

RIGHT TO EDUCATION ACT- 2009: AN INCLUSIVE ACT

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Abstract

There is a great importance of education in life because from the day one when child takes birth he starts learning and till the end of his life he learns something and in this education plays an important role because education opens our mind, widens our views and helps us in becoming good citizen of a country that's why elementary education is a must.

To ensure education to every child central government has provisioned an act named as Right to Education 2009 (RTE). Right to education is an act, the Parliament of India has enacted on 4th August 2009, which describes the modalities of the importance of free and compulsory education to children between the ages of 6 to 14 years in India under Article 21A of the Indian Constitution. When the act came into force on 1st April 2010 education became a fundamental right of every child.

The title of the RTE Act incorporates the words "free and compulsory". Free education means that no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her for pursuing and completing elementary education from class I to class VIII. Compulsory education means the responsibility of government and local authorities to provide and ensure admission, attendance and completion of elementary education by all the children in the 6-14 years age group. With this, India has moved forward to a right based frame work that casts a legal obligation on the central and state government to implement the fundamental child right as enshrined in article 21A of the constitution, in accordance with the provision of the RTE Act .It is an inclusive act as it covers children belonging to weaker section and disadvantaged group for their educational needs and their holistic development.



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INTRODUCTION: - Right to Education Act

Every child between the ages of 6 to 14 years has the right to free and compulsory education. This is stated as per the 86th Constitution Amendment Act via Article 21A. The Right to Education Act seeks to give effect to this amendment.

The government schools shall provide free education to all the children and the schools will be managed by School Management Committees (SMC). Private schools shall admit at least 25% of the children in their schools without any fee. The National Commission for Elementary Education shall be constituted to monitor all aspects of elementary education including quality.

OBJECTIVES: - Main Features of Right to Education (RTE) Act, 2009

- Free and compulsory education to all children of India in the 6 to 14 age group.
- No child shall be held back, expelled or required to pass a board examination until the completion of elementary education.
- If a child above 6 years of age has not been admitted in any school or could not complete his or her elementary education, then he or she shall be admitted in a class appropriate to his or her age. However, if a case may be where a child is directly admitted in the class appropriate to his or her age, then, in order to be at par with others, he or she shall have a right to receive special training within such time limits as may be prescribed. Provided further that a child so admitted to elementary education shall be entitled to free education till the completion of elementary education even after 14 years.
- **Proof of age for admission:** For the purpose of admission to elementary education, the age of a child shall be determined on the basis of the birth certificate issued in accordance with the Provisions of Birth, Deaths and Marriages Registration Act 1856, or on the basis of such other document as may be prescribed. No child shall be denied admission in a school for lack of age proof.
- A child who completes elementary education shall be awarded a certificate.
- Call need to be taken for a fixed student–teacher ratio.
- Twenty-five per cent reservations for economically disadvantaged communities in admission to Class I in all private schools is to be done.
- Improvement in the quality of education is important.
- School teachers will need adequate professional degree within five years or else will lose job.
- School infrastructure (where there is a problem) need to be improved in every 3 years, else recognition will be cancelled.
- Financial burden will be shared between the state and the central government.

FORMATION OF RTE ACT 2009

Article 21A of the Constitution - Constitution (Eighty - Sixth Amendment) Act, 2002.

December 2002

86th Amendment Act (2002) via Article 21A (Part III) seeks to make free and compulsory education a Fundamental Right for all children in the age group 6-14 years.

October 2003

A first draft of the legislation envisaged in the above Article, viz., Free and Compulsory Education for Children Bill, 2003, was prepared and posted on this website in October, 2003, inviting comments and suggestions from the public at large.

2004

Subsequently, taking into account the suggestions received on this draft, a revised draft of the Bill entitled Free and Compulsory Education Bill, 2004

June 2005

The CABE (Central Advisory Board of Education) committee drafted the 'Right to Education' Bill and submitted to the Ministry of HRD. MHRD sent it to NAC where Mrs. Sonia Gandhi is the Chairperson. NAC sent the Bill to PM for his observation.

14th July 2006

The finance committee and planning commission rejected the Bill citing the lack of funds and a Model bill was sent to states for making the necessary arrangements. (Post-86th amendment, States had already cited lack of funds at State level)

2009

Right of Children to Free and Compulsory Education Bill, 2008, passed in both Houses of Parliament in 2009. The law received President's assent in August 2009.

1 April 2010

Article 21-A and RTE Act comes into effect.

Right to Education Bill

In 2002, education was made a fundamental right in the 86th amendment to the Constitution. Six years after an amendment was made in the Indian Constitution, the union cabinet cleared the Right to Education Bill. Key provisions of the Bill include: 25% reservation in private schools for disadvantaged children from the neighbourhood, at the entry level. The government will reimburse expenditure incurred by schools; no donation or capitation fee on admission; and no interviewing the child or parents as part of the screening process. The Bill also prohibits physical punishment, expulsion or detention of a child and deployment of

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teachers for non-educational purposes other than census or election duty and disaster relief. Running a school without recognition will attract penal action.

The Right to Education Bill is the enabling legislation to notify the 86th constitutional amendment that gives every child between the age of six and 14 the right to free and compulsory education.

25% quota for poor

The Supreme Court upheld the constitutional validity of Right of Children to Free and Compulsory Education Act, 2009, on April 12, 2012 and directed every school, including privately-run ones, to give immediately free education to students from socially and economically backward classes from class-I till they reach the age of 14 years.

The court threw out the challenge by private unaided schools to Section 12(1)(c) of the Act that says every recognized school imparting elementary education, even if it is an unaided school not receiving any kind of aid or grant to meet its expenses, is obliged to admit disadvantaged boys and girls from their neighbourhood.

A Roadmap to Ensure Right to Education

The National Commission for Protection of Child Rights (NCPCR) has been designated as the agency to monitor provisions of the Right to Free and Compulsory Education (RTE) Act.

School Admissions According to RTE Norms

A series of measures have been taken by the NCPCR to ensure that school admission procedures all over the country are in accordance with the Right of Children to Free and Compulsory Education (RTE) Act, 2009. This was necessitated by the fact that schools in some states were carrying out a screening procedure for admission of children in the elementary stage of education prohibited by the Act. In April, the NCPCR wrote to the chief secretaries of all the states asking them to issue Government Orders to ensure that school admission procedures were in accordance with the RTE Act. This was prompted by the Directorate of Education, Government of National Capital Territory of Delhi (GNCTD), issuing a notice in March inviting applications for admission to Class VI in the Rajkiya Pratibha Vikas Vidyalayas run by the Directorate.

The NCPCR's intervention in April came in response to an admission notice that had been issued by the GNCTD's Directorate of Education in all leading newspapers as well as in the

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Directorate's website, inviting students to purchase application forms costing Rs 25 each and thereafter sit for an entrance exam. Since the RTE Act prohibits any kind of screening procedure and permits admissions into any school through random selection only, the notice was clearly in contravention of the Act.

As the nodal body monitoring the implementation of the RTE Act, the Commission wrote to the Principal Secretary, Education, GNCTD, asking the admission notice be withdrawn and a notice in Conformity with the provisions of the RTE be issued instead. It also requested that Government Orders (GO) be issued to all schools in the GNCTD within a week regarding the provisions of the Act so that the schools made the required changes in their procedures and modes of functioning.

As the Directorate did not comply with this request, it was summoned by the Commission in June and given time till July to re-conduct the admission in accordance with RTE procedures. To ensure that the RTE Act was not similarly contravened in other states, the NCPCR has in its letter to the chief secretaries said that the GO they issue to schools on the matter must specify that:

1. Admission procedures be made in accordance with the RTE Act
2. 25 per cent reservation is ensured for weaker sections in all 'specified category' schools and private unaided schools, and reservation norms for government aided schools are to be followed

Further, private schools recognized by the government must also be mapped out and issued notice regarding provisions in the Act as well as the procedures by which children in the neighbourhood could claim admission to the schools. Also, the task of finalizing State Rules on the RTE Act must be completed at the earliest.

In response to queries regarding Navodaya Schools which have been designated as 'specified category' schools in the RTE Act, the NCPCR clarified that the provisions of Section 13 of RTE Act applied to all schools without exception.

The relevant provision of Section 13 of the Act is:

No school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardians to any screening procedure. Any school or person, if in contravention of the provisions of sub-section (1):

1. Receives capitation fee, shall be punishable with fine which may extend to ten times the capitation fee charged
2. Subjects a child to screening procedure shall be punishable with fine which may extend to Rs 25,000 for the first contravention and Rs 50,000 for each subsequent contravention.

Eligibility for Teachers

The following persons shall be eligible for appearing in the TET:

1. A person who has acquired the academic and professional qualifications specified in the NCTE Notification dated 23rd August 2010.
2. A person who is pursuing any of the teacher education courses (recognized by the NCTE or the RCI, as the case may be) specified in the NCTE Notification dated 23rd August 2010.
3. The eligibility condition for appearing in TET may be relaxed in respect of a State/UT which has been granted relaxation under sub-section (2) of section 23 of the RTE Act. The relaxation will be specified in the Notification issued by the Central Government under that sub-section.

Each child to get free uniform, books under RTE

Each child from class I to class VIII in the country will be provided free textbooks and uniforms, if a roadmap prepared by the Centre to implement the Right To Education Act (RTE) is accepted by the states.

The roadmap to implement the Right of Children to Free and Compulsory Education Act was discussed at a meeting of state Education Secretaries recently.

According to the minutes of the meeting:

1. Nearly 7.8 lakh additional classrooms and seven lakh girls' toilets will have to be created to implement the new law which has come into force from April 1. The government will spend Rs 1.71 lakh crore in the next five years for implementing the Act.
2. Each child will be provided uniforms at Rs 400 per annum. Many states are already providing uniforms from their own budget. "But the uniforms will have to be provided by the state governments. They need to agree to this provision and incorporate it in their rules," a HRD Ministry official said.

3. Every child will be provided free textbooks while a child with special need will get Rs 3,000 per annum for inclusive education. Similarly, Rs 10,000 will be given for home-based education for severely disabled children.
4. There will be a requirement of additional 5.1 lakh teachers to meet the pupils-teacher ration of 30 for one as per the RTE Act. In UP, there is a requirement for 1.5 lakh teachers, followed by Bihar and Gujarat (0.5 to one lakh each), according to the minutes of the meeting.
5. The Rs 1.71 lakh crore will be spent on provision of access, infrastructure, training of untrained teachers and for intervention for out-of school children. The teachers' salary and civil work will have maximum financial requirements of 28 per cent and 24 per cent respectively.
6. Nearly 17 per cent of the total estimate will be spent on child entitlement, while nine per cent will go to special training for out-of-school children. School facilities will require eight per cent of this money and inclusive education will need six per cent.
7. The 7.6 lakh untrained teachers will be provided training in next five years. Maximum numbers of untrained teachers are in Bihar, Jharkhand and the northeastern states.
8. The RTE stipulates barrier-free education for children with special needs and one classroom per teacher. About 7.8 lakh additional classrooms will be required. Majority of these classrooms will be Uttar Pradesh and Bihar (2.5 lakh each) followed by West Bengal (1.3 lakh) and Assam (30,000).
9. There are nearly 27,000 'kuchcha' school buildings which will have to be upgraded. Nearly seven lakh toilets for girls will be required, including 90,000 in Bihar, 63,000 in Madhya Pradesh and 54,000 in Orissa. About 3.4 lakh schools will require drinking water facility.

CONCLUSION:

The Right to Education (RTE) Act, 2009 states that every child in the country has the right to study and it is must that quality education is provided to them. Article 21 – A and RTE Act are the two rules which brought the right to education in India a dream come true. Right to education transformed children into students. Right to education is one of the best acts, our government has ever introduced. It provided an opportunity for the children who can't afford

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to study. Elementary education became necessary under this act. Due to this act every child now becomes literate and no one can make fool of them. It provides us power at international level as literacy rate is a measure of country's manpower. This Act had brought smile on the innocent faces of the child, who was earlier unknown about this fascinating world of knowledge.

Related Resources / References

Right to Education Bill 2005.

Reservation in Private Schools under the Right to Education Act.

Procedure of Admission in to schools under the RTE.

SSA final report on RTE act-2009.

Guidelines under Section 35(1) of the RTE Act, 2009.

Corrigendum in respect of section 19(1) of the Right of Children to Free and Compulsory Education Act , 2009.

Eligibility for Appointment as Teacher for the class I to VIII under the RTE.

Teacher Eligibility Test under the RTE.

Model rules under the right of children to free & compulsory education act 2009.

The Right of Children to Free and Compulsory Education Rules, 2010 .A.P Right of Children to Free and Compulsory Education Rules, 2010.

Notification of the Constitution (Eighty-Sixth Amendment) Act, 2002 and Right of Children to Free and Compulsory Education Act, 2009.