

## RIGHT TO EDUCATION (RTE) ACT 2009

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### ABSTRACT

Article 21-A and the RTE Act came into effect on 1 April 2010. The title of the RTE Act incorporates the words 'free and compulsory'. 'Free education' means that no child, other than a child who has been admitted by his or her parents to a school which is not supported by the appropriate Government, shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing elementary education. 'Compulsory education' casts an obligation on the appropriate Government and local authorities to provide and ensure admission, attendance and completion of elementary education by all children in the 6-14 age group. With this, India has moved forward to a rights based framework that casts a legal obligation on the Central and State Governments to implement this fundamental child right as enshrined in the Article 21A of the Constitution, in accordance with the provisions of the RTE Act.

**Keywords:** BEEOs- Block Elementary Education Officers, BRCs- Block Resource Coordinators, CABE- Central Advisory Board of Education, EE- Elementary Education, RTE- Right to Education, SMC-School Management Committee.

### INTRODUCTION

Education is defined as the process of development. The right to education is among the listed human rights whose status affects the realization of all other rights. Education in the Indian constitution is a concurrent issue and both centre and states can legislate on the issue. The Act lays down specific responsibilities for the centre, state and local bodies for its implementation. The states have been clamoring that they lack financial capacity to deliver education of appropriate standard in all the schools needed for universal education. Thus it was clear that the central government (which collects most of the revenue) will be required to subsidize the states.

#### History of act

Mahatma Gandhi gave the call for universal education in 1937. Sixty one years since independence; fifty eight years since the Constitution, instead of making education a fundamental right made it part of the Directive Principles; fifteen years since the Supreme Court in 1993 ruled on the right to education; six years after the 86th constitutional amendment was passed by the Parliament in 2002 by inserting Article 21A making education a fundamental right for children in the restricted age group of 6 to 14 years; and four years after the draft bill was prepared by the CABE committee, The 86th Amendment Act, 2002, made three specific provisions in the Constitution to facilitate the realization of free and compulsory education. A rough draft of the bill was composed in year 2005. The Right to Free and Compulsory Education Bill was introduced in the Rajya Sabha on 15 December 2008. The bill was approved by the cabinet on 2 July 2009. Rajya Sabha passed the bill on 20 July 2009 and the Lok Sabha on 4 August 2009. It received Presidential assent and was notified as law on 26 August 2009 as The Children's Right to Free and Compulsory Education Act. The law came into effect in the whole of India except the state of Jammu and Kashmir from 1 April 2010, the first time in the history of India a law was brought into force by a speech by the Prime Minister. In his speech, Manmohan Singh, Prime Minister of India stated that, "We are committed to ensuring that all children, irrespective of gender and social category, have 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.

#### OBJECTIVES OF RTE

Provision of free and compulsory education of satisfactory quality to children from this advantage group and weaker section is therefore not nearly the responsibility of schools own or supported by the appropriate governments & but also of schools which are not dependent on government schools.

#### PROVISIONS (RIGHT OF CHILDREN)

**To free and compulsory admission, attendance and completion of EE.**

- **Free**  
No child liable to pay any fee/expense preventing her from pursuing and completing EE.
- **Compulsion**  
On the state; parental duty to send children to school.

**Not enrolled/dropout children be admitted to age appropriate class.**

**No child shall be failed or expelled up to class 8**

**Bars corporal punishment mental harassment.**

#### PROVISIONS (TEACHERS)

1. Qualification for appointment of teachers to be laid down by academic authority authorised by Central Government.
2. Academic responsibilities of teachers laid down
3. Prohibits deployment of teachers for non-education purpose, except for:
  - Decennial census
  - Disaster relief
  - Elections to Parliament, State Legislatures, Local Bodies.

#### Provisions (Schools)

**Norms and standards specified for all schools**

- Infrastructure and related facilities

- Pupil Teacher Ratios – for each school
- School days; working hours for teachers
- Facilities

#### **Community participation in schools ensured through SMC comprising elected reps, teachers and parents**

- $\frac{3}{4}$  members from among parents of children in the school; 50% women
  - Proportionate representation to weaker and deprived sections
  - SMC to plan, manage and monitor – in collaboration with the local authority
1. All aided schools to provide free education to at least 25% children.
  2. Special category schools and unaided schools to admit in Class I at least 25% children, belonging to weaker section and disadvantaged group, from the neighborhood, and provide free and compulsory elementary education.
- No capitation fees
  - No screening for admission
  - No school without recognition.

#### **Status of Implementation**

A report on the status of implementation of the Act that 8.1 million children in the age group 6-14 remain out of school and there's a shortage of 508,000 teachers country-wide. A shadow report by the RTE Forum representing the leading education networks in the country, however, challenging the findings pointing out that several key legal commitments are falling behind the schedule. The Supreme Court of India has also intervened to demand implementation of the Act in the Northeast. It has also provided the legal basis for ensuring

pay parity between teachers in government and government aided schools.

Haryana Government has assigned the duties and responsibilities to BEEOs-cum-BRCs for effective implementation and continuous monitoring of implementation of Right to Education Act in the State.

#### **CONCLUSIONS**

The Right to Education (RTE) Act would play an important role in achieving universal elementary education in India, but it is amply clear that year one of the implementation of the Act has not covered much ground. In order to meet the goals set by us, India must prioritize and invest in making the Act a reality through dialogue and consultation with key stakeholders within and outside the government. Else the Act will join the ranks of yet another legislation which never covered the distance between conceptualization and implementation.

The current SSA is incompatible with the fundamental rights based requirements of

The bill; the central government would have to decide whether to reformulate the SSA

appropriately or to bring in a completely different funding mechanism to implement the

fundamental right.

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