

**CENTRAL ADVISORY BOARD OF EDUCATION  
(CABE)**

**Report**

**Of**

**The CABE Committee**

**On**

**Free and Compulsory Education Bill and**

**Other Issues Related to Elementary Education**

**June 2005**

**REPORT OF THE**

**CABE COMMITTEE**

**ON**

**Free and Compulsory Education Bill  
and Other Issues Related to  
Elementary Education**

**Volume 1**

**Recommended  
Essential Provisions**

**June 2005**

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\* Available on request, from NIEPA.

# An Introductory Note

## The Constitution (86<sup>th</sup> Amendment) Act, 2002

The Constitution (86<sup>th</sup> Amendment) Act, 2002, notified on 13<sup>th</sup> December, 2002, seeks to make the following three changes in the Constitution:

- In Part III ("Fundamental Rights"), add the following new article:

### **"21A. Right to Education**

*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."*

- In Part IV ("Directive Principles of State Policy"), replace the existing Article 45 ("Provision for Free and Compulsory Education for Children"), with the following:

### **"45. Provision for Early Childhood care and Education to Children below the age of Six Years**

*The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years."*

- In Article 51A ("Fundamental Duties"), after clause (j), add a new clause (k) as follows:

### **"51A Fundamental Duties**

*It shall be the duty of every citizen of India:*

*...(k) who is a 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."*

Section 1(3) of the above Amendment Act provides that "It shall come into force from such date as the Central Government may, by

notification in the Official Gazette, appoint". This notification has not yet been issued pending enactment of the consequential legislation envisaged in the above Art. 21A.

## **2. Constitution of C.A.B.E. Committee**

In the light of the deliberations which took place in the first meeting of the reconstituted Central Advisory Board of Education (C.A.B.E.) held on 10-11 August, 2004, a Committee of C.A.B.E. was constituted vide Order dated 8.9.04 of the Ministry of Human Resource Development with the following terms of reference:

**"(a) To suggest a draft of legislation envisaged in Art. 21-A of the Constitution, and**

**(b) To examine other issues related to elementary education for achieving the objective of free and compulsory basic education."**

The Committee was expected to "give its recommendations within six months from the date of its constitution", and NIEPA was to provide it necessary secretarial assistance.

Member-Secretary of the Committee was changed vide Order dated 18.10.04 of the Ministry of HRD, and its membership was expanded vide Order dated 2.3.05 to include three new members. The Committee's tenure was extended vide Ministry's Order dated 12.05.05, up to 30<sup>th</sup> June, 2005.

## **3. Course of Committee's Deliberations**

The Committee held a total of five meetings – on 22.11.04, 24.12.04, 12.3.05, 16.4.05, and 5.6.05. In its second meeting dated 24.12.04, a Sub-Committee was constituted under the Chairmanship of Prof A K Sharma to suggest a draft of the essential provisions of the proposed Bill. This Sub-Committee met several times during January-February, 2005, and the first draft of essential provisions suggested by it was discussed in the third meeting dated

12.3.03 of the full Committee. The Sub-Committee had invited selected representatives of certain non-government schools' organizations and teachers' unions for a discussion in one of its meetings held in February, 2005, and they were invited as Special Invitees to the third meeting dated 12.3.05 of the Committee as well.

The Sub-Committee revised the draft in the light of the comments received in the above meeting dated 12.3.05, and this second draft of essential provisions was discussed in the fourth meeting dated 16.4.05 of the Committee. In this meeting, another Sub-Committee, headed by the Chairperson of the Committee himself, was constituted to give final shape to the draft Bill. **The revised draft prepared by this Sub-Committee was discussed in the fifth (and last) meeting dated 5.6.05 of the Committee, wherein after detailed discussion, the Committee authorized the Chairperson to finalise the Committee's recommendations/Report in the light of the views expressed by the members, and submit it to the Chairman, C.A.B.E.**

**This Report has been prepared and is being submitted accordingly.**

Primary responsibility for implementation of the Act would be that of State Governments, and it was therefore only appropriate that Education Ministers of five States (AP, MP, Bihar, Orissa, and Meghalaya) were nominated as members of the Committee. However, Bihar ceased to have an Education Minister after imposition of President's Rule there on 6<sup>th</sup> March, 2005. Also, none of the other four State Education Ministers could attend the last meeting of the Committee held on 5<sup>th</sup> June, 2005.

Many members of the Committee strongly felt that its recommendations should be finalized only after inviting comments and suggestions from the public on its draft - through regional consultation meetings and the Internet. However, this could not be done due to paucity of time.

#### **4. Nature of the Right to Education**

Right to Education, which Art. 21A seeks to confer, is different from other fundamental rights enshrined in our Constitution, in that the other rights are mostly in the nature of 'protective' rights (i.e. which guarantee certain kinds of protection against the State to every citizen) while the Right to Education mandates certain pro-active action on the part of the State vis-à-vis every child of the country who is in the 6-14 years age group.

While Education has become a Fundamental Right, other comparable entitlements, e.g. the Right to Food/Nutrition, Health, Clean Drinking Water, Clean Environment, Work/Employment and Social Security, are yet to be expressly conferred that status in the Constitution.

It also needs to be noted that while the earlier Fundamental Rights had no or insignificant financial implications for the State, the Right to Education has major financial implications, and therefore the issue of the State's economic capacity would need to be borne in mind while fleshing out this Right through the legislation envisaged in Art. 21A.

#### **5. Principles which have guided the Committee's work**

In formulating provisions of the above legislation, the Committee has been guided by the following basic considerations:

- i. Right to Education should imply that every child has a right to be (a) provided full-time education of satisfactory and equitable quality in a formal school which satisfies at least certain essential norms, and (b) enabled to complete elementary education.

It may however be pointed out that the National Policy on Education 1986 (as modified in 1992) did envisage the alternative modality of non-formal education also for achieving universal elementary education. For instance, its para 5.8 stated that "the Non-formal Education Programme, meant for school dropouts, for children

from habitations without schools, working children and girls who cannot attend whole-day schools, will be strengthened and enlarged”.

- ii. Right to Education also implies that it is the State's obligation to remove whatever obstacles – social, economic, academic, linguistic, cultural, physical, etc. – prevent children from effectively participating in and completing elementary education of satisfactory quality.
- iii. Right to Education must be seen not merely as a right for its own or the individual child's sake, but also as an instrument of promoting other constitutional objectives, e.g. equality, justice, democracy, secularism, social cohesion, etc.
- iv. Provision of Free and Compulsory Education of satisfactory quality to children from weaker sections is the responsibility not merely of Schools run or supported by the State, but also of Schools which are not dependent on State funds. Schools of the latter kind also need to provide education to such children at least to the extent of 25% of their intake. This is necessary not merely as part of the social responsibility of such schools, but equally so that their 'fee-paying' students study in a socially more representative and diverse environment, and develop into socially sensitive citizens.

Other provisions regarding unaided schools would, however, be viewed as introducing a far more regulatory regime than has hitherto been the case, and amounting to undue/excessive regulation of private initiative in education.

- v. One major reason why it has not been possible to universalize elementary education all these years is the dysfunctionality of the delivery system. The Committee has therefore attempted to formulate a number of provisions for the proposed legislation, essentially aimed at greater decentralization and accountability, so that the delivery system is able to rise to the challenge.
- vi. Although its terms of reference were confined to free and compulsory education for children between the ages of 6-14 years, the Committee

has considered the main programme for Early Childhood Care and Education (ECCE), viz., Integrated Child Development Services (ICDS), and proposed convergence to the extent possible. While ECCE will continue to be provided (in the State sector) through Anganwadis under ICDS, the Committee has recommended that additional pre-school facilities be provided to children in the age group of 5-6 years wherever necessary.

#### **6. Recommendations of the Committee restricted to “essential provisions” of the draft Bill**

Based on the above principles, draft of the **essential provisions of a “Right to Education Bill, 2005”** is enclosed. In the available time, the Committee could discuss only these essential provisions.

In addition to the above essential provisions, the complete Bill will have several other provisions of consequential, ancillary and incidental nature, such as details regarding the National Commission for Elementary Education (e.g., term of office, conditions of service and pay and allowances of Chairperson and Members, powers of the Commission and procedure for transaction of its business, and funds, accounts and audit, etc), Courts competent to try offences under the Act, power to remove difficulties, etc.

These supplementary provisions can be drafted once CAGE takes a view on the recommended essential provisions.

#### **7. Central v/s State Legislation**

Education being in the Concurrent List, Parliament as well as State legislatures are competent to legislate in pursuance of Art. 21A. Many States already have laws on free and compulsory education, albeit they pre-date the 86<sup>th</sup> Amendment. Once a central legislation is enacted in pursuance of Art. 21A, the position of existing State laws on free and compulsory education would be

governed by the provisions of Art. 254(1), i.e. their provisions would become void to the extent they are repugnant to the provisions of the Central legislation. However, it would be possible to enact State amendments to the Central legislation, or enact fresh State laws on the subject, after following the procedure laid down in Art. 254(2).

## 8. Financial Aspects

### 8.1 Background

Para 11.4 of Part XI ("Resources and Review") of the **National Policy on Education, 1986 (as revised in 1992)**, had stated as follows:

"The National Policy on Education, 1968, had laid down that the investment on education be gradually increased to reach a level of 6 per cent of the national income as early as possible. Since the actual level of investment has remained far short of that target, it is important that greater determination is shown now to find the funds for the programmes laid down in this Policy. While the actual requirements will be computed from time to time on the basis of monitoring and review, the outlay on education will be stepped up to ensure that during the Eighth Five Year Plan and onwards it will uniformly exceed 6 per cent of the national income."

The **National Common Minimum Programme** of the UPA Government had said the following in regard to allocation of resources for Education:

"The UPA Govt. pledges to raise public spending in Education to at least 6% of GDP with at least half of this amount being spent on primary and secondary sectors. This will be done in phased manner."

**President's Address to Parliament on 7.6.04**, soon after the last *Lok Sabha* elections, had also, *inter alia*, stated the following:

"21. India's greatest resource is its people. The full potential of our human resources has yet to be effectively utilized. High priority will,

therefore, be accorded to education. The Government will aim at increasing public spending on education so as to ultimately reach at least 6% of GDP, with half the amount earmarked for primary and secondary education. A cess will be proposed on all central taxes to finance the commitment to universalize access to quality basic education. A National Commission on Education will be set up to allocate resources and monitor programmes.”

In 2003-2004, total government outlay on elementary education was Rs 47,118 crores, which amounted to roughly 2% of GDP. Share of Central and State governments in the total outlay was in the ratio of about 12:88 (*Analysis of Budgeted Expenditure on Education 2001-02 to 2003-04*, Ministry of HRD, 2004). Estimated yield of the 2% Education Cess (imposed in 2004-05) is Rs 6975 crores in 2005-06, and the consequentially enhanced Central Plan allocation for Elementary Education is Rs 12242 crores, which would represent roughly 20-25 percent of the total government outlay on elementary education in the current financial year (as compared to about 12% in 2003-04).

## **8.2 Tentative Estimation of Financial Implications of Committee's Recommendations by NIEPA**

The Committee had requested NIEPA to do an exercise to estimate financial implications of the recommended provisions of the draft Bill, upto the end of the XI Plan period, i.e. upto 2011-12. A Note prepared by NIEPA in response to this request is annexed as Volume II of this Report. On the assumption that 2006-07 would be the first year of implementation of the Act, NIEPA has worked out financial estimates for the period, 2006-12, in four alternative scenarios, based on different assumptions regarding Pupil-Teacher Ratio (PTR) and Teacher salary. Details of the four scenarios and estimated financial implications of each, for the above six year period, are given below:

| Scenario | Description                                          | Total Estimated Cost for 2006-12 (Rs Crores) | Figure in Col.3 as % of GDP <sup>1</sup> |
|----------|------------------------------------------------------|----------------------------------------------|------------------------------------------|
| 1        | PTR = 35; Teacher salary as per KVS scales           | 4,36,459                                     | 1.51                                     |
| 2        | PTR = 35; Teacher salary as per average State scales | 3,93,307                                     | 1.36                                     |
| 3        | PTR = 40; Teacher salary as per KVS scales           | 3,46,299                                     | 1.20                                     |
| 4        | PTR = 40; Teacher salary as per average State scales | 3,21,196                                     | 1.11                                     |

NIEPA 's estimates are tentative in nature, and are based on various assumptions regarding cost/expenditure norms, and progression of various interventions like mainstreaming of out-of school children, appointment of teachers, construction of buildings, etc. Further, they do **not** include estimates of financial implications of entitlements which an appropriate government may prescribe as part of "free education" under Clause 2(1)(m)(ii) of the recommended Bill, except to the extent of giving free textbooks and uniforms to 75% and 50%, respectively, of the enrolled children, and special provisions for disabled children. NIEPA's estimates would have to be firmed up as the draft Bill assumes a more final shape after discussion in CABE.

As per the exercise done by NIEPA, financial implications are expectedly the highest in the first scenario indicated above. The Committee nevertheless recommends provisioning according to that scenario — in the interest of quality, as also equitable and adequate remuneration to the teacher who is to be the main instrument for providing the Right to Education. However, this Report will have to be examined in detail at the level of Central and State

<sup>1</sup> Annual growth rate of GDP from 1993-94 to 2003-04 at current prices is estimated as 12.2% (Eco. Survey, 2004-05). Based on this, NIEPA has projected GDP at current prices till 2011-12 by fitting a semi-log linear trend regression.

governments. This would include consultation with Finance Ministry and Planning Commission at the Central level, and with corresponding departments at the State level.

The very substantial financial implications of the recommended provisions **may have to be borne almost entirely by the Central government** as financial condition of nearly all State governments is unsatisfactory.

Current spending on Education amounts to about 4% of GDP, with half of it going to Elementary Education. Even if it is raised to 6% by 2006-07 (though such a sharp jump in one year would be difficult), and **half of it continues to be earmarked for Elementary Education alone** (instead of Elementary and Secondary sectors together, as mentioned in the policy pronouncements quoted in para 8.1), this would imply a possible additional outlay for Elementary Education to the tune of about 1% of GDP. On the other hand, financial implications of the recommended provisions of the Bill, for the six year period 2006-12, in the recommended scenario, amount to an average of Rs 72,678 Crore per annum, or about 1.5% of GDP over the six-year period - and even in the most conservative scenario, amount to an average of Rs 53,467 Crore p.a., or about 1.1% of GDP. Main reason for this would appear to be persistent under-provisioning for Elementary Education in the past, resulting in a large cumulative gap. Be that as it may, an exercise in prioritization of norms and phasing of expenditure would appear to be necessary, with consequential modifications in the provisions of the Bill, so that its financial implications remain within the realm of feasibility. **CABE may like to take a view in this regard.**

## **9. Some Related Issues which the Committee could not address**

The Committee could not, due to paucity of time, address the following important aspects/ collateral issues connected with the Bill:

- Freedom of choice of parents belonging to minorities to educate their children in institutions covered by Articles 29 and 30 of the Constitution which may not necessarily conform to the provisions of the Right to Education Act.
- Amendments necessary in other related Acts, notably,
  - (i) The Child Labour (Prohibition and Regulation) Act, 1986, and
  - (ii) The National Council of Teacher Education Act, 1993.

**Right to Education Bill 2005**  
**Draft of Essential Provisions as Recommended by the**  
**CABE Committee on Free and Compulsory Education and**  
**Other Issues Related to Elementary Education**

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# **Right to Education Bill 2005**

*An Act to put into effect the Right to Free and Compulsory Education  
to All Children in the Age Group of Six to Fourteen Years*

## **PREAMBLE**

Whereas the Preamble to the Constitution resolves to secure to all citizens of India JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and of opportunity; and to promote among them all FRATERNITY, assuring the dignity of the individual and the unity and integrity of the Nation;

And whereas, despite the original Article 45 of Directive Principles of the Constitution having made it the duty of the State to provide free and compulsory education to all children up to age fourteen in ten years (1960), the number of out of school children particularly from the disadvantaged groups and those engaged in labour, and those receiving poor quality education has remained very large;

And whereas, the 86<sup>th</sup> Constitutional Amendment Act 2002 has provided for free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right under Article 21A of the Constitution, in such manner as the State may, by law, determine;

And whereas the above Act also provides under 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;

And whereas the above Act further provides under Article 51-A (k) that it shall be a fundamental duty of every citizen of India who is a parent or guardian to provide opportunities for education to his child/ward between the age of six and fourteen years;

And whereas it is considered important and essential to create a humane and equitable society that incorporates the secular values and the ethnic, religious and cultural diversities of India;

And whereas it is recognized that the objectives of democracy, social justice, and equality can be achieved only through the provision of elementary education of equitable quality to all; and

And whereas it is also imperative to improve the present delivery system of elementary education by, *inter alia*, greater decentralization of its management, and making it sensitive to the needs of children, especially of those belonging to disadvantaged groups.

Be it enacted by Parliament in the fifty-sixth year of the Republic as follows:

## Chapter I

### PRELIMINARY

#### 1. Short Title, Extent and Commencement

- (1) This Act may be called the Right to Education Act, 2005.
- (2) It shall extend to the whole of India except the state of J & K.
- (3) Provisions of this Act shall be subject to the provisions of Articles 29 and 30 of the Constitution.
- (4) It shall come into effect from the date of its notification in the Gazette of India.

#### 2. Definitions

- (1) In this Act, unless the context otherwise requires: -

- (a) **“Academic Year”**

means a period notified as such by the appropriate government for the transaction of the course of study prescribed for any grade of the elementary stage.

- (b) **“Aided school”**

means a school, which receives aid from the government or from local authorities to meet the whole or part of its recurring expenses.

- (c) **“Appropriate government”**

means:

- i) the State Government in the case of territory comprised in a State;
    - ii) the Government of a Union Territory, in the case of a Union Territory having its own legislature; and
    - iii) the Central Government, in the case of other Union Territories.

Provided that in relation to schools and institutions run by the Central Government, the appropriate government will be the Central Government regardless of their location.

- (d) **“Capitation fee”**

means any fee, donation or contribution other than a fee or any payment that an aided/unaided school publicly notifies at the time of announcement for admission as being payable by all children in the event of admission to the school.

- (e) **“Child”**  
means a person who is not less than six years and not more than fourteen years of age.
- (f) **“Competent Authority”**  
means an authority designated by the Appropriate Government as a competent authority for the purposes of this Act.
- (g) **“Competent Academic Authority**  
means an authority designated by the Appropriate Government as a competent academic authority for the purposes of this Act.
- (h) **“Child in need of Care and Protection”**  
shall have the meaning assigned to it in clause (d), of section 2 of the Juvenile Justice [Care and Protection of Children] Act, 2000 [56 of 2000].
- (i) **“Compulsory Education”**  
means an obligation on the State to take all necessary steps in terms of this Act to ensure that:
- (i) every child of the age of six years enrolls in a school, participates in it, and completes elementary education.
  - (ii) every child over six years, but less than 14 years, who was not enrolled in a school at the commencement of this Act, is enrolled in a school, participates in it, and completes elementary education.
- (j) **“Disability”**  
shall have the meaning assigned to it in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995; and shall include such other conditions as may be notified by the competent authority as a disability for the purposes of this Act.
- (k) **“Disadvantaged Group”**  
means scheduled castes, scheduled tribes, and such other groups disadvantaged due to economic, social, cultural, linguistic, gender, administrative, locational, disability or other factors, and notified as a disadvantaged group in relation to an area, in such manner as may be prescribed.
- (l) **“Elementary Education”**  
means education at the elementary stage in a school.

(m) **“Elementary Stage”**

means the stage of school education corresponding to Grades I to VIII as per courses of study prescribed by the competent authority.

(n) **“Equitable Quality” in Relation to Elementary Education**

means providing all children opportunities of access to, participation in, and completion of elementary education with the prescribed courses of study in accordance with the provisions of this Act.

(o) **“Free Education”**

means freedom for the child and her parent/guardian from liability to:

- i) pay any fee or charges to the school where his child/ ward is studying, or to any other external body providing any service through the school.
- ii) incur such other expenses, as may be prescribed, which are likely to prevent the child from participating in and completing elementary education.

provided that if textbooks and any other teaching learning material are supplied free to a non-disabled child under this clause, they shall be supplied free to a disabled child in such modified form as would meet her learning needs.

(p) **“First Generation Learner”**

means a child, neither of whose parents has completed elementary education.

(q) **“Fully Aided School”**

means a school, which receives grants from a government or local authority to meet its full recurring expenses.

(r) **“Guardian”, in relation to a Child**

means his natural guardian or any other person having the actual charge or control over the child and recognised by the competent authority as a guardian in course of proceedings before that authority.

(s) **“Juvenile in Conflict with Law”**

means a person who has not completed eighteenth year of age and is alleged to have committed an offence.

(t) **“Local area”, in relation to a Local Authority,**

means the area comprised within the territorial jurisdiction of the authority.

**(u) “Local Authority”**

means

- i) a Panchayat in respect of rural areas,
- ii) a Municipality in respect of an urban area, and
- iii) such other authorities as the appropriate government may, by notification, specify for the areas mentioned therein.

*Explanation: In case of rural areas situated within scheduled areas, the Gram Sabha shall also be a local authority to the extent laid down in the Provisions of the Panchayats (Extension to the Scheduled Areas) Act 1996.*

**(v) “Migrant Family”**

means a family that does not reside at any one location for at least such number of days in the calendar year as may be prescribed.

**(w) “Minor Punishment”**

means any punishment other than dismissal, removal or reduction in rank.

**(x) “Neighbourhood”**

means such area around the residence of the child as may be prescribed.

**(y) “Neighbourhood School”, in relation to a child**

means any school located within the neighbourhood of the residence of the child.

**(z) “Non-educational Purpose”**

means any purpose not connected with elementary education, or with children's access to, or participation in such education.

**(aa) “Out-of-School Child”**

means a child who is either not currently enrolled in a school or, though enrolled, is not able to participate therein.

**(bb) “Parent”**

means the father or the mother of a child and includes an adoptive father or mother.

**(cc) “Participation” in Elementary Education, in Relation to a Child,**

means her:

- i) regular attendance in school, and
- ii) effective participation in curricular and co-curricular activities of the school throughout the elementary stage.

**(dd) “Pre-primary Section”, in Relation to a School**

means an establishment, which meets the educational needs, with or without other services, of children before the elementary stage of education, either as a part of a school or as an independent entity collaborating with it.

**(ee) “Prescribed”**

means prescribed by rules made under this Act.

**(ff) “Pre-School”**

means a facility provided by a school to meet the educational needs of children at least between the ages of 5 and 6 years.

**(gg) “Recognised”, in relation to a School**

means recognized by a statutorily empowered authority, or an appropriate government, or by an authority empowered by such government, in accordance with a law, rules, or executive instructions governing recognition of schools.

**(hh) “School”**

means an institution or part of an institution, which imparts education at the elementary stage, or any part of such stage, and is recognised as a School by a competent authority.

**(ii) “Screening Procedure for Admission to a School”**

means any procedure that is used to select one child in preference to another, except in a random manner, for admission to an elementary school or its pre-primary section.

**(jj) “Specified Category”, in relation to State Schools**

means such categories of State schools as may be specified by notification by the appropriate government.

**(kk) “State School “**

means a school run by an appropriate government or a local authority.

**(ll) "Teacher"**

means a person who teaches full time in a school and includes the head teacher of such school.

**(mm) "Unaided School"**

means a school which is neither a state school nor an aided school

**(nn) "Ward", in relation to a Child**

means a child who is under the guardianship of someone other than a parent.

**(oo) "Weaker Section" in relation to a Child**

means a child in need of care and protection, or a child, the annual income of whose parents or guardians is less than such minimum limit as may be notified by the appropriate government from time to time.

**(pp) "Working Child"**

means a child who:

- i) works for wages, whether in cash or in kind, or
  - ii) works for her own family in a manner which prevents her from participation in elementary education.
- (2) The female gender, wherever used in pronouns in relation to a child, includes the male.
- (3) Words and expressions used but not defined in this Act, and defined in the Constitution, shall have the meaning assigned to them in the Constitution.

## Chapter II

### CHILD'S RIGHT TO FREE AND COMPULSORY EDUCATION OF EQUITABLE QUALITY

#### 3. Child's Right to Free and Compulsory Education of Equitable Quality

- (1) Every child who has attained the age of 6 years shall have the right to participate in full time elementary education and to complete it, and towards that end shall have the right to:
  - i) Be admitted to a neighbourhood school, and
  - ii) Be provided free and compulsory education in such school, in the manner provided in this Act

Provided that a child who, due to her severe or profound disability, cannot be provided elementary education in a neighbourhood school, shall have the right to be provided education in an appropriate alternative environment as may be prescribed.

- (2) A non-enrolled child who is in the age group 7-9 years, at the commencement of this Act, shall, in addition to the right specified in sub-clause (1), have the right to be admitted to an age appropriate grade in a neighbourhood school within one year from the commencement of this Act.
- (3) A non-enrolled child who is in the age group 9-14 years, at the commencement of this Act, shall in addition to the right specified in sub-clause (1), have the right to be provided special programmes within the neighbourhood school to enable her to join, as early as possible, but in any case within three years from the commencement of this Act, the age appropriate grade.
- (4) A child who, though enrolled, is not able to participate in elementary education, shall, in addition to the right specified in sub clause (1), have the right to be provided with suitable conditions, as may be decided by the appropriate government, to enable her participation.
- (5) No child shall be expelled from a school until she completes elementary education.

Explanation: For the purposes of sub-sections (2) and (3) of this Section, the age appropriate grade for children suffering from mental retardation or mental illness shall be determined keeping in view their mental development also, and not on the basis of their biological age alone.

**4. Right Of Transition Till Completion Of Elementary Education**

- (1) For every child studying in a school which provides education up to a level less than class VIII, the Local Authority shall specify a school, subject to the provisions of Section 14, where such child shall have the right of admission for free education till she completes elementary education
- (2) Any child moving from one school to another, including outside the State shall, for the purposes of seeking admission to another school, be entitled to receive a transfer certificate issued by the Headmaster of the school in which she was last enrolled. Provided further, that the absence of such a transfer certificate shall not constitute grounds for delaying or denying her admission to an appropriate grade in the new school; nor shall such child be subjected to any test whatsoever to determine whether she is to be admitted to the school.

### **Chapter III**

## **RESPONSIBILITY OF THE STATE**

#### **5. General Responsibility of the State**

It shall be the responsibility of the State:-

- (1) To ensure the availability of a neighbourhood school for every child within a period of three years from commencement of this Act;
- (2) To ensure that every child is provided free education in such school.

Provided that wherever necessary, the State shall ensure that children from areas without schools are provided free education through transportation arrangements to the nearest school or by providing residential schools/facilities.

Provided further, that parents/guardians who choose to admit their children to a school other than a State school/fully aided school shall not have any claim on the State for providing free education to their children.

- (3) To institute and implement a mechanism for regular monitoring of enrolment, participation and attainment status of every child, and taking corrective steps wherever necessary, so that every child completes elementary education, and to make information in this regard available in the public domain, including on an on-line basis.
- (4) To ensure that children in schools receive education (i) of equitable quality, and (ii) conforming to values enshrined in the Constitution.
- (5) To ensure that economic social, cultural, linguistic, gender, administrative, locational, disability or other barriers do not prevent children from participating in, and completing elementary education.

#### **6. Responsibility of the State Towards the Non-enrolled Child**

The appropriate government shall take necessary steps to ensure that: -

- i) All non-enrolled children in the 7-9 age group at the commencement of this Act are enrolled in a neighbourhood school within one year of the commencement of this Act.

All non-enrolled children in the 9-14 age group at the commencement of this Act are enrolled in special programmes in a neighbourhood school, if available, and failing that, in another school to enable them to be admitted to an age appropriate grade as early as possible, but in any case within three years of the commencement of this Act.

**7. Provision Of Facilities For Pre-School Education**

The appropriate government shall endeavour to provide facilities for pre-school education in State and fully-aided schools at least for children between the ages of 5 and 6 years, if such facilities do not already exist through other programmes in proximity to such schools.

**8. Provision of Facilities to Young Persons to Complete Elementary Education**

If a young person has, for whatever reason, been unable to complete elementary education by the age of fourteen years but is continuing her education in a school at that age, she shall continue to be provided free education in such school till she completes elementary education or attains the age of eighteen years, whichever is earlier.

**9. Responsibility of the Central Government**

Provision of Free and Compulsory education shall be the concurrent responsibility of the Central and appropriate governments, with the Central Government's responsibility consisting of the following:

- i) Provision of financial assistance to state governments in accordance with such formula regarding sharing of costs of implementation of this Act, as the Central Government may determine from time to time in consultation with them.
- ii) Taking action through appropriate bodies to develop a national curriculum framework, and to develop and enforce standards for training and qualification of teachers for elementary education in a participatory and consultative manner.
- iii) Provision of technical resource support to the state governments, through appropriate institutions, for promotion of innovations and dissemination of best practices in the field of elementary education and for related research, planning and capacity building.
- iv) Monitoring progress of implementation of various interventions, schemes and programmes for achieving the objectives of this Act, and taking appropriate steps in case of default.
- v) Taking such other steps as the President may by order specify.

**10. Responsibility of the Appropriate Government**

- (1) Responsibilities in connection with provision of free and compulsory education, except those of the Central Government as defined in Clause 9, shall be that of the appropriate Government.

- (2) Without prejudice to the generality of sub clause (1), the appropriate governments shall ensure:
- i) Provision of financial assistance to Local Authorities in accordance with such formula regarding sharing of costs of implementation of this Act, as the appropriate government may determine from time to time.
  - ii) An exercise is carried out every year to determine the requirement of schools, facilities and their appropriate locations for the implementation of this Act.
  - iii) The additional schools required are established and made functional.
  - iv) Teachers are deployed in schools in accordance with the provisions of this Act.
  - v) The curriculum for elementary education and courses of study for each grade thereof are prescribed and revised periodically.
  - vi) Every State school and fully aided school is provided with a building, teaching aids and learning material of the prescribed specifications in accordance with the Schedule.
  - vii) Elements of free entitlement as defined shall be provided in a timely manner as prescribed.
  - viii) A comprehensive data base is developed and maintained to facilitate the implementation of this Act.
  - ix) Adequate facilities are available/created for training of teachers and other personnel to meet the human resource requirement for the implementation of this Act.

**11. Responsibility of the Appropriate Government to Augment Teacher Training Capacity Wherever Necessary**

Every appropriate Government shall, within six months of the commencement of this Act, assess the State's requirement of professionally trained teachers as prescribed under this Act, vis a vis the capacity of existing training institutions, and shall in the event of a deficit, take steps to augment such capacity so as to match the requirement within such period not exceeding five years from the commencement of this Act, as the Central Government may notify.

## **12. Responsibility of Local Authorities**

- (1) Subject to the responsibility of the appropriate Government as laid down in Section 10, the Local Authority shall, if empowered by law, perform the following functions:-
  - i) Maintain the record of all children in its area, who are in the age group of 0-14 years, with special reference to children in each disadvantaged group, in such manner as may be prescribed
  - ii) Ensure that every child in the age group of 6-14 years residing within its jurisdiction is enrolled in an elementary school, participates in it, and is enabled to complete elementary education.
  - iii) Plan, budget and provide for additional schools, teachers, and other facilities that may be required as a result of the gaps identified through the school mapping exercise for ensuring free and compulsory elementary education,
  - iv) Monitor the provisioning of all schools in its area imparting elementary education with prescribed infrastructure, teachers and supporting facilities for free and compulsory education,
  - v) Ensure the sustained education of the children of migrant families through special steps as may be required.
- (2) To the extent the above functions have not been devolved upon local authorities by law, the appropriate government will by rules determine the authorities at various levels, which will perform the above functions for implementation of this Act till such time as such functions are assigned by law.

## **13. Planning For Provision of Free and Compulsory Education**

- (1) Every School Management Committee as constituted under Section 21 shall prepare an annual, medium and long term School Development Plan to cater to the needs of the children residing in its neighbourhood in respect of their education of equitable quality
- (2) School Development Plans, in the aggregate, shall be the basis for the annual, medium and long term plans for every local area, block and district, and metropolitan area.
- (3) Taking into consideration the Plans referred to in (2) above, every appropriate Government and Central Government shall prepare annual, and medium and long term plans for provision of free and compulsory education in the states/UT and the country.