

Right to Education Act-2009 – a design to deny Education

An Analysis of All India Democratic Students' Organisation

It took 62 long years for our rulers to declare 'Education a Right' through 86th amendment to the constitution and RTE 2009 (Right to Education Act-2009)! Few people are rejoicing over it. Some say 'something is better than nothing'. They feel 25% of seats being reserved in private schools for weaker sections and disadvantaged group is an achievement! Is it so? Has education truly become a fundamental right?

Fight for "education to all" has a long history in our country. Eshwarchandra Vidyasagar, Jyotirao Phule, Raja Rammohan Roy and other renaissance thinkers fought for "democratic education." That is education should be freely available for all irrespective of caste, religion, creed, sex or economic status. Gopalakrishna Gokhale pioneered India's first "Free and compulsory education bill". He moved this bill on 18th March, 1910 in the British Imperial Council. Tragedy is he could not get the support of his other colleagues. The Maharajas and the Feudal land lords opposed this, since it was a threat to their rule. Time and again the Congress ministers in the British government hesitated to provide education for all ostensibly due to 'paucity of funds'!

British oppressive rule feared enlightened and educated people. So, the demand of "education for all" could never be realized under British rule. The demand of education got interwoven with the demand for freedom. It was the aspiration of the people that in independent India Education would become a "Fundamental Right." Government would take the entire responsibility of funding education. Government shall not interfere in the affairs of education. A democratically elected committee of educationists, teachers, parents & student representatives shall decide about course, syllabus, curriculum, admission and administration. What unfolded is the dark side of the history! The Indian rulers discarded the noble banner of "Democratic, Scientific & Secular Education." They were not for this great Idea, so, they could never inherit the rich heritage of our renaissance movement. They pursued the legacy of British rulers. Indian rulers were pusillanimous to make "education a fundamental right". Education was made a non-justiciable fundamental right (later it was termed as Directive Principle of state policy). Government's commitment to education got further revealed in its budgetary allocation. From the 1st five year plan the budgetary allocation retrogressively dwindled and has now reached an abysmal low.

In the pre-independence period and for some time later many patriotic & philanthropic people took the lead in opening private schools. To an extent they did a commendable work, education was not a source of income for them. But in the subsequent years, as the funding for government and aided institutions dwindled, it created a ground for the growth of private institutions. There was a spurt of private institutions whose sole aim was to make money! Policies of various governments pampered and encouraged this business. Education became discriminatory. Getting 'quality' education became a privilege of the rich, while vast majority of students were made to feel happy with the government institutions. The 'Donation and Capitation Fee' became rampant. The loot and plunder of hapless parents continued unabatedly.

There was a public outcry against donation. A demand to ban donation and capitation fee menace gained momentum. It was the aspiration of the people that the National Policy on Education 1986 (NPE-86) would address these issues. NPE failed not only, it resigned to declare that the money making 'private institutions' as fate accompli. It agreed in principle that '*for peoples education people should pay*'; and thus opened the flood gates of commercialization and privatization of education. By advocating for non-formal and distant education, NPE acted as an apologist for the government's failure to check 'child labour' and 'school dropout'. It proposed to set up handful of well equipped 'Navodaya Schools' or 'Centres of excellence' for a few rich. Discrimination and depriving the poor from education became a rule! "Universalization" of even primary education became a pipe dream!

Throughout the country powerful movements of students and teachers broke out against the menace of donation and capitation fee. In this backdrop, Justice Kuldip Singh gave a historic verdict in the Mohini Jain v/s State of Karnataka case (on 30th July, 1992). The Supreme Court said "**The 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. The state government is under an obligation to make endeavor to provide educational facility at all levels to its citizens. (Para 12).” Thus the Constitution was interpreted in true spirit. This landmark judgment not only upheld primary education as a fundamental right; it declared even higher education to be a fundamental right! The aspirations of people and constitution were reflected in the Apex courts categorical declaration that **“the state government is duty bound to provide educational facility at all levels”** (i.e state is responsible for providing pre-primary, primary and higher education). The ‘capitation fee lobby’ connived with the governments and hatched a conspiracy of ‘endless litigations’ to subvert this landmark judgement in the court of law. What transpired was a tragedy. The subsequent verdicts of the apex court and various high courts diluted this historic verdict. Government and private management’s clique resorted to several maneuvers.

When the apex court’s verdict (in Mohini Jain case) was categorical in declaring education a fundamental right, was it not preposterous to supersede it by another act? The aspiration of the people was to strengthen this verdict. Enact a powerful law to completely ban donation and capitation fee menace and ensure that the government is committed to own the financial responsibility of entire education. Such a law should have also ensured that the government released adequate funds for education and penalize the government for its failure. What transpired was a travesty of justice. Various political parties and so called intellectuals raised the bogey of making ‘education a fundamental right.’ It was a conspiracy to divert the main issue and a design to dilute whatever little constitutional guarantee was there.

What could not be achieved in the court of law was effectively accomplished by the Parliament. The 86th constitution amendment and RTE 2009 in the façade of “Right to Education Act” robbed the people of their right to education. It disrobed people from all constitutional rights and put them under the total mercy of money hungry private managements. A gross review of RTE vindicates our opinion:

1. Article 45 of the Constitution of India (one of the directive principles of state policy) states **“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.”** The 86th amendment to the constitution inserted article 21A. It states *“The state shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the state may, by law determine.”* Let alone discussing other implications of RTE, this amendment by itself exposes the ‘real’ commitment of the government towards imparting free education. The phrase *‘as the state may, by law determine’* makes this right conditional. Hitherto none of the fundamental rights are conditional! It gives a long hand for the state to arbitrarily restrict, dilute and distort this ‘fundamental’ right. The present amendment has not only diluted the earlier one (Article 45), it has made a mockery of fundamental right!
2. The RTE says the duty of imparting elementary education wrests with not only government schools, but it is the ‘obligation’ of “aided, un-aided and schools of specified category”. When an elected government sworn under constitution cares little to take the financial responsibility of educating a child, will the money hungry private managements take the responsibility? Can the government force its will on them? The Act has succeeded in legalizing the existence of money making private schools.(Section 2 (n))
3. The RTE reserves 25% of the seats in private institutions to children belonging to weaker section and disadvantaged group. By doing so the government is no more duty bound to start a school or aid a school. The governments have found an easy way to shirk off its responsibility of funding even primary education. It has put the entire onus of educating children on parents and money hungry private managements! If we accept this then the future generation who will be deprived of schooling can never question the government. They can at best curse the private managements for their plight!

- a) Will the all powerful private managements part with their seats and loose 'revenue', is a question none can answer. Will these shrewd businessmen respect the law of the land? Last year we saw the president of private school managements remarking '*admitting poor students in private schools is like mixing drainage water with sea water*'. What an atrocious statement! The government dared not to take any action. Even if some poor students get seats under 25% quota, they will never be treated on par with students who will pay more. They will always be humiliated and treated as second grade citizens! Should we lose our self respect and dignity just for the sake of a seat? People are not beggars. We have every right to demand the government to shoulder the entire responsibility of "Universalization of Education".
 - b) When we look at the all-out privatisation in professional education, it gives us an alarming picture. The admission chaos there, the 'auctioning' of seats and corruption has sent chill down our spine. Under RTE regime the fate of primary education would same! It will be the policy of government to make the government institutions starve for funds. For parents who are seriously concerned about the education of their wards, private institutions will be an inevitable alternative. The day is not far off when our reputed government schools will become monuments! Government schools will face a natural death! So, the RTE has given a legal sanction for allout privatisation of primary education and merciless looting of our helpless parents.
4. The 1992 SC verdict categorical defined what 'capitation fee' is. It said that whatever fee is collected in government institution, the same amount should be collected in private institution also. If the private institution collects even one rupee more than that, then this extra money should be called as capitation fee. Now what does the RTE say. '*Capitation fee means any kind of donation or contribution or payment other than the fee notified by the school*' (Section 2 (b)). What a distortion! If a school fixes rupees 50,000 as fees and notifies it, then it is very much legal! It does not attract any legal action. Further, the RTE is powerless to neither regulate donation nor punish the institutions which violates (Section 8, 9 & 13).
 5. Indian government willingly embraced Globalisation and became a member of WTO. Since the 1990's there is a concerted attempt to open the 'education sector' for 'global investment'. The World Bank sponsored DPEP (District Primary Education Programme) gave huge funds to the government and insisted it to open the 'education sector' for private investment. Late the same programme continued in the SSA (Sarva Shiksha Abhiyan). In the name of 'community participation', it attempted to handover the entire responsibility of primary education to Panchayats.
 - a) DPEP advocated for two types of education – MLL (Minimum Level of Learning) for vast majority of children studying in government schools. And another OLL (Optimum Level of Learning) for a few who can afford to pay. The RTE has sanctioned these two types of education. For the first time in the Indian history the discrimination got a legal sanction! 'Minimum' Education is assured till class 8! What will be the fate of a child after that? The 'have-nots' with minimum education can they face the life? Those who can pay they will go up the ladder of education! An ACT which upholds discrimination is alien to democracy. So, RTE Act transgresses individuals' Rights.
 - b) Further the DPEP brought fundamental changes in the teaching methods and jeopardized the learning process. In the name of 'child centered' approach it diluted the authority of a teacher. Teacher was called a 'facilitator'; he should not teach anything and the students should learn everything under the sun right from the scratch. In our state it was under the name Nali-Kali. This entire programme firstly, abdicated the government from funding education. Secondly, it revised and distorted the time-tested pedagogy, systematic learning of language, science and mathematics. This entire programme was implemented

only in government schools! It was a conspiracy to divert a vast section of poor children from the mainstream of education. And deprive them from getting real knowledge and scuttle their growth. It was an attempt to destroy the entire process of learning, teaching and cultivation of knowledge and thus seriously jeopardize the harmonious development of children. It was a fraud on democracy! What a tragedy the RTE has virtually upheld this distortion!

- c) The design to make education a 'global commodity' is the inspiration for the government to enact the RTE. The RTE in course of time will become an effective tool in the hands of our rulers to fulfill their global aspirations. All the above sections and others vindicate this view.
6. The RTE advocates for CCE (Continuous Comprehensive Evaluation) in schools. And one of its facets, the 'No detention policy till class 8'! It also advocates for teaching & learning in tune with the DPEP (Chapter V, Section 29 (2)- (e),(g) and (h)). Inspired by the American experiments, the rulers are enforcing a host of examination reforms all are various facets of CCE. In the name of freeing students from the fear of examination, the CCE will put students under undue duress and constant fear of exams. Teachers are totally engaged in writing the records of 'student's performance'. The students find no time either for learning or for socio-cultural and extra curricular activities. If there are no exams then there will be no target before teachers and students; they may become casual about teaching and learning. That the practice of no detention policy would seriously jeopardize the quality of education was raised by us several years ago. It has been vindicated in the report submitted by the parliament standing committee. Further, in a country like ours, if the right to evaluate (both at primary and higher education) a student is given to the private managements who have the dubious distinction of being notorious, it may become a tool in their hand to harass the students and teachers.
7. In our state the government is reimbursing the fee of 25% of students in private schools, and has allotted Rs.1,100 for each student! If the private managements swindle the parents in the name of uniform, text-books, bus facility etc, how to stop it? This law is silent over it. If the state is capable of spending so much money on every student, then what prevents the government from using the same amount and improve our government schools? Particularly in rural areas the private managements are happy with this policy because the government is sending 'customers' to fill the vacant seats and also filling their coffers with money!

So, to reject RTE-2009 people have got not one but many reasons:

- 1) It abdicates the government from funding education.
- 2) It legalizes privatization and commercialization of education.
- 3) It distorts and robs the very right to education and life and makes the right a mockery.
- 4) It supports the fundamental changes in pedagogy, teaching, learning and examination methods which are detrimental to the very process of cultivation of knowledge and harmonious development of a child.
- 5) It is in favour of highly discriminatory MLL & OLL education systems.

The RTE robs away whatever rights hitherto enshrined in the constitution and enjoyed by the people. So, we have to reject this RTE 2009 in toto. Instead we have to demand for such an act which will make education truly a democratic right. This act should completely ban donation and capitation fee in all forms, and the onus of providing education for all should rest with the government alone.