Privatization Of Education And Its Impact On Right To Education

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Abstract

Now a day’s Privatization has acquired almost all fields of economy. Privatization has been introduced in education sector too. The factors which facilitate the privatization in education sector are many. Quality improvement is the main objects behind privatization of Education. There are many advantages and a disadvantage of it. In India to get education has become a fundamental right. Right to education is often violated due to privatization in education sector. Privatization in education cannot be opposed totally. If proper measures are taken privatization will help for proper exercise, promotion and protection of right to education in India.

KEYWORDS:- Privatization, Right to education, Violation of right, Constitution and Judiciary, Measures

Introduction

Privatization has taken over almost all fields of economy. Field of education is no exception to it. There are many reasons and objects of Privatization in the field of education and it has its own merits and demerits. Right to get education is one of the fundamental rights guaranteed in Indian Constitution. Privatization of Education affects the right to education.

What is Education

The term “Education” is derived from Latin word “educate” which means to “learn” and “to know”. The term education can be understood in its two senses. One in Strict or narrower sense and another in liberal or broader sense. In its strict sense education connotes learning process in schools, colleges and universities. So in this sense education is limited within buildings and premises of educational institutions. But in its liberal or broader sense education connotes a perpetual learning process which is not limited within the four walls of educational institutions including schools, colleges and universities. Privatization of educational impacts on education in its two senses.

Privatization Of Education

The main idea of privatization implies Control of private ownership in enterprises and organization owned by state. Gradual transformation of public enterprise into private Enterprise is the feature of privatization. There is no control of State over private enterprises. Privatization also includes introduction of private management and control in public enterprises. Privatization may be total or partial. It means it may vary.
from zero public or state ownership to various degrees and levels of private ownership. This privatization has conquered the majority area of education sector in India.

There are many reasons behind privatization in education sector in India. The main reason behind it is that the state is overburdened with many responsibilities. Today’s State is welfare State and as a welfare State it has to undertake many responsibilities including education. In order to fulfill all the responsibilities state does not have sufficient resources, including economic resources. So State tries to reduce its responsibility of education by shouldering it upon the private enterprises. Lack of sufficient resources is the main reason behind privatization of education.

Secondly Public Enterprises do not provide education of as much better quality as expected by its recipients. Reasons behind it may be many like lack of sufficient resources etc. Private educational institutions claim to provide better quality education than public educational institutions. So recipients of education give preference to private educational institution. Main object of those who take services from such educational institution is to get education of better quality. Big and wealthy industrialists, Politicians etc. are often owners of such private educational institutions. Some rules and regulations made by state provide for assistance of state for such private institutions too. So it is true to some extent that production of better quality education is possible, because economic, political and social factors in India are in favour of Privatization and they facilitate it.

In order to decide whether particular educational institution is private or public that is owned by state there may be two main criteria. First, Funding source and second control. If substantial fund is raised by that institution itself and it is under no control of state, it is private institution. State can exercise control over such institution but it is very weak and cannot prevent such institutions from becoming autonomous bodies.

Main object behind privatization of education is said to be quality improvement and to provide better quality education. Apart from this there are some other advantages of privatization of education.

The state or public educational institutions do not have proper resources so they cannot provide better facilities of education. On the other hand the owners of private educational institutions belong to very rich class of society and these institutions have all kinds of resources. So these institutions provide all those better facilities of education which are not provided by public educational institutions. Modern facilities like different modes of Communications, robots, lasers, new industrial material, various tools and products incorporating the micro chip etc. are provided by only private sector.

Secondly, Private sector is very sensitive for any change which is occurred and for any change which is likely to be occurred. According to change and want of time it changes itself so as to suit the prevailing situations, because private sector is very flexible. When demands and necessities of society in respect of education changes private sector education institutes are fully equipped to fulfill such demands and necessities of society. Such demands and necessities cannot be fulfilled by public sector education institutions, as they are working according to rigid rules of states and so they themselves are rigid.
Thirdly, as the important object behind privatization is quality improvement. Private sector provides better quality education than the education provided by public sector or state owned educational institutions.

Fourthly easy access to education has become possible due to privatization. To get education has become somewhat easy as due to privatization number of educational institutions like schools, colleges and universities are increased. Again different methods of communications are developed so that teaching and learning process can be done anywhere and anytime.

Lastly such privatization reduces the burden of state. State can utilize its resources for any other purposes.

But there are some disadvantages of privatization of education too. Firstly education this subject is included in the concurrent list in Indian Constitution. Both central as well as state government must take share of their responsibilities in the matter of education. But due to reluctant attitude and lack of proper resources gradually it has become the duty of state. Later on privatization entered into the area of education and the attention and control of state government in the area of education is decreased up to considerable extent. So privatization in the area of education has been resulted in avoidance of responsibilities towards education by central as well as state government, which is not in the interest of education and democracy.

Secondly, privatization of education has resulted into tremendous increase of educational institutions. In order or reduce responsibilities state has framed political and economic policies which encourages and boosts establishment of many kinds of private educational institutions without any rational. In this behalf the fact that majority of politicians are the owners of such private educational institutes. Cannot be ignored. In India, in the year 2003-2004 there were total 12, 08,398 educational institutions, of which majority educational institutions belong to private sector. Private educational institutions are increasing day by day. Such tremendous increase has been proved fatal for that educational institution too. Some of such educational institutions are in existence for the sake of name only and still they are claiming governmental benefits and facilities.

Thirdly, though the object behind privatization of education is said to be quality improvement, this object is not fulfilled. In majority of educational institutions quality compromise is observed. Their staff is not properly qualified and provides services for fewer sums. By using such staff such institutions earn considerable amount of profit but in return do not provide better quality education. Lack of proper classrooms, technological devices etc. are some features of such institutions.

Fourthly private educational institutions have become absolutely, autonomous bodies. In T.M.A. Pai Foundation versus State of Karnataka case Supreme Court gave its judgment on Oct 31, 2002. The judgment highlights three important points.

A. Minority institutions are totally independent and free from control of state.
B. Unaided educational institutions like private educational institutions are also free from substantial control of state. So they can decide procedure of admission and can charge any amount of fee because fees chargeable by such educational institutions cannot be regulated by state, and
C. All citizens have a right to establish and administer educational institutions according to choice under Article 19(1)(g) of Indian constitution. Article 19(1)(g) of Indian constitution provides a fundamental right to conduct any business, trade, occupation or to practice any profession. So now as a matter of right to conduct business educational institutions can be established and administered.

We find all the aforesaid features in case of private educational institutions. State cannot exercise any control or can exercise very weak control over such private educational institutions. So these institutions have become absolute autonomous bodies functioning for their own objects.

Fifthly these institutions particularly those working at school level impart education in English language. They charge very high fees which cover not only the current cost of education but also contribute towards costs of building and other equipments. Under the name of tuition fee, development fee, building fee, games fee, cultural programmes fee these institution charge considerable big amount of fee. In return of it they do not provide better quality education.

Sixthly there is much scope for corruption in such educational institutions. Much time government provides funds to such institutions. These funds are not utilized properly. Again the amount raised by such institutions under the name of tuitions fee, welfare fees, development fee etc. is not properly utilized.

In this way majority of private educational institutions have converted education into business enterprise. Earlier these institutions were confined to urban areas, metropolitan and big cities. But now days they are spreading smaller villages and even to villages and other rural areas. Ultimately it results into lowering the standard of education.

Right to Education and Privatization of Education.

In order to examine the impact of privatization of education on right to education on right to education one must understand what is right to education.

Technically and legally right is that interest which is recognized and protected by law of state. Every Indian Citizen’s interest in education is recognized and protected by laws particularly Indian Constitution.

In India to take education is a right and it is fundamental right. Constitution of India is mother of all the laws. It contains many provisions which makes right to education is one of the fundamental rights.

Article 21-A of Indian Constitution provides that 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. This provision has been added to Indian constitution by eighty sixth amendment in 2002. This Article is in the part of fundamental rights and so it has made fundamental right. Article 29(2) says that no citizen can be denied admission into any educational institutions maintained by the state or receiving aid out of state funds on grounds only of religion race, caste, language or any of them. Article 30 provides that the minorities either religious or linguistic have the right to establish and administer educational institutions. So the right to education has been provided for minorities too.
The part relating to Directive Principles of State Policy imposes certain duties and responsibilities on state. Article 41 imposes duty upon state to make effective provisions for securing right to education within the limits of its economic capacity and development. Article 45 says that it is the duty of state to provide early childhood care and education for all children until they complete the age of six years. Under Article 46 of constitution the state’s duty is to promote with special care the educational interests of the weaker sections of the people and in particular Scheduled Castes and Scheduled Tribes. These duties of the states are nothing but rights of Indian citizens.

In many cases Supreme Court of India has held that right to education is a fundamental right. In Mohini Jain versus state of karnataka (AIR 1992 SC 1858) which is popularly known as Captivation Fee case Supreme Court has held that the right to education is a fundamental right under article 21 of the Indian constitution which cannot be denied to a citizen by charging higher fees. The right to education directly flows from right to life. In that case the petitioner was denied admission to a private medical college on the ground that she was unable to pay the exorbitant tuition fee of Rs. 60,000 per annum.

Again in Unnikrishnan versus state of Andhra Pradesh (AIR 1993 SC 2178) Supreme Court held that right to education is a fundamental right which directly flows from article 21 which provides right to life.

Right to education has been linked with Right to life. This case was related with medical and engineering colleges in state of Andhra Pradesh, Karnataka, Maharashtra and Tamil Nadu. So this right to education is not limited only up to school level but it is extended up to college and university level.

In these cases the issue of Captivation Fees in Private educational institutions was involved. If any person is denied admission in any educational institution because he is unable to pay the exorbitant amount of fee his right to equality guaranteed under article 14 is also violated. Those who are able to pay the exorbitant fee can get the admission and those who are unable to pay that fee cannot get admission. It means that only rich persons can get education and poor and backward persons cannot get education, and this is clear instance of violation of right to equality guaranteed under article 14 and right to education which directly flows from right to life guaranteed under article 21 of Indian Constitution. It happens often in private educational institutions.

The Privatization of education has been proved to be harmful to greater extent, for right to education. Firstly as already discussed due to financial position many poor and backward persons are denied admission in such private educational institutions.

Secondly these private educational institutions do not provide the education of better quality. Here one thing which is to be noted that right to education flows directly from right to life under article 21, and right to life means right to live life of better quality and with dignity. So this quality Compromise in private educational institution is violative of right to education.

Thirdly according to articles 41 and 45 of Indian Constitution it is the duty of state to protect and promote the right to education. But directly or indirectly state helps the policy of privatization of education. Some plans and policies of state
facilitate the privatization of education. Some politicians and ministers are owner of private educational institutions and this fact cannot be ignored. So it can be said that state is also participating in violation of right to education.

**How to solve the Problem**

Privatization of education has resulted into violation of right to education. It has created a big problem. In order to solve this problem some measures can be suggested.

Firstly Privatization of education cannot be opposed totally. State may allow Private institutions to provide education but such institutions should be subject to control of state. Whenever any constitutional right including right to education is violated by such institutions state should intervene in it.

Secondly Public educational institutions should be made well equipped with all the resources so that they can provide better quality education. For this purpose state can increase the fees of such public educational institutions. In the area of educational the contribution of corporate sector is very less. State can make compulsory for corporate sector to contribute financially towards public educational institutions.

Thirdly it must be kept in mind that to provide education is not a business, but it is a noble service, and so private sector educational institutions should also take affirmative action’s to help to weaker sections to get the better quality education. State can make it compulsory by suitable legislations.

Fourthly state by suitable legislation should fix the criteria regarding the number of private educational institutions, State’s control over it, services to be provided by them etc.

Fifthly those private institutions which are in existence for the sake of name only, the institutions which are engaged in corruption and those who do not provide better quality education must be closed.

If aforesaid measures are taken there will be proper control of state over private educational institutions, public sector can provide better quality education to all persons belonging to every level in society and private educational institutions will do their best in the field of education. It will prevent the privatization of education from being converted into capitalism. Ultimately the main object behind imparting education can be fulfilled.

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