

RIGHT TO EDUCATION: MERE ADDITION TO THE CONSTITUTION OR A HARBINGER OF CHANGE?

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“Even education is considered as one of the element for good democratic country because an educated person may choose better representative, to form a government.”¹ Education is considered as a way towards successful life of an individual as well as of the country, because it is a tool through which person can live with dignity and can help himself to achieve his goals.²

Education account as fundamental right as well as human right, education is imperative for living life with dignity and life with dignity is fundamental for every human being. For protecting this right of individual, government has made law “THE RIGHT OT EDUCATION TO FREE AND COMPULSORY EDUCATION (RTE), 2009, which represents the consequential legislation envisaged under Article 21-A, means that every child has a right to full time elementary education of satisfactory and equitable quality in a formal school which satisfies certain essential norms and standards.”³ “There is a provision that children of age 6 to 14 will get free education”⁴, and state is making laws and provisions regarding this act but they fail to implement these laws properly because one of the main thing which stops proper implementation of this act is CHILD LABOUR.

Child labour is deleterious for education of children because it stops many children from availing this right which is made for them only, so that they can make their life successful. Children who work as domestic help are not aware of anything, even they don't know how to write or read. This thing act as violation of right to education because one side state is providing laws for education of these children and on other side children who working not getting any help from this act or provision.

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HOW CHILD LABOUR ACT AS HURDLE FORRIGHT TO EDUCATION ACT?

“Education Is Their Right, So Against Child Labour We Must Fight”⁵

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¹ Prof Krishna Pal Malik, *Right to elementary education*, p.30.

² Prof Krishna Pal Malik, *Right to elementary education*, p.30.

³ <http://mhrd.gov.in/rt>.

⁴ Article 21A, Constitution of India

⁵ Anshuman, <http://shoutslogans.com/child-labor-slogans-and-sayings>.

Children are the citizens of future; they are the key to the success and development of any country. For any country it is necessary that its human resource i.e. children are well developed and well educated so that they can work for the welfare economic growth of the country. Children are the most valuable resource of a country and they are exploited then the growth and development of whole country will be hampered. Therefore the protection of child rights is very important. For this government has made laws to protect, develop and educate children like Right to Education is one of the best example of the laws. But there are many things which act as hurdle in the development of children; one of the major hurdles is child labour. This paper deals how Right to Education Act works and how child labour violates this act.

EDUCATION AS A RIGHT TO CHILDREN

“Education is the basic element for success as it provides human dignity to a person and a way through which he can work for the development of himself and also for the development of the country.”⁶ “The fathers of the constitution after realizing the importance of the education added Article 45 as one of the directive principle of the state policy which imposed duty on state to provide free education to the children until they complete the age of 14 years.”⁷ This provision failed to serve its purpose and was not able to achieve its requisite objective. Later, “parliament has made the fundamental right to education, free and compulsory for the children of the age 6 to 14 years by the 86th amendment act 2002 article 21A and clause (k) in Article 51A with the substitution of Article 45 of the constitution.”⁸ The benefit of inserting the Article 21 A was that earlier the provision of free education was not enforceable because of directive principle and now it is enforceable as it comes under fundamental rights. “The Hon’ble Supreme Court in a PIL issued notice to all state and union territories for the enforcement of the right to education act by abolishing the child labour in all the forms in the age group of the 6 to 14 years. The bench expressed the concern for the continuance of the child labour and said that “They have to be in school. It is the duty of the state to provide them schools. They said that after this provision of the education, there could not be child labours.”⁹

CHILD LABOUR- EVIL PRACTISE

Child labour, the social evil still exist in the society. State has made the laws regarding child labour like child labour (prohibition and regulation) Act, 1986. “There are many acts which prohibit the employment of children below 14 years and 15 years in certain specified employments.”¹⁰ This act defines everything regarding the working of the child; there is penalty for employing the child below age of the 14 years like in one case “M.C. Mehta v. State of Tamil Nadu, apex court held that offending employer has to pay compensation of Rs

⁶ Prof Krishna Pal Malik, *Right to elementary education*, Allahabad Law Agency, second edition, 2012, p.30.

⁷ Supra Note 2

⁸ Prof. Krishna Pal Malik, *Right to Elementary Education*, Allahabad Law Agency, second edition, 2012, p.38.

⁹ Supra Note 4

¹⁰ V.K.Dewan, *Child Labour A Socio-Legal Perspective*, Pentagon Press, First Indian Edition, 2009, p.582.

20,000/- for every child employed.”¹¹ “In this case M.C. Mehta filed the petition for the children as their fundamental rights were violating, in Tamil Nadu there is town sivakasi is famous for the factories of match and fireworks employing 27,338 work men and of whom 2941 were children.”¹² Childlabour is harmful not only for the children but for the country too because child labour impedes the development of the children, mental and physical growth. Children are future of a country because they will represent the country further and will work for development of a country thatswhy childlabour is dangerous for country. When the child needs the nourishment, protection, education and time for the growth we made them work in factories, household, agriculture etc.

REASONS FOR EXISTANCE OF CHILD LABOUR

“Child labourers are not only exploited mentally or physically but are completely deprived of the opportunities of the education”¹³ because of the child labour, children are not able to use the right to education act, which provide them free and compulsory education. There may be many reason of working of any child; one of the major reasons is poverty. Parents let their children to work or force them to work is because of their financial condition, they don’t have enough money to eat, that’s why they forced their children to work in order to support their income. “Parents are ignorant, illiterate and extremely poor or too over burdened with debts even to dream of such a thing as the rights of the child, they only think about the children capacity to earn.”¹⁴ “Many enjoy of the inhabitants in rural areas are landless, and not conscious enough towards proper development of their children and thus they do not hesitate to send their children in labour market.”¹⁵ And children are made to work in factories or in any household world then how will they enjoy their right of education and how they will develop themselves. If the condition of children in country will remain same then there is question mark on the future of the country” Even some time lethargic attitude and lack of awareness of the parents and guardians are also cause of child labour in our society and due to educational backwardness and ignorance, the parents do not send their children in school.”¹⁶ Such attitude of parents destroys the future and life of children. To deal with this situation state has to make programmes for awareness of parents especially in rural areas, so that they can know the importance of education.

INEFFECTIVE IMPELMANTATIONS OF POLICIES - HURDLE IN DEVELOPMENT OF CHILDREN

For the failure of the right to education act not only child labour is responsible but also the state because making or drafting any law does not suffice the purpose, but proper implementation of law does. No doubt state has made many laws and even schemes of the education of the children but question is that whether they are properly implemented, whether

¹¹ Ibid at 585

¹² <http://www.rishabhdara.com/sc/view.php?case=13526>.

¹³ Usha Sharma, Child Labour in India, Mittal Publication, 1st Edition, 2006, p.140

¹⁴ Usha Sharma, Child Labour in India, Mittal Publication, first edition, 2006,p141 -142.

¹⁵ M.P. Shrivastav,Child Labour Laws In India, Law Publishing House, first edition,2006,pg.31.

¹⁶ M .P. Shrivastav,Child Labour Laws In India, Law Publishing House, first edition,2006,pg.33.

these schemes were successful. In India education comes under the concurrent list where state and centre government can make the laws regarding the education. “The centre and state has made many attractive schemes to send the poor children to the school like SarvaShikshaAbhiyan, Mid-day Meal, dress distribution etc. but all such effort made little efforts could make only little improvement. In such situation it is said that defect is within system, implementation and observation of schemes etc. to make this act successful it is necessary that all should play positive role without any greed at political, professional or at academic level.”¹⁷ It is important that state should come with the effective policies and proper system to implement these policies. Role of state not ends after making the law, their role start form there like state made the law for the education but they were not able to implement the laws properly because of which still children are out of the reach of this provision of free and compulsory education. One of the major problem is implementation of laws, “the implementation of laws left with the interested local bodies therefore excluding the children belonging to the areas where local bodies are least interested.”¹⁸ If this of type of work is done by the state then how any law will become successful, if implementation of provision of free and compulsory education is based on the choices of the officers of the machinery whether they want to work for this or not, then there are very few chances that every children will get the education or the benefit of this precious provision. State should check whether the laws and provisions which are made to provide to education are implemented properly or not. There is a problem that schools lacks infrastructure, poor quality of education and even teachers are not available many times, these are the services which is required to provide the education but state gives no attention to these problems. These are the deficit of not implementing the policies properly because services which were to be provided for attracting the children for attending school rather the condition of the school de- motivates the parents to send their children to the school. If there is no teacher in a school then how can a school run, what type of education children will get. These things show how laws are implemented.

If state has to implement the right to education act properly then state has to do something with child labour, as well as has to make attractive schemes so that poor parents can send their children to the schools. State has to make policies very carefully such that it doesn't affect the education in any case. There is one example of wrong policy of Rajasthan government which led to the drop out of many students. This policy was regarding the merger of the government schools due to which many students were forced to leave schools. There were many parents who refused to send their children to the school because of the high fee of the new school or due to the distance of school from their homes. When government of Rajasthan made this policy they never considered or thought that how this policy will affect the children and their career. This policy resulted in drop out of many students from schools and the problem is that these children belongs to poor families and because of drop out parents may send their children for work as they need money for their survival and they will get one more person who can earn. Like there is one more example of law which is not implemented properly and because of which this law promotes child labour. “It may be noticed that the adult workers are not getting the living or even the minimum wages fixed

¹⁷ Prof Krishna Pal Malik, *Right to elementary education*, Allahabad Law Agency, second edition, 2012, p.55.

¹⁸ Usha Sharma, *Child Labour in India*, Mittal Publication, first edition, 2006 , p. 151.

under Minimum Wages Act, 1948 due to lethargic attitude of enforcing agency compelling the poor parents to send their children in labour market to supplement their income instead of sending them to schools. So this is how this law also affected the future of children.

If government will continue to make this type of policies which indirectly or directly will affect the education of children then state is playing with the future of the children which in long run is harmful to our country. While making policies government should consider other things also so that policies which are made would not affect society.

SOME SCHEMES MADE BY GOVERNMENT FOR CHILDREN'S WELFARE

“Children of the nation are supremely important assets. Their nature and solicitude are our responsibility, children's programme should find a prominent part in our national plans for the development of the human resources, so that our children grow up to become the robust citizens, physically fit, mentally alert, and morally healthy; endowed with the skills and motivations needed by the society.”¹⁹ There are many schemes which are made by the government in order to eradicate the illiteracy problem, there are also policies which are made for children's education like SarvaShikshaAbhiyan, “this policy is made under the 86th amendment act 2002, it was programme of government of India in collaboration with the state government for the achieving the goal of the Universalization of the Elementary Education. Under this policy government has to provide new schools in the areas where there are no schools and all the other facilities which are needed for the education of the children.”²⁰ Another scheme is Mid-Day Meal, “One of the most popular scheme adopted to attract the students is the mid-day meal. This scheme was launched in 1995 to attract students, to retain the attendance in the school”²¹ This policy is effective because there are parents who are not able to afford the food so they send their children to the schools in order that they will get food to eat. But there is problem with is schemes also because of officers of government who are responsible for the implementation of this policy. Officer's personal interest, greed and negligence come in role while performing their duty. There are many example of failure of this scheme like one example is of “Bihar Mid- Meal Poisoning incident, in which due to the negligence of the headmistress of the school, 22 students died. This primary school where children of age group 6 to 12 were studying is in the saran district of the Bihar. Students of the school complained that there was lizard in the food and due to which children fell ill and even cook also fell ill. Even it was reported that cook refused to use that container but head mistress Meena Devi made use of that container and because of one mistake of that teacher 22 children died and many fell ill.”²² This type of problems make policies effete and because of this parents lose their believe on the policies of the government.

¹⁹ Prof Krishna Pal Malik, *Right to elementary education*, Allahabad Law Agency, second edition, 2012, p.166.

²⁰ Ibid p 169.

²¹ Ibid 15.

²² <http://www.hindustantimes.com/india-news/served-death-bihar-mid-day-meal-tragedy-kills-22-kids/article1-1093700.aspx>.

Like this there are many examples of the schemes or policies made by the government but one thing we should consider is that why government need so many policies for the same problem, why they always has to come with new program to eradicate the same problem. There is example of one policy for which “the government made a committee for to make policy more effective with the Right To Education Act and the policy was SarvaShikshaAbhiyan.”²³ If state is so serious about this thing then they should make such a policy which has no lacuna and proper implementation at higher as well as lower level also, there should be no option for the officers whether they are interested or not to perform their duties, state should impose the penalties to the officers who are not performing their duties properly. This is the same problem with the child labour laws which are made with high objectives but never implemented properly; laws protect the child from this evil but never made the laws for their rehabilitation of these children.

CONCLUSION

Right to education Act is one of the most important laws which we need in our country for development and for successful future. This act is a way through which children can avail the facility of education and can achieve success in life. But this right is not easily available to children; child labour is one of major hurdle which stops the children to avail this right. Children who work whether in industries, household or agriculture etc. are not able to study. As poor children are forced to work for their survival and to support their parents earning so they are not able to avail this right. Even many children are not even aware that such kind of right is available to them or not and also their parents are not aware about this act. Poverty and lack awareness of parents is one of reasons which cause child labour.

Also working of child is also helpful for the employers because they are cheap labour and can easily adjusted to environment and are quick learner so these people support child labour and tries to get children as labour by giving money their parents. So because of child labour right to education fails to achieve its goals. State has made many laws to curb this evil practice but again there is problem of ineffective implementation of policies. Policies and laws made by state are great but the way these policies are implemented is wrong.” Effective implementation is not being done due to various known and unknown reasons specially due to indifferent attitudes of enforcing agencies, resulting increasing tendency to employ child labour without any fear and with utter disregard to the statutory provisions as well as to constitution mandate”²⁴. Even right to education act is one of good law but the implementation is not good like services which is provided by the government for the schools is not good (lack of infrastructure or good teachers). Sometimes ineffective implementation of other policies also affected the child labour and ultimately right of education like Rajasthan Merger Policy of schools.

Right to education can act well if child labour problem can be solved, there are many reasons which causes child labour, if we are able to remove these reasons which cause child labour

²³ Prof Krishna Pal Malik, *Right to elementary education*, Allahabad Law Agency, second edition, 2012, p.174.

²⁴ M.P. Shrivastav, *Child Labour Laws In India*, Law Publishing house, First edition, 2006, pg. 35

then we can also hope the successful life and good future of children. By solving the problem of child labour we can save our country's future and can work for the development of children. And when the agencies who act on behalf of state would work properly and implements the policies effectively then chances to get success will increase. If all these things will be corrected then the Right to Education Act will be the successful law which achieved all its goals. If these problems are solved then all children can avail this right and can have all the chances to make their life successful. Even exploitation of children would stop by solving the child labour problem. If the child labour is solved then our country can hope it can achieve best things through caliber of children.