

# ***RIGHT TO DEVELOPMENT***

## **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. Article 21A in the Constitution of India**

The Constitution (Eighty-sixth Amendment) Act, 2009, inserted Article 21-A in the Constitution of India to provide free and compulsory education to all children in the age group of six to fourteen years as part of the 'Right to Life.' Originally, the Right to Education was enshrined in Article 45 under the Directive Principles of the State Policy. It is by way of the above amendment **that the Right to Education was declared as the fundamental right of every child in India between the ages of 6 and 14.**

*Subsequent to it, 'The Right of Children to Free and Compulsory Education Act (RTE) of 2009' was enacted in the Parliament and came into force on the 1st of April 2010.*

### **The Right of Children to Free and Compulsory Education Act (RTE) 2009:**

Under this Act, a "child "means a male or female child aged between 6 to 14 years (section 2 c)

**Chapter III** of the Act Discusses extensively the duties and responsibilities of the Central / State, and Local governments in establishing neighbourhood schools within specified time limits.

**Chapter IV** of the Act talks about the responsibilities of the schools and teachers

As per this Act and the model rules framed on it -

- ✓ It is the obligation on the part of every State in India to provide a free elementary school up to standards 1 to 5 within 1 Kilometre Distance of the neighbourhoods where the children reside and within 3 Kilometres distance for children studying 6<sup>th</sup> to 8<sup>th</sup> standard. For those children living in difficult and remote terrain transport facilities to be provided to go to school.
- ✓ It requires all private schools to reserve 25% of seats for children (to be reimbursed by the state as part of the public-private partnership plan). Such kids are admitted into private schools based on economic status as well as caste-based reservations.
- ✓ Schools to ensure employment of adequate teachers with necessary qualifications.
- ✓ Children who had dropped out or were out of school were to be admitted back into age-appropriate classes by providing additional coaching classes to cope with their studies.
- ✓ No child to be detained in the same class or expelled from the school. Whenever a child wishes to change schools, a Transfer Certificate (T.C) be provided.
- ✓ Schools should not deny admission for lack of TC or age proof.

 **CORPORAL PUNISHMENTS PROHIBITED:**

**SECTION 17:** Prohibition of physical punishment and mental harassment of children. — (1) No child shall be subjected to physical punishment or mental harassment.

(2) Whoever contravenes the provisions of sub-section (1) shall be liable to disciplinary action under the service rules applicable to such person.

18. No School is to be established without obtaining a certificate of recognition.

**Section 10** of the Act discusses the duty of every parent to ensure their children receive a school education.

**Section 21** of the ACT talks about the formation of the Management Committee. —

1. A school, other than a school specified in sub-clause (iv) of clause (n) of section 2, shall constitute a School Management Committee consisting of the elected representatives of the local authority, parents or guardians of children admitted in such school, and teachers:

Provided that at least three-fourths of members of such Committee shall be parents or guardians: Provided further that proportionate representation shall be given to the parents or guardians of children belonging to disadvantaged groups and weaker sections: Provided also that fifty percent. of Members of such Committee shall be women.

2. The School Management Committee shall perform the following functions, namely: — (a) monitor the working of the school; (b) prepare and recommend school development plan; (c) monitor the utilisation of the grants received from the appropriate Government or local authority or any other source; and (d) perform such other functions as may be prescribed:

Composition and functions of the School Management Committee for the purposes of Section 21

13 (1) A School Management Committee shall be constituted in every school, other than an unaided school, within its jurisdiction within six months of the appointed date and reconstituted every two years.

(2) Seventy-five percent of the strength of the School Management Committee shall be from amongst parents or guardians of children.

(3) The remaining twenty-five percent of the strength of the SMC shall be from among the following persons

a) one-third of members from amongst the elected members of the local authority, to be decided by the local authority.

b) One-third of members from amongst teachers from the school, to be decided by the teachers of the school.

c) remaining one-third from amongst local educationists/children in the school, to be decided by the parents in the committee

Hence, the RTE Act empowers parents, especially those in government and local body schools, to participate in enhancing the quality of functioning in such schools.

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# CHILDREN WITH SPECIAL NEEDS

## Understanding and nurturing a child's development holistically

Every child is born with a unique potential. This potential needs nurture and support to thrive and develop! Children develop their potential and well-rounded personalities when ALL areas of development are considered and nurtured holistically.

A child's sense of self (emotional,) sensory, physical-motor, social, understanding, and communication form the different areas of development. They are interrelated, equally important, and weave together to form the child's personality.

The early years, from birth to six, are a period of rapid development that sets the foundations for a child's life.

Parents and caregivers, play an important role in supporting and enabling development at this vital stage. They need information and skills to effectively parent their child. Community workers need information and skills that will help them include all children in their realm of work effectively.

## **Understanding and nurturing the development of a child with disability holistically - A vital and different perspective**

Different parts of the brain have been found to control different functions. If before, during or after birth, the developing brain suffers trauma or damage, it can result in a delay or disorder in the area of development which the part of the brain controls.

According to the area and extent of damage, the child may have a particular delay/disorder or disability.

However, the brain has enormous potential, and the neural plasticity in the early years enables parts that are not damaged to take over the functions of the parts that are. Much can be done in the early years to optimize this potential. Early holistic intervention greatly enhances the child's development. **Children with disabilities have the same rights as other children. They need equal opportunities to play and learn in the early years, in a way best suited to their individual profiles.**

A child with cerebral palsy has difficulty with movement, a child with intellectual disability (mental retardation) has difficulty with understanding, and a child with autism has difficulty with social interaction and communication. These areas of difficulty usually get focus and attention.

**The child's abilities and potential in other areas may lie hidden beneath the more obvious difference/disability. These abilities also need focus and attention, for they contribute vitally to the child's self-esteem, the core of a personality.**

**If the abilities are not harnessed, they lie dormant or just fade away, resulting in a passive child with a disability.**

When the abilities are harnessed, the child emerges confident despite differences and disabilities. ALL children benefit when they are together:

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*Children with disabilities can grow up to be confident, caring, contributory members in inclusive societies despite their disability when they have the opportunity to interact with other children.*

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Non-disabled children make friends with others of their age who have different abilities and needs. They learn to accept and respect differences naturally and--- importantly early in life they become caring and empathetic. Truly a "WIN-WIN" approach

### **THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016 (RPWD Act)**

- The act defines a person with a benchmark disability if a person suffers 40% or more of a particular disability.

**The following are some of the Disabilities included in the RPWD Act 2016:**

1. Blindness 2. Low-vision 3. Leprosy Cured persons 4. Hearing Impairment (deaf and hard of hearing) 5. Locomotor Disability 6. Dwarfism 7. Intellectual Disability 8. Mental Illness 9. Autism Spectrum Disorder 10. Cerebral Palsy 11. Muscular Dystrophy 12. Chronic Neurological Conditions 13. Specific Learning Disabilities 14. Multiple Sclerosis 15. Speech and Language disability 16. Thalassemia 17. Haemophilia 18. Sickle Cell Disease 19. Multiple Disabilities, including deaf-blindness 20. Acid Attack victim 21. Parkinson's disease. 22. Three Blood Disorders 23. Parkinson's Disease.

Chapter II of the Act deals extensively with the Rights, equality, and non-discrimination of persons with disabilities and mandates the provision of special facilities to meet their needs.

**Section 9 of the Act insists upon the right of a child to a family and family care.**

The Act insists that no child with a disability shall be separated from his or her parents on the grounds of disability except on order of the competent court, taking into account the best interest of the child (Sec.9.1).

Where the parents are unable to take care of a child with a disability, then as per Sub-Section 9.2 - the competent court shall place such a child with his or her near relatives, and failing that within the community in a family setting and **in exceptional cases** in a shelter home run by the appropriate Government or non-governmental organisation, as may be required.

**EDUCATIONAL RIGHTS OF SPECIAL NEEDS CHILDREN**

Reservations and special scholarships are available for admission to schools and colleges, as well for job opportunities.

Section 16 of the act spells out the duties of educational institutions as follows:

*The appropriate Government and the local authorities shall endeavour that all educational institutions funded or recognised by them provide inclusive education to children with disabilities and, towards that end, shall—*

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*(i) admit them without discrimination and provide education and opportunities for sports and recreation activities equally with others;*

*(ii) make buildings, campus, and various facilities accessible;*

*(iii) provide reasonable accommodation according to the individual's requirements;*

*(iv) provide necessary support, individualised or otherwise, in environments that maximise academic and social development consistent with the goal of full inclusion;*

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*(v) ensure that the education to persons who are blind or deaf or both is imparted in the most appropriate languages and modes and means of communication;*

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*(vi) detect specific learning disabilities in children at the earliest and take suitable pedagogical and other measures to overcome them;*

*(vii) monitor participation, progress in terms of attainment levels, and completion of the education in respect of every student with a disability;*

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*(viii) provide transportation facilities to the children with disabilities and also the attendants of the children with disabilities having high support needs.*

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