. Page 5, clause 10 of the same chapter states duties of parents for child's education which is, "*it shall be duty of every parent or guardian to admit or cause to be admitted his or her ward, as the case may be, to an elementary education in the neighbourhood school.*"

To understand the full implications of clause we must discuss the meaning of some of the terms used in the above clause described in the chapter I of The Gazette of India.

- "Elementary education" means the education from first class to eighth class.
- "guardian" in relation to a child means a person having the care and custody of that child and includes a natural guardian appointed or declared by a court or a statue.
- "parents" means either the natural or step or adoptive father or mother of a child.
- "school" means any recognized school imparting elementary education and includes-
  - (i) A school established , owned or controlled by the appropriate government or a local authority;
  - (ii) An aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority;

- (iii) A school belonging to specified category; and
- (iv) An unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate government or the local authority.

In the same context it becomes necessary to mention that RTE not only enlists various duties but also privileges for the parents. The Chapter IV named *RESPONSIBILITIES OF SCHOOLS AND TEACHERS* in the Gazette of India of RTE Act, mentions the privileges given to underprivileged children as well as children from all strata of society under section 12&13,

12. (1) For the purposes of this Act, a school, –
- (i) specified in sub-clause (i) of clause (n) of section 2 compulsory elementary education to all children admitted therein;
  - (ii) specified in sub-clause(ii) of clause (n) of section 2 shall provide free and compulsory elementary education to such proportion of children admitted therein as its annual recurring aid or grants so received bears to its annual recurring expenses, subject to a minimum of twenty-five percent;
  - (iii) specified in sub-clauses (iii) and (iv) of clause (n) of section 2 shall admit in class I, to the extent of at least twenty-five per cent of the strength of the class, children belonging to weaker section and disadvantaged

group in the neighbourhood and provide free and compulsory elementary education till its completion.

- (iv) Provided further that where a school specified in clause (n) of section 2 imparts pre-school education, the provisions of clauses (a) to (c) shall apply for admission to such pre-school education.

13. (1) No school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure.

(2) Any school or person, if in contravention of the provisions of sub-section (1), –

- (i) receives capitation fee, shall be punishable with fine which may extend to ten times capitation fee charged.
- (ii) subjects a child a screening procedure, shall be punishable with fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contravention.

The statement mentioned in clause 10 clearly states that it is responsibility of every parent to send his ward to school. But here question arises that isn't it natural wish of every responsible parent to provide his child best of care, food and education? That's a question whose answer is obviously yes, any parent with normal

living conditions will provide his child best of education. Then what are the reasons which inhibit some parents from sending their wards to school? The most prevalent reason is their poor economic background; many below Poverty Line families can hardly make arrangements for a single meal per day. Apart from this there are also some other reasons like social stigmas, geographical conditions and illiteracy which inhibit parents from sending their wards to school. But here it is interesting to mention that many parents of BPL families, who can send their wards to completely free government school, are not willing to send them to government schools due to overall poor quality of education in terms of teaching, infrastructure, and facilities. They rather strive to send their wards to private school. RTE has primarily been given to this underprivileged group of parents to provide their children with quality education completely free. But there are many flaws in the act which turn this power for a parent to plight. Let us consider the various implications of RTE for parents of different economic strata by looking closing at gaps between written clauses of RTE and practical implementation of it by schools.

### **Privilege provided to BPL Class Children**

RTE gives special privileges to children of underprivileged families. Above stated clause 12 of RTE act clearly states that 25% of the strength of

the class I will be reserved for the children of underprivileged families. These underprivileged children will enjoy all the facilities of “free and compulsory” education given in the act. But ironically, actual situation of implementation of RTE act is just opposite. To know the ground realities of implementation of RTE it is necessary to share some real life experiences of parents from BPL background who are seeking admission for their children under RTE act. There are stories of people who hail from poor economic background and many of them can hardly fulfil their daily needs of food, cloth and shelter but want to give their kids good education. One such experience had unfolded when I asked my domestic help that now she could easily afford to send her children to a good private school due to RTE reserved seats. She told us that she was already sending them in a nearby reputed private school under RTE seats but in vain as it was as bad as any government school. She further explained, they have different shifts in evening for children under RTE where teachers come for 2-3 hrs and teach all the subjects. Now one can easily imagine how benefitted a kid would be by studying all subjects in 3 hrs in spite of regular 6 hrs of a school curriculum. This should not come as a surprise to anyone because there are many prevalent ways schools have devised to bypass RTE rules and regulations. There are common occurrences of noncompliance with RTE by maintaining fake registers

with fake names of children registered under RTE. Parents of BPL family have to face non-cooperation during admission process also. In some schools staff try not to give admission form to parents on various pretences like incomplete documents or last date of form etc. In one case a father of BPL family had to run pillar to post for a month just to get the form for RTE seats. Parents from BPL families due to their lack of resources and awareness cannot do much about the situation.

### **Privilege provided to Middle class children**

Now there is another side of story of children of middle class/higher middle class families which is equally disheartening as the one in the previous section. Middle class is perhaps the most undervalued among all the social strata and is bearing biggest resentment from RTE. It is this class which struggles throughout their life to fulfil their aspirations of providing their children with the best of education. Majority of middle class families have both husband and wife working. The children from such families who are coming under 75% are not receiving any financial benefit of FREE education (which is the biggest blessing of RTE) from RTE. Though RTE act, does entitle these 75% children to certain sets of rights to ensure quality education for them. These rights can be enlisted as mentioned in Chapter IV named RESPONSIBILITIES OF SCHOOLS

AND TEACHERS in Gazette of India of RTE act, under section 13.

RTE is full of provisions which give children of middle class families various rights apart from right to free education to improve quality of education in terms of school building, teacher's training, teaching aids, student's need and other facilities. But regrettably, children are not even able to avail benefits of these rights fully. Schools have devised way to put burden of 25% percent free seats on parent's shoulder. Such an instance of violation of RTE is, where an A-class school or elite school has put forward a condition of bearing any one child's education taken under RTE quota, in front of parents to secure admission of their ward in that reputed school. See the plight of parent's of those 75% children who are not receiving any financial benefit of RTE and on top of that they have to bear the burden of education of another child if they want their kids to go that elite school. Many schools are still subjecting parents and children to some form of screening procedure also. One such prestigious school conducts an interview and gets a question form filled by parents to give admission to children. It has multiplied their plight and probably the biggest failure of RTE.

### **Suggestions for better implementation of RTE**

From above discussion we can conclude that neither child from underprivileged nor privileged sections of society are getting full benefits of

right to education handed over to them as power in their hands. It is obvious that there is no provision of free and compulsory education "For All". Free education is there for underprivileged children of society and there is certain group of rights given to all children to facilitate process of schooling. Now these rights are to be abided by the concerned school authorities at the ground level to make RTE a success. But then it is equally necessary that parents also should take strong steps by registering complaints of violations of RTE to the concerned authorities. Final section of this article discusses two ways suggested as under by which we can together make RTE "a dream come true".

### **Parent's initiative by educating themselves about RTE**

Generally we assume that government has prime role on issues of social interest. It is government who has to implement things and disseminate its benefits to all. But as citizens we are equally responsible for successful implementation of RTE. Sadly majority of parents just know that there are 25% free seats available for their wards under RTE in BPL quota. Leave alone parents, experienced teachers and other academicians of reputed schools are not aware of it. They just know that one more fundamental right has been added to course book which is to be taught to the students. Hardly any of them know the intricacies and full power of RTE act. RTE Act's

CHAPTER VI PROTECTION OF RIGHT

OF CHILDREN specifies how and where to handle grievances of parents facing violation of RTE act at different levels. Clauses 31 and 32 of the above chapter regarding this are as follows:

31.(1) The National Commission for Protection of Child Rights constituted under section 3, or, as the case may be, the State Commission for Protection of Child Rights constituted under section 17, of the Commission for Protection of Child rights Act, 2005, shall, in addition to the function assigned to them under that Act, also perform the following functions, namely –

- (a) examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementations.
- (b) inquire into complaints relating to child's right to free and compulsory education; and
- (c) take necessary steps as provided under sections 15 and 24 of the said Commission for Protection of Child Rights Act.

32.(1) Notwithstanding anything contained in section 31, any person having any grievance relating to the right of a child under this Act may make a written complaint to the local authority having jurisdiction.

(2) After receiving the complaint under sub-section (1), the local authority shall decide the matter within a period of three month after affording a reasonable opportunity

of being heard to the parties concerned.

(3) Any person aggrieved by the decision of the local authority may prefer an appeal to the State Commission for Protection of child Rights or the authority prescribed under sub-section (3) of section 31, as the case may be.

In light of the above facts it is strong need of the hour that a widespread program for creating awareness towards RTE should be initiated. Government has already set up agencies for grievance handling in the form of The National Commission for the Protection of Child Rights investigating complaints in civil courts. At state levels a State Commission for the Protection of Child Rights (SCPCR) or the Right to Education Protection Authority (REPA) is there to handle a complaint. And for this cause not only government representatives but academicians, social workers, advocates, media persons and other members of civil society should also come together. Here media's role can be significant in creating widespread awareness about RTE through print and non-print media. From above discussion it is clear that RTE's successful implementation needs lots of willpower from parent's side also. It is our duty as a civil society to understand and implement rights given to us especially when it is matter of right of our children. It has now become mandatory for all parents to take initiatives to avail Right to



education for their children's better life. And if parents are not well aware of RTE, then off course this is duty of civil society to create awareness regarding RTE. For the success of RTE it is necessary for parents to understand all the aspects of RTE and their implications. It is not just inapt but also unjust to rely completely on government for such initiatives.

### **A Bias-free Education system: Common school system**

Indian school system is being dominated by class division. There are government and private schools basically. Private schools also have category. There are A-class schools or elite schools, then B-class schools and finally C-class schools in private schools. This multilayered school structure hinders a child's right to equal opportunities of education. Government must device a common school system to provide equal opportunities to every child then only purpose of RTE to reach to every child would be fulfilled. A Common School System (CSS) means a system of education providing education of an equitable quality to all children irrespective of their caste, creed, community, language, gender, economic condition, social status and physical or mental ability. This definition draws heavily from that contained in the Report of the Education Commission (1964-66), also known as the Kothari Commission. As the Education Commission points out (Paragraph 10.05) "the system should

be maintained at an adequate level of quality and efficiency so that no parent would ordinarily feel any need to send his child to the institutions outside the system...". The CSS must provide good infrastructure, well-qualified and trained teachers and optimal teacher-student ratios, common curriculum framework and a pedagogy which is holistic and child-friendly to provide the fullest opportunity for socialization to the children coming from a variety of socio-economic, cultural and other backgrounds, including the dalits, tribal's, religious and linguistic minorities and physically and mentally challenged children. It also includes the higher economic strata children.

Here it is imperative to mention that a common school system will not only ensure quality of education in terms of teaching, infrastructure and academic achievement but it will give chance to all students from different economic group to mix together. Such system will sensitize children towards each other's problem and lifestyle which in turn inculcate in them respect for all members of society. So a common school system would be a great step towards making a better society and definitely provide equal opportunities of education fulfilling goals of RTE in long run. The Kothari Commission has appropriately summed it up as: "We believe that the provision of free and universal education for every child is a national objective of the highest priority, not only on grounds of social justice and democracy, but also for raising the competence of the average

worker and for increasing national productivity”.

### Conclusion

To conclude above discussion it is to state that primarily parents should be fully aware of their rights because a child himself is not capable of availing the benefits provided to him by RTE Act. Parents must come forward to register their complaints to

concerning bodies instead of bearing the misconduct. They should empower themselves in such a way that they get benefit of this right in true sense. And secondarily government and civil society members must also walk hand in hand to create awareness among parents. Also government should take initiatives for common school system to develop holistic way of education for all strata of society.

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