

Study And Review Of Constitutional Provisions Related To RTE In India

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Abstract: Indian citizens have the right to get education free. This right has been defined in the Indian Constitution. This provision binds the hands of the state government as they have a duty to provide education to all kids falling under the age limit defined in the provision. The provision defined education as it is subject of state. In this paper we defined the provision of education in India. In 1976, an amendment was included in the article 42 and then education became parallel issue which authorizes the central government to legalize it. In 2002, 86th constitutional amendment was passed in the parliament which became the education as a fundamental right.

Keywords: Right to education, Constitution, Implementation, Amendments

Introduction

The Indian ¹Constitution has defined the education is the issue of state government therefore it is the responsibility of the state government to provide free education to all kids. The first amendment was held in article 42 of Indian constitution in the year of 1976. This provision give the direction to state government related to education as it is the issue of the child interest. Hence, it became essential for the government to fulfill their duty properly. Literacy forms a foundation stone in making the provision of equality as there is no discrimination in the entire citizen of India.

Constitutional provision: “The Indian constitution has ²provisions to assure that the State government endows education to each and every kid. Indian constitution binds the hands of the state government to provide the education to all kids. The right of education is the only right which detects its location in different section of our constitution such as Fundamental Rights, Directive Principles of the State Policy and Fundamental Duties”. All these parts were summed up into 86th amendment act of constitution which was held in 2002.

¹ Vision India “Right to Education”

² Lawtimes journal “constitutional right to education”

Constitutional provision in India

Many modifications have been held in the 42nd amendment of Indian constitution. This amendment was held to become the education as a fundamental right of all people in India. In Indian constitution all the responsibility of education is put on the central government. This thing is very difficult for the government to also build provision or monitor the education system regularly. The constitutional provisions in the field of education are as follows:

Free and Compulsory Education: Article 45 of Indian constitution defines under the DPSP that, “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 term “State” defined in the article 12 which contains “*The Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.*” Article 45 of the Indian constitution evidently defined that free and compulsory education is the responsibility of both the government.

Education of Minorities: In the “Indian constitution Article 30” defines the ³educational and cultural rights. It includes:

- “All minorities whether based on religion or language, shall have the right to establish and administer educational institutions of their choice”.
- “The state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language”.

Language Safeguards: “Article 29(1) states Any section of the citizen, residing in the territory of India or any part thereof having a distinct language, script or culture of its own, shall have the right to conserve the same. Article 350 B provides for the appointment of special officer for

³ Z. Khan “constitutional provision on education in India”

linguistic minorities to investigate into all matters relating to safeguards provided for linguistic minorities under the Constitution”.

Education for Weaker Sections: *“Article 15, 17, 46 safeguard the educational interests of the weaker sections of the Indian Community, that is, socially and educationally backward classes of citizens and scheduled castes and scheduled tribes. Article 15 states, Nothing in this article or in clause (2) of Article 29 shall prevent the state from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the scheduled castes and the scheduled tribes.”*

Article 46 of Indian constitution, the apex government is accountable for educational and economic growth of the SC and ST. it is also a part of the directive principle of state policy which includes, *“The state shall promote with special care the educational and economic interests of the weaker sections of the people and in particular, of the Scheduled castes and Scheduled Tribes and shall protect them from social injustice and all forms of exploitation.”*

Secular Education: In India there was no spiritual as it is a laic nation in the world. Indian⁴ Constitution has a provision related to minorities however they belong to different religion, language, cast, etc. they all have a right to get education with all kids. The provision related to secular education are given below:

“Article 25 (1) of the Constitution guarantees all the citizens the right to have freedom of conscience and the right to profess, practice and propagate religion”.

“Article 28 (1) states, No religious instruction shall be provided in any educational institution if wholly maintained out of state fund”.

“Article 28 (2) states, Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or Trust which requires that religious instruction shall be imparted to such institution”.

“Article 28 (3) states, No person attending any educational institution by the state or receiving aid out of state funds, shall be required to take part in any religious instruction that may be

⁴ Z. Khan “constitutional provision on education in india”

imported in such institutions or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person a minor, his guardian has given his consent thereto”.

“Article 30 states, The state shall not, in granting aid to educational institution maintained by the State or receiving aid out of State funds, on grounds only of religion, race, caste, language or any of them.”

Equality of Opportunity in Educational Institutions: “Article 29(1) states No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds, on grounds only of religion, race, caste, language or any of them.”

In 1964-66, Kothari Commission suggested that education must be subject of the central issue as they make equal policies in all the state and there is no bias among the states. The upliftment of the weaker section is only possible through the central government as there is a lot of discrimination was found in the states. People of low caste did not have the right to get education with the upper caste child. This suggestion was get a high attention and both the government was agreed to monitor the education system.

Mother -Tongue: Hindi language is a mother tongue of our nation. There are some provision exist in our constitution related to mother tongue which are given below:

“Article 26 (1) states, Any section of the citizens, residing in the territory of India or any part thereof, having a distinct language, script or culture of its own, shall have the right to converse the same.”

“Article 350 A directs, It shall be endeavour of every state and every local authority to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups.”

Article 351: “It is to promote the development of Hindi language and states that it shall be the duty of the Central Government to promote the spread of Hindi language in the entire country”.

Higher Education and Research: “Parliament has the exclusive rights to enact legislation in respect of institutions and Union Agencies mentioned in entries 63, 64, 65, and 66 of List. The entries which give authority to the Government of India in education are mentioned below:

Entry 63 of the Union List: The institutions known at the commencement of this Constitution as the Banaras Hindu University, the Aligarh Muslim and the Delhi University, and any other institution declared by Parliament by law to be an Institution of National importance”.

Entry 66 of the Union List: “Co-ordination and determination of standards in institution for higher education or research and scientific and technical institutions”.

Women’s Education: Women education is essential for development of the nation as they take huge part of the population. So, it is necessary for the nation to give priority to them in the field of education. In Indian constitution many provision are exist related to women education which are given below:

“Article 15(1) provides that the ⁵State shall not discriminate any citizen on groups only of sex.

Article 15 (3) reads: Nothing in this article shall prevent the State from making any special provision for women and children”.

The Policy states, “Education will be used as an agent of basic change in the status of women. In order to neutralize the accumulated distortions of the past, there will be a well conceived edge in favour of women.”

Education in the Union Territories: “Article 239 of the Constitution states, Save as otherwise provided by Parliament by Law, every Union Territory shall be administrator by the president acting to such extent as he thinks fit through an administrator to be appointed by him with such designation as he may specify.”

Educational and cultural relations with foreign countries: “Entry 13 of the Union List reads. Participation in international conferences, associations and other bodies and implementing decisions made there at”.

⁵ “selected articles of the Indian constitution”

Conclusion

Education is the fundamental right of all citizens of India. “According to the Act, a child should be provided with good infrastructure school within every 1km to 3km, and it is the duty of the government to adhere to the same and increase the quality of existing government run schools instead of imposing unnecessary regulations on private institutions. However government alone cannot bring noteworthy modification in school education without the support of guardians and community members”. Government took many initiatives in the field of education to provide it on the root level. So, the society and country can develop yourself through giving education to all kids and it is essential for the growth of the country.

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