BLOGS

Learn in a Minute- Right to Free and Compulsory Education in India

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Introduction

The right to free and compulsory education in India is a significant legal and constitutional right aimed at ensuring that every child has access to education. This right is enshrined in the Constitution of India and has been reinforced through various laws and judicial decisions. This post contains detailed overview of this right, covering its constitutional basis, legislative framework, key case laws, and the implications for educational policy in India.

Constitutional Basis of Right to Free and Compulsory Education

The foundation for the right to education is **Article 21A of the Indian Constitution**, which was added through the **86th Amendment in 2002**. It mandates the State to provide free and compulsory education to all children aged 6-14 years in such a manner as the State may determine by law.

Right of Children to Free and Compulsory Education Act, 2009 (RTE Act)

Enacted in 2009, the Right of Children to Free and Compulsory Education Act, commonly known as the RTE Act, is a significant legislation in India that ensures the constitutional right to education for children between the ages of 6 and 14. The act covers all schools, including government, aided, and unaided private schools. It seeks to create a universal, inclusive education system that ensures all children have access to schooling.

This Act operationalizes Article 21A and provides a comprehensive legal framework for ensuring free and compulsory education. It guarantees free education, meaning that no child should be required to pay fees or charges for elementary education. It mandates compulsory education, which requires parents or guardians to send their children to school, and obligates the State to

ensure adequate schooling facilities.

Private unaided schools are required to reserve at least 25% of their seats for children from economically weaker sections and disadvantaged groups. The government reimburses these schools for the cost of education for these children.

Under the Act, schools must meet specific standards for infrastructure, pupil-teacher ratio, and teacher qualifications. Schools must also admit children without discrimination and ensure they are not denied education for any reason. Per the Act, no child can be held back or expelled until the completion of elementary education.

Landmark Judgements on Free and Compulsory Education in India

Unni Krishnan v. State of Andhra Pradesh

The case revolved around the regulatory framework governing private and professional educational institutions in India. A group of private educational institutions challenged the governmental regulations on admission procedures and fee structures. The institutions argued that these regulations infringed on their rights to conduct their business and manage their educational institutions.

The Supreme Court declared that the right to education is implicit in the right to life under Article 21 of the Constitution. The court stated that the right to education includes the obligation of the State to provide education to children up to the age of 14 years. Beyond that age, the State's obligation is dependent on its economic capacity and development.

The interpretation of the right to education in this case laid the groundwork for the 86th Amendment to the Constitution in 2002, which introduced Article 21A, explicitly mandating the right to free and compulsory education for children aged 6 to 14 years. It also influenced the drafting of the Right of Children to Free and Compulsory Education Act, 2009, which operationalized the newly established constitutional right.

Mohini Jain v. State of Karnataka

The case arose from the high fees charged by private medical colleges in Karnataka. Mohini Jain, a student from Uttar Pradesh, applied for admission to a medical college in Karnataka but was denied due to her inability to pay the high “capitation fee” required for admission. Capitation fees were often demanded by private institutions in addition to tuition fees, creating a significant barrier to education, especially for students from economically disadvantaged backgrounds.

The central question in this case was whether the right to education could be considered a fundamental right under the Indian Constitution and whether the charging of capitation fees by private educational institutions violated this right.

The court ruled that the right to education is integral to the right to life and personal liberty under Article 21 of the Indian Constitution. The judgment reasoned that life with dignity could not be achieved without the ability to access education.

Environmental and Consumer Protection Foundation v. Union of India

The Environmental and Consumer Protection Foundation (ECPF), a non-governmental organization, filed a Public Interest Litigation (PIL) in the Supreme Court of India, highlighting the inadequate infrastructure in government schools across the country. The petition focused on the lack of basic amenities, such as safe drinking water, sanitation facilities, and classrooms, which adversely affected the quality of education and the health and well-being of students.

The central issue in this case was whether the State’s failure to ensure basic infrastructure in schools violated the Right to Free and Compulsory Education guaranteed under the RTE Act, and consequently, the fundamental right to education under Article 21A of the Indian Constitution.

The court emphasized that under the RTE Act, schools must meet certain minimum standards for infrastructure, including safe drinking water, proper sanitation, adequate classrooms, playgrounds, and other essential facilities.

The Supreme Court directed the Union Government and state governments to ensure that all schools comply with the infrastructure requirements specified in the RTE Act.

Society for Unaided Private Schools of Rajasthan v. Union of India

The Right of Children to Free and Compulsory Education Act, 2009, which operationalized Article 21A of the Indian Constitution, contained a provision requiring private unaided schools to reserve

at least 25% of their seats for children from economically weaker sections and disadvantaged groups. The cost of educating these students would be reimbursed by the government.

Private unaided schools in Rajasthan, under the banner of the Society for Unaided Private Schools, challenged this provision, arguing that it violated their autonomy and property rights. They claimed that the RTE Act's requirement of 25% reservation infringed on their freedom to manage their institutions.

The Supreme Court upheld the constitutional validity of the RTE Act, including its provision requiring private schools to admit 25% of their students from economically weaker sections and disadvantaged groups.