

ABSTRACT

State, Civil Society and Inclusive Education : A Study of RTE Section 12(1)(C) in Lucknow City, Uttar Pradesh.

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ABSTRACT

This thesis has been concerned with understanding the politics of educational reform introduced in the form of Section 12(1)(c) of the Right of children to Free and Compulsory Education Act (RTE) which mandates 25% reservation of seats in the entry level classes of the private unaided schools, excluding the minority and the residential ones, for the children belonging to economically weaker sections (EWS) and disadvantaged groups (DG) for which the schools will be reimbursed by the State in a manner decided by the state governments or local authorities. Such children would continue to study in these schools till 8th standard i.e., the completion of their elementary education.

The study, basically, addresses three questions: first is concerned with the politics involved in the process of formulation of the RTE Act with a special focus on Section 12(1)(c); the second is concerned with the gaps in the implementation of the provision in the state of Uttar Pradesh and tries to underline the political economy that underlies the implementation process; the third one deals with the role that civil society has played in the whole process of setting the agenda, framing of the policy, its execution and finally, the evaluation of the RTE Act and its section 12(1)(c). The main findings of this research work are as follows-

First and foremost, if we look at the political context of the RTE Act, it is very much clear that the national and international pressure along with the momentum that had build up around the issue of 'education for all' compelled the political leadership of India to take this matter on board and legislate on this very important matter. The problem which the Act addressed was not a new one. Since independence or even before independence, the nation faced the problem of mass illiteracy. Before

independence too, various commissions were established from time to time to tackle this issue and the very thought of free and compulsory basic education got expression several times on different government and non-government forums. But, since it could never find a place in the priorities of the British government or their agenda of ruling a colony, the problem continued. Unfortunately, even after independence, the issue of free and compulsory basic education for the children was relegated to the backseat while the major portion of funds allocated to the subject of education was spent on the higher education. The scholars like Krishna Kumar, Myron Weiner, J. P. Naik, Nalini Juneja, Anil Sadgopal among others have identified various reasons for this and the primary factor that has been identified was the neglect of the educational needs of masses by the political leadership including the top leadership, who generally, belonged to elite class. This class difference between the rulers and the ruled in the then India, made the rulers indifferent towards the need of education of the masses which has been termed 'elitist bias' in the concerned literature. Some scholars have even said that the politicians and bureaucrats of that time found their self interest served through this policy of prioritizing the higher education as their children got the opportunity to receive best education at a very low cost in the world class institutions. Myron Weiner has associated this neglect of mass education in India by the politicians and bureaucrats with the caste system of the Indian society. Also, the issue of child labor and its significant role in the Indian economy has been pointed out as the factors that have always obstructed the path towards making free and compulsory education a fundamental right of each and every child of the nation.

The Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) was, actually, the result of a tiresome negotiation process in which different views, claims, counter-claims of the representatives of various stakeholders played

their respective roles. Some controversies erupted; some concessions were made so that a consensus can be arrived at. The unanimously framed 2005 draft bill was firstly rejected by the then government at the centre which cited the usual ‘lack of resources’ argument. The bill was then shelved for three years and in the year 2008, a very different as well as watered down version of what was decided in the meeting of CAGE committee on ‘free and compulsory education bill and other issues related to elementary education’, was passed in a hurry (purportedly to avoid further objections on various points from the important stakeholders) without any debate or discussion either in the parliament or outside it. Many things in the Act were kept flexible or even left unattended to pass off the burden on to the state governments. The intention of the government to promote private sector in schooling led it to avert inclusion of any stringent measure against private schools in the Act.

As far as section 12(1)(c) of the RTE Act is concerned, the members of the sub-committee within the CAGE committee formed on ‘free and compulsory education bill and other issues related to elementary education’, which was entrusted with the task to work out essential features of the proposed education bill, expressed contradictory views over the question that whether private schools should also share the responsibility of ensuring basic education to all or should they be completely absolved of all the obligations. Some members were of the view that there must be freedom to establish and run private schools and they should be kept out of the purview of the proposed right to education bill while some members blamed the private schools for segregated schooling in India. They were of the view that to check the social disintegration and social injustice which, according to them was the result of the segregation in the schooling, all private schools should be nationalized so that a uniform system of education with uniform quality can be established across the

country at least at the elementary stage. Some others were more pragmatic in their attitude and wanted to come up with solutions politically possible. They were of the view that we have come so far that it is almost impossible to shut down the private schools completely or take them over. But, their regulation in the interest of children of our nation can be done and the state should think in this direction. Even the then minister of Human Resource development, Mr. Kapil Sibbal admitted that the sheer number of private schools put them under obligation that they must share the goal of 'education for all' along with the governments. They cannot be absolved of their responsibilities regarding this (Sarin, et al., 2015). Then, there were some members, primarily, politicians who were not in favour of interfering in the private schooling sector at all. So, a unanimous decision was adopted according to which it was decided that only 25% of seats, that too, in the entry level classes of these private schools (excluding government aided, Minority and residential ones) would be reserved for weaker sections and disadvantaged groups. This figure of 25% is equivalent to the percentage of marginalized population in India. But when finally the concerned bill was passed and enacted, the main objection was raised from the civil society representatives of the CABE committee formed for this purpose over the clause that left onto the state governments to decide how the provision of 25% reservation of entry level seats in private unaided schools is to be executed. Further, there was no clause in the Act which provided for any penalty for the erring schools and this was another point of objection.

Thus, one thing from the whole episode comes forth very clearly that the insertion of the 25% reservation clause i.e. Section 12(1)(c) in the RTE Act was the result of the pressure politics build upon the state by the civil society actors inside and outside the CABE committee. Further, the resistance of the private school lobbies to

this provision in the draft bill compelled the government at the centre to keep it weaker and flexible so that the state governments as well as the private unaided schools which come under its purview execute it in a way that their interests get served and this has resulted in the abysmal state of the implementation of the provision across all states in India including the state of Uttar Pradesh. Thus the first hypothesis that the incorporation of section 12(1)(c) in the RTE Act by the State was not an outcome of any grand idea of social inclusion but the result of accommodative politics in which the State tried to balance both the interests i.e., interests of the civil society groups and that of private schools, is proved.

The second question of this thesis deals with the gaps in the implementation process that why the '25% reservation' provision could not get implemented effectively, focusing specifically upon the state of Uttar Pradesh. To find answer of this question, the primary data gathered through the telephonic survey of parents of children, located in the city of Lucknow, who got selected in the lottery for admission under this provision has been analyzed. Further, the data collected through the secondary sources about the arguments and problems of other stakeholders primarily the non-minority private unaided schools which constitute one of the main parties concerned with this policy initiative, has been analyzed.

The data analysis has led to the identification of some major constraints that has inhibited the implementation of the provision. These factors are discussed below-

Resistance from the private unaided schools

One of the major constraints that have obstructed the effective implementation of the provision is the resistance shown by the private unaided schools which constitute one of the two main stakeholders of this policy, the other being the economically weaker and disadvantaged sections of the society. They have numerous

problems with this policy such as it intervenes in their autonomy; the State has passed off their obligation on to them because it is the State who is entitled to receive taxes from the public and hence, it is the duty of the State to use the public resources for the education of underprivileged children; the policy is an infringement of their fundamental right to take up any profession autonomously; Children admitted in the schools through this provision are unable to integrate with non-RTE students of the class and it is only the tuition fee which they do not need to pay, there are many other expenses which they would not be able to pay for; many children who are able to pay for their education use this provision to get admission in the reputed schools by forge documents; amount fixed by the State for reimbursement against admissions under this policy is very less and arbitrarily calculated and that too is not paid by the government on time.

Lack of Awareness among the potential beneficiaries

Due to very less efforts put in by the government in the direction of generating awareness about this provision, many potential beneficiaries are unknown to this policy provision which is another reason for less number of admissions.

Discrimination and harassment of the RTE children

It has been found out in the survey as well as in the media reports too that many a times the children admitted through this provision are discriminated against and are harassed also by the teachers, management, non-RTE children which discourage the parents seeking benefits of this provision for their children.

Lack of Grievance redressal Mechanism: Lack of grievance redressal mechanism is another problem which is a major hurdle in the effective implementation of the provision. In case of denial of the admission by the allotted

school or the unauthorized demands by these schools or in case of harassment of children studying through this provision, parents have no place to go to for the redressal of their grievances. State commission for protection of rights of children (SCPCR) has been assigned the duty to look into these kinds of matters but the body has not been provided with the adequate power to tackle with such situations. In such a scenario, parents keep doing rounds of the government offices even when they have to forego their work and wages for it but are unable to get relief from anywhere. The private schools seem above law to them.

Other Expenses

Many parents also complain that the provision only provides relief from the tuition fee, but there are many other expenses which are unbearable for them. In Uttar Pradesh since 2016, the state government has started providing a sum of 5000/- rupees for books and uniforms but the parents told that they have received the amount only twice and the scheme is currently in defunct state. In such a case, it becomes a burden on them which they cannot afford for long.

Uncertain future

Many parents also told that the provision provides the right to receive free of cost education in a private unaided school till only eighth standard leaving them to live in uncertainty about their children' future studies.

Problem of arranging documents or inaccessible online resources did not occur as the major hurdles for the parents seeking admissions under the provision. Nearly all the respondents in the survey were able enough to arrange for such things. This points to the fact also that the children belonging to the lowest rungs of society

do not seek admission under this policy, may be because they are short of the documents required. This dimension needs further probing and research.

Indifferent attitude of the State

The entire state machinery seems to have an indifferent attitude towards the implementation of this provision. It's not that State always function like that. We have had instances like campaigning for polio eradication or the work done by the Delhi government in overhauling the government school system in Delhi or the work done by the governments while undertaking metro project in various cities. In all these instances, the entire state machinery utilized all its human and material resources to accomplish the tasks. But in this case, the political will that is required to make any policy programme successful is almost invisible. This policy provision seems to be lacking in it from the very start when Uttar Pradesh RTE rules, 2011 got framed, it has many provisions that were meant to diminish its significance and restrict admissions under the policy like the policy of only allowing admissions in a private unaided schools in neighbourhood when the seats in the nearby government primary schools are filled completely. But, later on the court struck down this clause of the UP RTE rules as the case of clear violation of the RTE Act and UP government was forced to take steps for its proper implementation.

Actually the whole problem can be understood within the framework of formal Political economy which assumes human behavior to be essentially self-centric or self- interested which is nothing but an expression of rational behavior. The politicians, bureaucrats, and even State are treated as rational actors who only work in their self-interest. Within this framework, society-centred explanations of politics involved helps more in understanding the problem which views politics as the result

of bargaining and competition among various groups in the society which are made up of self-centred actors. In this case one group is of private schools, the groups protect their special interests and get involved in lobbying to get their interests prevail over the interests of other groups. Educational reforms affect these interests in the society by awarding benefits to some while imposing cost on others creating thus the group of winners and losers in the process. Powerful groups are more likely to organize and work collectively against reforms if the changes infringe on their powers or interests. In the present case, Private schools, potential beneficiaries and the State form three groups which act in their self interest. Since the provision imposes some liabilities on the private schools which have hitherto enjoyed freedom from all kind of interventions by the State thus affecting their interests, the provision has been resisted by them in every possible way. They are more organized, powerful and resourceful with some members having significant political clout also which puts them in a strong position vis-à-vis the potential beneficiaries who are poor, weak, unorganized with no power or political clout. They have the support of only civil society which in itself has certain limitations. State, the another party also identifies with the interests of the private schools as it has been clear from the study that State want to allocate minimum resources to this sector of elementary education and is thus promoting the expansion of the private schools to pass off its burden onto the private schools. Moreover many politicians have their own private schools which charge hefty fees from the students.

Besides this, the children of politicians and bureaucrats study in the elite private schools itself which are the main defaulters and due to their self-interest involved, they avert taking strict action against the same schools in which their own children study. It is also very well established by the researches that in India, health

and education hardly matters to the people when they go for voting in elections. Thus, in this conflict of interests, it is the interest of State and the private schools which prevail over the interest of potential beneficiaries which culminates in the policy failure when the policy is practiced on the ground.

The third question of this study deals with the role of civil society in the entire process and the hypothesis has been that the civil society can play a significant role in the formulation and implementation of public policies meant for the welfare of the marginalized sections of the society. The study finds out that the civil society has, without any doubt, has played a significant role in the entire process of formulation, implementation as well as evaluation of Section 12(1)(c). It first of all set the stage by demanding the right to free basic education since a long time. Through informed writings in journals, newspapers, reports, periodicals, books, speeches on various national and international forums, building organizations & alliances, protests, they succeeded in building an atmosphere when it became quite impossible for the establishment to avert the demand of legislating on this important subject. The government was compelled to take the matter on board.

In the CABE sub-committee also which was made to look into this matter, two civil society actors- Dr. Anil Sadgopal and Dr. Vinod Raina were able to forcefully put their arguments in favour of a strong law for providing this important right to the children of the nation. Dr. Vinod Raina is also called the ‘Architect of Section 12(1)(c)’ as he was the one who suggested a middle path in the committee meetings and the provision was made. After the Act was framed, the civil society members fiercely criticized the then government at centre through various forums for certain omissions and commissions in the Act which drew the attention of many in the Academic circles.

The task did not end here. It was basically the civil society groups active in different parts of the country which highlighted the fact that the provision of Section 12(1)(c) is not getting executed. As has been discussed earlier, they got themselves involved in the implementation of the provision also. They pressurized the governments to establish a proper setup for the effective implementation of the provision. This has been the case in Uttar Pradesh also, where a NGO collaborated with the state government and provided all the needed assistance so as to make the provision successful in UP.

The civil society organizations were further involved as many of them conducted studies over the implementation status of the provision i.e., the task of evaluation which should have been undertaken by the government instead. This further pressurized the government to fix the problems in hand. It is quite surprising that even after more than 10 years since the Act was passed, the status report has not been published by the government. This negligence on the part of governments in this case has put a huge responsibility on the shoulders of civil society groups which are involved in not only helping the potential beneficiaries to avail the opportunity and assisting the government in building up an efficient mechanism to get the provision implemented, but also evaluating the provision by publishing the status reports. Thus their contribution is quite unparalleled. All this shows that what civil society can achieve in a democracy.

Despite all this, we find that still the implementation of the provision has many loopholes. Many RTE seats go vacant every year. Children face discrimination and harassments in the schools. Schools complain for not being reimbursed timely for admissions taken under Section 12(1)(c). All these problems can be fixed by the State only. Civil society can

only point out these loopholes but ultimately it is the State which has the power and authority that is required to remove these hurdles from the path of effective implementation of the provision. Thus, the third hypothesis of this thesis that civil society can play a significant role in the implementation of pro-poor policies is also proved. The only addition is 'with certain limits'. Ultimately it is the state's will, capacity and efforts to mobilize different groups as well as to aligning their incentives and opportunities that can determine the efficacy of a policy and its effective implementation on the field. Like in the present case, we see that the intervention by civil society actors led to the setting of the platform for the policy to be framed. They also played important role in the formulation stage and assisted state in carrying its responsibilities regarding the execution of the policy as well. Even the evaluation of the policy has been undertaken by the civil society actors. But, still continuous resistance by the private schools and its associations made their task much difficult with State seeming to be in continuous dilemma over whom interest to protect and whom to ignore generally subsiding with the private school's lobby, which is much more powerful and organized resulting in the poor implementation of the policy so far.

Recommendations for Action

Based on the findings of this study, some recommendations can be proposed so as to ensure successful implementation of the State's policy of reserving 25% seats in entry classes of the non-minority non-residential private unaided schools for the economically weaker sections and disadvantaged groups. These are discussed below:

First and foremost, the education department in the state should be strengthened and enlarged with the establishment of a sub unit within the department

with officials appointed especially for the task of getting RTE Section 12(1)(c) implemented effectively in the state. With the limited and overburdened manpower, the implementation of this policy can never take place in any real sense.

The recognition of the private schools should be linked with the status about their implementation of the policy provision given in section 12(1) (c) and the recognition of the defaulter schools must be withdrawn if they do not comply with the provision. There should not be any other option for the schools. They must comply with the order of the government or should be ready to face the action against them.

The state government should also sincerely bear their responsibility of reimbursing the fixed amount to schools on time because it has been seen that in Uttar Pradesh as in other states too, the reimbursement by the governments to the schools has been late. This puts a question mark on the commitment of the State itself and provides excuse to the private schools to escape from their responsibility. Many parents who have been interviewed in this study told that the schools have out rightly refused to take admission of their children under the provision on the pretext that they have not been reimbursed for the RTE admissions they had done in previous years. The media has also reported this several times. Different associations of private schools across the nation have even gone to strike to draw the attention of government over this issue. In such a scenario, timely reimbursement to the schools is very much needed.

Moreover, the amount fixed for the reimbursement in Uttar Pradesh is only 450/- per child which is very less and seems arbitrary. The private schools have criticized the state government for this. According to them, the figure is far less than the per child cost of a government primary school which is completely borne by the

government. They also have a grievance that when the amount was being calculated, they were not consulted or involved in the process. This lack of transparency between the government of the state and the private schools over the issue of fee reimbursement is the area where the government seems to be on back foot and this has emboldened the private schools to do whatever they wish regarding the implementation of Section 12(1) (c) of the RTE Act. It is ultimately the children along with their parents who have got admission or desiring to take admission in a private unaided school of their choice through this policy who are bound to bear the cost of this face-off between the private schools and the government as the schools harass them in different ways. In such a scenario, it is useless to expect any strict action against the erring schools from the governments' side because government itself seems to be on the wrong side.

Thus, for effective implementation of this provision, a multi-pronged strategy should be adopted which seems difficult in the current scenario.