

RIGHT TO EDUCATION AS A UNIVERSAL RIGHTS

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INTRODUCTION

Though there are various definitions of the term 'Education' I would like to mention few definitions which are worth quoting. Mr. Will Durant defines 'education' as the "transmission of civilization". George Bernard Shaw, one of the eminent thinkers of the last century, while talking about 'education' spoke thus:- "A fool's brain digests philosophy into folly, science into superstition, and art into pedantry. Hence University education."

George Peabody has defined 'education' as follows:- "Education: a debt due from present to future generations."

The purposes of education are manifold. Some one has rightly called it the beauty of learning. It has energy, prowess, animation, activation and inherent potentiality of transformation.

THE CONCEPT OF EDUCATION IN ANCIENT INDIA

In ancient India the social thinkers and philosophers thought that education makes a man a complete human being in its conceptual essence and connotative continuum. Bhartnihar,

the famous poet, sang in the glory of 'Vidya', translation of which mean that education is the most resplendent exposition of a man and in it inheres the concept of quintessential treasure. It is the bedrock of all happiness, fame and pleasure. Education is the preceptor of the teacher and acts as a dear friend in travel and is the supreme creative intelligence. It is education but not money which is honoured and respected in the royal assembly. For these reasons, a man without education is equated with an animal.

Another Sagacious sage had said as follows:

"Na Chouraharyama Na Cha Rajaharvam, Na Bhartrubharyama Na Cha Bharakari,
Vyaye Krite Vardhata Eva Nityam Vidya Dhanam, Sarva Dhanam Pradhanarn.-

From the aforesaid it is quite luminescent that it is education, the real hidden treasure in a man, which comes to his aid. Not for nothing it has been said that the process of evolution from ignorance to knowledge, from knowledge to wisdom and from wisdom to understanding of consciousness takes place through education which is regarded as a part of dignified attainment. It is education which teaches purity of mind, righteousness of conduct and truthfulness of soul and prowess to assert for right.

FUNCTIONALISM OF EDUCATION

Education has its functionalism in almost all spheres of life. Its signification can never be marginalized. An educated society prepares the present generation for a bright future and enables the individual to galvanize the capacity of collective. More than 2300 years back Chanakya had said:-"That mother and that father are enemies, who do not give education to their children"

In the recent past Nelson Mandela had proclaimed:-"Education is the most powerful weapon which you, cal: use to change the world"

Spencer makes five divisions which have pertinence to mans functioning of life, especially, in the realm of 'education. They are:-

- (i) Self Preservation;
- (ii) Indirect Self Preservation;
- (iii) Rearing of Off-spring;
- (iv) Establishment of Social and Political Life; and
- (v) Obtaining of Economic Empowerment.

In the ancient days learning was compared to collection of honey in a gradual manner from the flowers to be treasures and utilized through out life. Not for nothing the thinkers of the yester years used to proclaim that "courage is the mother of all virtues and the education aids and fosture such virtues to make it a ripened one.'

Life has been treated as a precious gift of nature. Education is fundamentally the 'Enlightenment' of life. It confers dignity to a man. It helps to transfigure the human personality into a pattern of perfection through a synthetic process of development of the body and upliftment of the mind. It supplements the emotions and illumines the spirit. In a democratic polity the sustenance of cultured governance is dependent upon the enlightenment of the populace. That is why it becomes a social as well as a political necessity.

INTERNATIONAL CONVENTIONS

Before one looks at the national front it is worth having a glance at the universal backdrop. The European Convention guarantees civil and political dimensions of the Right to Education. The European Social Charter in 1996 added economic and social dimensions to

the Right to Education. Though the 1962 UNESCO Convention against Discrimination in Education is the oldest global treaty guaranteeing free and compulsory education, it was followed by the International covenant on Economic, Social and Cultural Rights. The Convention on the Rights of the Child included the most far-reaching guarantee of the Right to Education encompassing its orientation and content as well as specific provisions for minority and indigenous children and children with disabilities, and has been ratified by almost all countries of the world. These treaties map out the international legal framework securing free and compulsory education for all children, the fundamental requirement of the right to education.

CONSTITUTIONAL FRAMEWORK OF THE OTHER COUNTRIES

The Constitution of Ireland recognizes the Right to Education as a fundamental right by way of Article 42 of the Fundamental Rights which guarantees parents the right to determine how their children shall be educated, provided a minimum standard is met. Under the same article, the State must provide free primary level education. Currently, the Irish law also guarantees free second and third level education. Article 13 of the U.N. Covenant on Economic, Social and Cultural Rights (IESR) declares that primary education be made compulsory and free and Article 14 of the Covenant states in absolutely certain terms that "states are bound to work out a comprehensive plan to provide free, compulsory primary education" and even underlines the need to implement this in a time bound manner. The global concept was brought home by the constitutional amendment.

CONSTITUTIONAL POSITION OF RIGHT TO EDUCATION IN INDIA

Article 21-A of the Constitution of India has been inserted by the Constitution (Eighty sixth) Amendment Act of 2002 by which Right to Education has been made a fundamental right.

The said amendment provides for:-

(0 insertion of a new Article 21-A that 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;

- (ii) substitution of Article 45 that the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years;

amendment of Article 51A inserted therein a new clause (k) after clause (i) that who is a parent or guardian to provide opportunities for education to his child or ward, as the case may be, between the age of six and fourteen years.

Thus, a new article, Article 21-A, was inserted in the Constitution of India after Article 21 requiring the State to provide for free and compulsory education to all children of the age of six to fourteen years. Through this significant amendment, the right to education has been incorporated as a fundamental right.

EDUCATION AND LEGAL AWARENESS

Every citizen of India has been conferred certain rights. They have been encapsulated under Chapter III of the Constitution. That apart, certain rights have been statutorily provided. One has to christen them as statutory rights. But, an eloquent and fertile one, no right can ever be fructified without understanding the nature and character of the right. The norms of the rights are to be well envisioned. Sans such vision the entire exercise is a Sisyphean endeavour. One may harbor the idea in that granting legal aid would benefit the person who wants to vindicate his rights in law but such notion is fundamentally a mirage. To achieve the real realization of the right in a pragmatic manner, the legal education and awareness of the same are absolutely necessitous. A free legal service to the ignorant and illiterate is an elementary way may become a mockery of aiding people to concretize their rights. They have to be brought in the mainstream of education; to be aware of the Rights which the Constitution, Statutes, and the Executive Circulars confer. The right to education cannot be a stamp on the paper. It cannot be a mere paper tiger. It must have teeth and a voice to roar. The state and its functionaries are under obligation to remember that life bereft of education

lacks real signification for right to education nourishes and cultivates dignity in a man. It is of transcendental importance.

In *Modern School vs. Union of India*, AIR 2004 SC 2236, the Supreme Court expressed an opinion that the "States have a duty to impart education and particularly primary education having regard to the fact that the same is a fundamental right within the meaning of Article 21 of the Constitution."

In *State of Bihar vs. Project Uchcha Vidya, Shikshak Sangh*, (2006) 2 SCC 545 it has been said "Imparting of education is a sovereign function of the State and is the primary duty of the State. Although establishment of high school may not be a constitutional function in the sense that citizens of India above 14 years might not have any fundamental right in relation thereto, but education as a part of human development, indisputably is a human right."

STEPS TO ENSURE THE EFFECTIVENESS OF RIGHT TO EDUCATION/LEGAL EDUCATION

- a) Effective awareness camps should be held in semi-urban and rural areas to make people aware that they have a right to be educated upto a particular age.
- b) The authorities under the State Legal Services Authorities Act should spread legal awareness among the illiterate and uneducated masses of people about their rights and ways to remedy their violation of rights.
- c) The Legal Aid Clinics should be opened at every District Headquarters in collaborations with the district administration so that the people can put forth their grievances and get the right advice which in the ultimate eventuate becomes education.
- d) The authorities should ensure participation of law students to teach and educate the poor and the uneducated.
- e) Measures for propagation through booklets, radio, and television should be undertaken

to apprise people that their poverty is principally due to their not-understanding the right to education and lack of awareness of enforcement of such rights.

- f) The functionaries of State Legal Services Authorities should be in a position to supervise along with the authorities of State Human Right Commission and other acceptable Non-Government Organizations in the State aided educational institutions, whether the education is imparted or in the name of education collective money is spent for individual avarice.
- g) The concept of institutional excellence should be taught to understand the basics of the rights to education and no one should wait for a leader but function as a leader in this regard.
- h) On the path of right to education every one should comprehend the paradigms that perception matters more than mere opinion. To elaborate: instead of mere data feed it should be functional awareness vision.
- (i) All concerned should be made aware that the principal and primary emphasis of a nation is education and education alone which can geometrically pave the path of awareness. The same should start from the grass root level as well as from the upstream so that the central point is reached.

CONCLUSION

Right to Education is a compelling right. It cannot be allowed to melt into paleness. It has to have the lighting of a fire. One should bear in mind that he owes it to the future generation, for in education there is an inherent of future growth. The collective should make the state aware of its duties and no state should take a plea of lack of funds to provide education or only provide half-hearted inadequate education. The education in its progressive process does not encompass any kind of apology. There can be no holding for education. There can only be festive lightening of awareness and alpine serenity. Such should be the education where one would not be in a position to rise and say-I refuse to mortgage my conscience and my self respect does not permit me to express my gratitude to a man who has trampled

over my rights despite the fact once did I stand: in obligation before him. The same can be realized if education becomes the healthy spinal cord of the society.

REFERENCES

1. MP. Jain Constitutional Law.
2. All India Reporter 2004
3. State Legal Services Authority Act