

ANALYZING THE DEVELOPMENT OF INDIAN CONSTITUTION WITH RESPECT TO EDUCATION

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ABSTRACT

According to a famous quote of JOHN DEWEY, “If we teach today's students as we taught yesterday's, we rob them of tomorrow.” The mode of teaching stands on five different pillars, those are Teaching Technology, Curriculum Designing, philosophical Perspective, Psychological Perspective and last but foremost important is Sociological Changes. This is so momentous that rest four builders have their dependability and also dominated by sociological changes. For instance history reveals that even a small change in society may lead to great revolutions then a resultant change in psychological perspective followed by our philosophical perspective which further pushes up to the technology and curriculum designing to be changed as well it implies flexibility in four of them is required to have a match with sociological changes, keeping flexible perspective of all four back runner wheel the fore runner wheel which is of sociological change can be successfully followed. It validates the above mentioned quote, if we don't want to rob the students, and to go hand in hand with sociological changes as of chief importance. We need to adopt flexibility in approach. Taking this view as of our constitutional makers also adopted an alterable and flexible constitution which can be modified in different spheres of sociological changes, resultantly making the mode of teaching progressive too. From the Vedic era to the digital era, education has been the witness of many transformations, our Constitution also adopts flexibility in nature displacing or reforming (whichever is applicable) older provisions to deal with new sociological changes. As far education policies are concerned, our constitution makers provided a large number of clauses and articles which have a direct bearing on education. Since the making of constitution up to

the present digital era many clauses and articles have been added to make it more beneficial for the common mass and for the deprived section too that means up to the last strata of society. In the present paper traversing of the development of Indian constitution has been outlined by the Free and compulsory education, Child abuse and child exploitation.

Keywords: Fundamental Rights, Directive Principle of State Policy, Education for minorities, Mode of teaching in mother tongue

INTRODUCTION

A Shlok taken from HITOPADESH "VIDYA DADATI VINAYAM" or "WISDOM BEGETS HUMILITY" depicts significance of wisdom to make human a real human being. A country like India where diversities of caste, creed, races, culture, sects & religions dispersed universally, a bonhomie is required to tie all diversities in one rope that bonhomie is of humility, this humility can only be attained from wisdom as quoted in HITOPADESH. Our Constitution makers embedded both these two words in the Constitution paying their attention towards the growth and extensiveness of education. Bridging up all diversities with a brighter ray, a ray of education to enlighten the lamp of unity by wisdom through education. In present paper a detailed provisions are discussed related to, in direct ways or indirect ways, to education. The more a constitution ensures provisions for the upliftment of education more successfully it lays down the seeds of a progressive society. In Indian context our makers of constitution knew education as the means of nation building. Our nation is built with able citizens and able citizens are made only by education. So Constitution makers provided a large number of clauses and articles which have a direct bearing on education. Under the rule of these clauses and articles central, state and local governments have been specifically liable for certain educational responsibilities. Some of the major constitutional provisions on education in India are as follows:

(1) Free and Compulsory Education- Our Constitution makes following provisions under article 45 of Directive Principles of State Policy that "*The state shall endeavor to provide early childhood care and education for all children until they complete the age of six years.*" It clearly

directs to the center, states and local authorities too, to provide free and compulsory education to their citizens. Above mentioned "State" word includes here, 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 Government of India. Unaided private schools over which the Government has no administrative control are not "state" within the meaning of Article 12.

Since Directive Principles of State Policy has no legal sanction behind them, they are not enforceable by the court, if the State will not implement them. There is no legal or constitutional remedy available to enforce them. Keeping this view, same provision of imparting free and compulsory education to the children up to the age of 6 to 14 years has been added to the Fundamental Rights of constitution under Part III article 21A via 86 amendment in 2002. Here is a proposed amendment suggested by the then Minister of Human Resource and Development Dr. Murali Manohar Joshi on 12 December 2002.

“The Constitution of India in a Directive Principle contained in article 45, has made a provision for free and compulsory education for all children up to the age of 14 years within 10 years of promulgation of constitution we could not achieve this goal even after 50 years of adoption of this provision. The task of providing education to all children in this age group gained momentum after National Policy of Education was announced in 1986. The government of India in partnership with the state government has made strenuous efforts to fulfill this mandate, and though significant improvements were seen in the various educational indicators, the ultimate goal of providing universal and quality education still remains unfulfilled. In order to fulfill this goal it is felt that an explicit provision should be made in the part relating to fundamental rights of the constitution.”

Again the 86th Amendment provided for a follow up legislation for right to education bill 2008 and finally right to education act 2009. "The Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE) is an act of the Parliament of India enacted on 4 August 2009, which describes the modalities of the importance of free and compulsory education for children between the age of 6 to 14 years in India under Article 21A of the Indian Constitution" In this way article 45 of Directive Principles of State Policy generates a

constitutional background for Right to education act to be enacted. In the 86th amendment in 2002 there is one more modification has been done in the constitution under the chapter Fundamental Duties, the inserted clause was 51A (k).

Article 51 K states *"It shall be the duty of every citizen of India, who is parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years"* Apart from Government it has been made obligatory for the parents or guardian whichever is applicable to provide educational opportunities to their ward.

(2) *Opens the Path for Education by Promulgating acts against Child Exploitation and Abuse-* Child exploitation and child abuse are two most embittering curse for Indian society. It denies children their basic rights to good health, nutrition, education, and freedom from violence. All children have a right to be cared and protected; to develop and to grow to their fullest potential, regardless of their social and economic situation. Our Constitution opens the path of education for children battling with this blatant loophole of child abuse and exploitation. In this regard article 24 of Right against Exploitation states- No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment

Also article 39 (e) and (f) were enacted to prevent to enter in all such avocations which are detrimental to health of children and youth. Article 39 (e) *"That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. Article 39 (f)"* That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and the childhood and youth are protected against exploitation and against moral and material abandonment².

When we talk about child abuse early marriage should also be considered as an abuse to child. Early marriage leads to segregation from family losing opportunities of education, sexual exploitation, clearly pregnancy and health risks, high infant mortality rate, premature birth etc. The Child Marriage Restraint Act of 1929, fixed the age of marriage for girls at 14 years and boys at 18 years which was amended by raising the age limit for girls from 14 to 18 years and for boys from 18 to 21 in the year 1978. It is popularly known as the Sharda Act. In 2006

Prohibition of Child Marriage Act was passed to overcome the loopholes of earlier act. "The Prohibition of Child Marriage Act (PCMA) defines child marriage 2 marriage in which either the girl or the boy is underage, i.e., the girl is under 18 years of age or the boy is younger than 21 years. The Prohibition of Child Marriages Act was introduced in 2006 to address the weaknesses inherent in the former legislations. It came into effect from 1 November 2007, replacing the Child Marriage Restraint Act (CMRA) of 1929 or Sharda Act. This law was amended in 1978, wherein the legal age of marriage of girls was raised from 15 to 18 years and of boys from 18 to 21 years. The amended law was known as the Child Marriage Restraint Act, 1929. In this way our constitution opens the path of health, freedom, and opportunities for growing the children in the field of education by overcoming the hurdles of child abuses, child exploitation and child marriage.

(3) Education of Secularism- Although the word secularism has been added to the preamble in the year 1976, in a famous 42nd amendment but the soul of the country has always been secular as since the time of independence our country has been declared a secular country. It implies our Constitution provides equal respect among communities. Thus our Indian constitution has always been a staunch advocate of national identity, balancing all regional, linguistic and religious identities, but at the same time setting up our national identity as of the chiefly top identity. In the words of first home minister of India, SARDAR PATEL- "But in the long run, it would be in the interest of all to forget that there is anything like majority or minority in the country and that in India there is only one community." Article 25 (1) states "Freedom of conscience and free profession, practice and propagation of religion-(1)All persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion. This article designs a layout of Indian liberalism that is linked with social justice. This theory of liberalism draws itself back in article 28 (1) on the one hand and reinforces liberalism in article (2) on the other hand. Below are both clauses given.

Article 28(1) states "No religious instruction shall be provided in any educational institution wholly maintained out of state funds" Article 28(2) states "Nothing in clause 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 in such institution."¹2. In a democratic country like India Constitutional document runs on the

dynamism of society, so from time to time various committees have given their recommendations to suggest changes in existing Constitution according to the changing milieu. Those committees are (A) Recommendations of Dharmik Shiksha Samiti 1944- Chaired by Bishop Barne, it suggested-(i) Religious, moral and spiritual values are to be placed in the curriculum.¹³ (ii) With the consent of all religions, an educational program should be prepared based on common moral and spiritual principles.

(B) Recommendations of RADHAKRISHNAN commission (1948-1949) on religion- (1) All educational institutes should start their schools with the silence of few minutes. (2). In the first year of B.A. biographies of Gautam Buddha, Jesus, Socrates, Zoroaster, Shakaracharya, Ramanuj, Kabir, Nanak, Gandhi should be taught. (3) In the second year of B.A. some humanistic character should be picked out from religious books, and should be taught to the students. In this way Radhkrishnan committee put forward the names of all religious leaders, maintaining the secular notion of Constitution, so the children can have respect for all religion.

(C) Recommendations of Kothari commission on religion- Basic content, which is equal in all the religions, should be taught." Upon studying the recommendations of these committees, we can understand that they also follow the idea of secularism of constitution but equally give importance too, to the religions of all.

PROVISION RELATED TO EDUCATION OF MINORITIES

There is a connection between the laws and moral values, as we abide by the law to behave with equality with all persons irrespective of caste, creed and gender, according to right to equality of Fundamental Rights. Our moral scripture also teaches us the notion of "VASUDHAIV KUTUMBKAM" meaning thereby whole world is our family or all are equals taken from HITOPADESH". But on the other hand mere granting of right to equality is not sufficient to overcome age old injustices tolerated by deprived or backward groups. So the framers of the Constitution promulgated some special measures to uplift these sections of society, among which only those measures are given here, that contains their educational implications.

Article 29 (2) No citizen shall be denied admission into any educational institution maintained by the state or receiving aid out of the state funds on grounds only of religion, race, caste, language any of them.²⁰ Further in article 30 it is stated- Right of minorities to establish and administer educational institutions Provides freedom to establish and administer educational institution. Article 30 (1) All minorities ,whether based on religion or language, shall have the right to establish and administer educational institution of their choice.²¹ In case of compulsory acquisition of the property of those institutions article 30 clause (1A) states- *"In making any law providing for compulsory acquisition of any property of an educational institution established and administered by a minority, determined under such law for acquisition of such property is such as would not restrict or abrogate the right guaranteed under the clause."*

Further in case of granting aid to those institutions it states- "Article 30 (2), 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. ²³ Article 15 (1), the state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. Whereas article 15 (1) proclaims all the citizens equal, clause (5) of the same article 15 provides minority section special provisions related to admission into private schools. Article 15 (5)- Nothing in this article or in sub clause(g) of clause (1) of article 19 shall prevent the state from making any special provision ,by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the state, other than minority educational institutions referred to in clause (1) of article 30.²⁵

Untouchability was also a curse for India at the time of independence, chairman of drafting committee of Constitution assembly had also been a victim of that, in his school days, to stop the curse of untouchability our Constitution states in article 17- *"Untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law."*

In the fourth part of Constitution, Directive Principles of State Policy, article 46-it is said, that promotion of the educational and economic interest of minorities would be done by the State. "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."²⁷ It is clear from above mentioned clauses of minorities that State on the one hand would treat every citizen of India equal by carrying out all such work which is concerned with the upliftment of minorities, by protecting them and by promoting their interest if required. Now under minority group, linguistic minority also exists in our country. For that group our constitution states- In article 350 B

"There shall be a special officer for linguistic minorities to be appointed by the President. It shall be the duty of the special officer to investigate all matters relating to the safeguards provided for linguistic minorities under this constitution and report to the president upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each house of Parliament, and sent to the Governments of the States concerned."

MODE OF INSTRUCTION IS IN MOTHER TONGUE

India is a country of diversity of languages, after independence, mother tongue has been given special emphasis as a medium of instructions of subjects. Our Constitution laid down study in the mother tongue as the fundamental rights of citizens under following clause

Article 350 A- *"Facilities for instruction in mother tongue at primary stage-It shall be the endeavor of every state and of every local society within the State to provide adequate facilities for instruction in mother tongue at the primary stage of education to children belonging to linguistic minority groups: and the President may issue such directions to any State as he considers necessary of proper for securing the provision of such facilities."*

Our Constitution also directs the States for the development of Hindi language and declares Hindi as the official language under following clauses Article 351- *"Directive for the*

development of Hindi language- It shall be the duty of the union to promote the spread of the Hindi language, to develop it so that it may serve as a medium of expression for all elements of the composite culture of India.”

Hindi declared as official language “Article 343(1) of the Constitution provides that Hindi in Devanagari script shall be the Official Language of the Union. Article 343(2) also provided for continuing the use of English in official work of the Union for a period of 15 years (i.e., up to 25 January 1965) from the date of commencement of the Constitution. Article 343(3) empowered the parliament to provide by law for continued use of English for official purposes even after 25 January 1965. Accordingly, section 3(2) of the Official Languages Act, 1963 (amended in 1967) provides for continuing the use of English in official work even after 25 January 1965. The Act also lays down that both Hindi and English shall compulsorily be used for certain specified purposes such as Resolutions, General Orders, Rules, Notifications, Administrative and other Reports, Press Communiqués; Administrative and other Reports and Official Papers to be laid before a House or the Houses of Parliament; Contracts, Agreements, Licenses, Permits, Tender Notices and Forms of Tender, etc.”

It is clear from above clauses, that our Constitution since the dawn of independence to the present era have been witnessed of many reforms, changes and transformations after sowing the seeds of provisions and by watering them to make effective implementation of provisions. So that our society can achieve the true idea of VIDYA DADATI VINAYAM, VASUDHAIV KUTUMBAKAM and SARVADHARMA SAMBHAV.