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June 6th, 2012

Dear Mrs. Gandhi,

I enclose a detailed note on the Right to Education Act, 2009, sent to me by a concerned citizen, with deep knowledge of the subject, as he has spent a long life in school education. You may find it useful, and I would request you to go through it.

With respect


Dr. M. S. Gill

Mrs. Sonia Gandhi
10 Janpath, New Delhi

*Let's see
a.k. some of
the points made
seem valid, like
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* 2 p 923 end
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JS.
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“Right to Education Act, 2009”

1. The Supreme Court, in its majority judgement by 2 to 1 delivered on 12th April, 2012 has upheld the constitutional validity of ‘Right of Children to Free & Compulsory Education Act, 2009’. The judgement makes it mandatory for all government schools, privately run aided schools and also privately run unaided schools except unaided minority schools to follow RTE Act from academic year 2012-13. This judgement has come as a great disappointment to most private non-profit eminent Educational Bodies and Educational Trusts who have provided quality school education in the country for over hundred years such as Christian Missionary Schools, schools run by D.A.V. Managing Committee, Ramakrishna Mission, Sri Aurobindo Education Society, Bhartiya Vidya Bhawan, SPGC, Sanatan Dharam Society, D.P. Society and many others. These educational bodies have not taken any land, building, equipment or other costs or financial help from the government whatsoever but have served the country and the nation purely for the love of education and with a missionary zeal. By no stretch of imagination it can be said that these bodies had any profit motive in running these educational institutions. The educational bodies and Trusts were able to provide quality education because there was very little interference from the government except Educational Boards mainly laying down syllabus, curriculum and conducting examinations. With the implementation of RTE Act there would be endless interference from the government at every stage making the administration of school extremely difficult.

2. There can be no doubt whatsoever that if RTE Act is scrupulously followed there would be a steep fall in the already poor quality of education in the country. In this connection I invite attention to the following provisions in the RTE Act:-

(i) Section 15: ‘No denial of admission’

A child shall be admitted in a school at the commencement of the academic year or within such extended period as may be prescribed:

Provided that no child shall be denied admission if such admission is sought subsequent to the extended period;

Provided that any child admitted after the extended period shall complete his studies in such manner as may be prescribed by the appropriate government. The extended period has been prescribed as six months from the date of the commencement of the academic year.

Comment: In fact children will have to be given admission at any time during the academic year. How will such a student cope up with the subjects already taught is not understood? This will seriously affect classroom teaching leading to lowering the standard of education.

(ii) Section 16: 'Prohibition of holding back and expulsion'

No child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education.

Comment: This will make many children non serious about studies and consequently also make the teachers non serious. If the students absent themselves for weeks from the school they will walk in anytime they like and teachers will not be able to do anything about it. There would be no discipline in the running of the school and we will teach children to be indisciplined from the very young age. How will the school education be conducted with such absurd provisions? The quality of education will badly suffer.

(iii) Section 4: 'Special provision for children not admitted to, or who have not completed, elementary education':

Where a child above six years of age has not been admitted in any school or though admitted, could not complete his or her elementary education, then he or she shall be admitted in a class appropriate to his or her age:

Provided that where a child is directly admitted in a class appropriate to his or her age then he or she shall in order to be at par with others have a right to

receive special training, in such manner or within such time limit as may be prescribed;

Provided further that a child so admitted to elementary education shall be entitled to free education till completion of elementary education even after fourteen years.

- 1 * Comments: These provisions are absurd to say the least. How will a child-say of 12 years of age - who has missed school upto that age sit in class VI learn anything except retard the progress of other students? Special training is not a magic potion that you make the child to drink and he or she comes upto the desired levels. Such a child if subjected to such scheme of things by the 'Path Breaker RTE Act' will become a neurotic and dislike studies for the rest of his life. Many students after coming out of class VIII will have very poor knowledge and will not be able to pursue studies any further.

I have no doubt to conclude and one does not have to be genius to conclude that the above mentioned provisions of the Act are harmful to the cause of education and will lower still further the already low standards of education in the country. If the government still wants to experiment with these provisions, they may do so in the government and private aided schools but these provisions should not be forced on the private unaided schools.

- 2 * 3. The other major problem in the implementation of RTE Act is the interference of the state government and the extent to which the school administration will have to go to DEO's office for permissions / clarifications / orders. Those who have dealt with the state education authorities know what pain in the neck this can be and one is forced to succumb to the demands of the babus of DEO at every stage or else you cannot run the school and face the threat of disaffiliation at every stage. It is ironic that the government does not trust the educationists who have spent their lives to the cause of education and running of schools but

would want to give power to the babus of the education department. The more the interference of the government the worse the school education would become.

4. The Act gives every child of the age of six to fourteen years a right to free and compulsory education in a neighbourhood school till completion of elementary education. Further section 6 of the Act casts a duty on appropriate government and local authority to establish schools within such areas or limits of neighbourhood, within three years from the commencement of the act. The Model Rules framed under the Act have laid down a distance of 1 km for such schools for children in class I to V and distance of three kms, for children in classes VI to VIII. Many other directions are given to the state governments and local bodies in these rules for neighbourhood schools.

Since two years have already elapsed from the commencement of the Act, it would be of interest to know, state-wise, how many more schools have been opened to comply with this provision of the Act? The result would be pathetic if not zero. But then the state governments / local bodies have no accountability. How can one force them to follow the Act? Further does it make sense to force this concept on the parents who want to admit their children to such private unaided schools with whom they have had long close associations. How does it bother the state if a parent is prepared to send his child to a school at a longer distance. Why impose such restrictions on private unaided schools? This direction can be given to government schools and aided private schools. On the top of it many existing government schools, especially in rural areas exist only in name - there are very few students, there is minimal teaching and teachers are mostly absent. The only solution is to improve the quality of education in government and private aided schools and there is no shortcut to it.

5. One important aspect of education in the twenty first century, which is perhaps not appreciated by the framers of the Act, is that teaching and learning these days is not confined to classroom teaching and homework only. Technology is

playing bigger and bigger role in the learning process of even primary and middle class students. Many students even at age 5 are computer savvy, go on the internet and do their assignments and learn from the material available on the internet. If we have to compete with the students world over we have to encourage our children the use of modern technology. How will the children staying in jhuggi clusters with whole family living in one room with no electricity jell with the children of technological savvy and educated families is beyond comprehension. The result would be a heterogenous group where good students will get discouraged and suffer and EWS students will develop serious complexes and dislike for education. This is the reality and those in education line see it happening all the time. You don't have to be Freud to figure this out. In the bargain the quality of education will suffer.

6. Then the question of 25% reservation for children of EWS families. What right the government has to force this quota on private unaided schools who have taken no land, building, equipment or money from the government? The right to education as enshrined in the constitution is the obligation of the state, for which people pay taxes and these days even education cess over and above taxes. Unaided private schools are supplementing the efforts of the government by providing quality education to large number of students. Why should they be forced to adhere to this quota of 25% for EWS families and further provide free text books, writing materials, uniforms, special classes after school hours, sports equipment and facilities and may be even outstation educational tours? Most private unaided schools do provide free education to some children of EWS families such as children of most class IV employees of the school get free education in all private unaided schools. This is a part of our social responsibility but fixation of any quota is unacceptable. If the government does not appreciate the point of view of privately run unaided schools, many of them would be forced to close down as most of these are not run for profit. Some schools have already stopped admissions in class I as they have prime land in many cities and will start any other charitable activity.

7. Section 12(2) of the Act provides that unaided private schools shall be reimbursed expenditure for providing free education to children of EWS families and the formula is given therein. Firstly, no state government has provided any money to private unaided schools so far even though more than two years have already passed since the Act came into force. How are these schools going to pay salary to the teachers and meet other expenses of running these school? Secondly, it would be a Herculean task to get reimbursement amount from the state governments. I need hardly elaborate it further. One estimate is that if the Act is fully enforced, the governments would have to provide nearly Rs. Twenty Two Thousand Crores per year as reimbursement amount. This is a colossal amount and if spent in opening new schools and improvement of the existing government and private aided schools the overall quality of education will improve.
8. The Supreme Court has ruled that the Act does not apply to unaided minority institutions. What is not clear is about those minority run institutions where large percentage of students are not from minority community and where protection of minorities in the matter of preservation of culture, language etc. are not involved and which are not run wholly for religious education.
9. If the government, by an Act of Parliament, force the private unaided schools to give free / subsidized education to the children of EWS families, what prevents the government to pass "The right of people to free and compulsory medical healthcare" and force all private hospitals and nursing homes who have taken no land or aid from the government to give free / subsidized medical treatment to EWS families and in the bargain fail to provide more and better government hospitals in the country?

Further the government can also pass "The right of people to Shelter" and make it mandatory for all housing colony plans or even individual housing plans to provide free subsidized housing to EWS families.

10. No good is going to come out of this legislation forced on unaided private schools. The objective to provide good education to all children in the age group of 6 to 14 is laudable but the solution lies in the government making its best efforts to improve the quality of education by better infrastructure, better faculty, better monitoring and inspections of government and private aided schools which comprise more than 85% of schools in the country. The unfortunate fact is that the political culture in our country has sunk so low that people are despondent. What do you make of a state where an uneducated politician is appointed as the education minister of the state? What contribution can he make in the cause of better education in the state? On the top of it this appointment is justified by senior members of the party openly in the media that one does not have to be educated to be an education minister. If the Hon'ble HRD Minister of the Central Government were to go through the names of education ministers of all the states of the country he will be shocked to find that semi educated politicians are given education portfolio as this is the least preferred portfolio. Of course the HRD minister will raise his hands and say that he has no control in the matter but then why pass Acts of Parliament on the subject of Education which takes rigid positions on small matters and make running of schools extremely difficult and bring in interference by the government?

11. I must also express my disappointment at the majority judgement of the Supreme Court. In an effort to look pro-poor the Hon'ble judges have overlooked the fact that RTE Act is detrimental to the cause of good education in the country. A silver lining in the matter is that one of the Hon'ble judges of the Supreme Court has found merit in what I have stated above and given a dissenting judgement.

12. As far as the legislature is concerned I wonder if any Hon'ble member of Parliament or Central Minister seriously studied the Bill or made any critical comments or suggestions or any discussion even took place in the Parliament when the Bill was presented. The Bill is passed as presented by the highly educated but highly opinionated HRD Minister. Since school education is an

important matter, may I request the Hon'ble Prime Minister to read the Act. I am sure he would find many provisions in the Act ill conceived. He may then see to it that these provisions are suitably amended and private unaided schools are kept outside the ambit of the Act.

13. The Hon'ble HRD Minister in a recent article in the Times of India has said that RTE Act can be a model for the world. With due deference I submit that he is being carried away in his own rhetoric. The affirmative action and social integration of the society that is being spoken of cannot be thrust by the dictates of the state. It has to be achieved in stages and has to grow. If the standard of teaching and infrastructure of government and private aided schools is substantially raised and children of EWS families and other families study together, this integration will be felt across the board. Here the government has completely failed. It would not be wrong to say that the standard of education in the government schools in the last sixty years has gradually declined. It would also not be wrong to say that private unaided schools specially run by education bodies and Trusts as mentioned in the beginning and many other such trusts have only provided that excellence in education that has been recognized the world over that even the President of America has spoken about it in several of his speeches. These schools can be justifiably proud in having contributed to the growth of the country. This has been possible because these educational bodies have, for the love of education and the country, worked hard with imagination and built these reputed schools over long years. What is going to happen is that with the RTE Act this edifice is sure to get shattered. The interference of the government in the running of these schools - whether in the matter of admissions or other provisions as mentioned above will cause endless annoyance and hindrance as is well known to those who have dealt with Directorate of Education and their offices and staff in the states. I can say with certainty that if implementation of RTE Act is insisted upon, the standard of education in the private unaided schools will fall, the enthusiasm of these in the administration of these schools will get sapped and many of these schools will close down. The process has already started. There certainly will be no effort

to open more private schools. And who will suffer in the bargain? The country will and that is a heart rendering situation. The negative effect of this Act will start getting known in a few years and by that time it will be too late to mend the situation. Of course the actors of today may not be on the scene then but they would have caused great damage to the progress of the country. The philosophy behind this legislation appears to be to appear holistic and morally superior. I have no hesitation in saying that this government which bases its policies on power and opportunism will brutalize the whole population.

To conclude I would like to make the following suggestions:-

- (i) Private unaided schools should be outside the ambit of RTE Act and they be allowed to provide education to children of FWS families in their own manner and discretion.
- (ii) Hon'ble Prime Minister should write to the Chief Ministers that for the sake of progress of the country, the best educated and dynamic ministers be given education portfolios so that most sincere efforts can be made to raise the standard of education of government and private aided schools.
- (iii) More schools should be run on PPP Models such as by WIPRO Foundation, Bharti Mittal Foundation, Shiv Nadar Foundation, etc. More such corporate houses would be willing, but the attitude of some state governments in this regard is discouraging and unreasonable.

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P.S.

Shri Kundan Lal Trust runs under its aegis Kundan Vidya Mandir Senior Secondary School, Ludhiana established in 1941 - with more than 5000 students now and also running Kundan International School, Chandigarh started in 2006.