

ONCE it was understood education is the (first requirement for economic progress. That essential fact was forgotten: impressive steel mills, great hydro-electric dams, glistening airports, were too often sited amid ignorant people. In this world, there is no literate population that is poor, no illiterate population that is other than poor."- Professor John Kenneth Galbraith, renowned economist and former US Ambassador to India

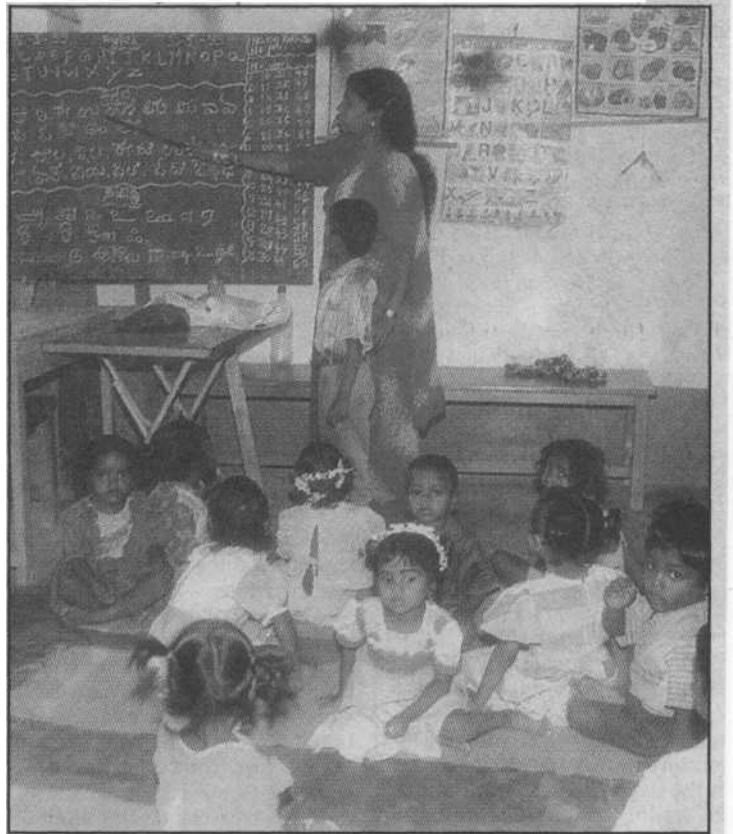
Shiksha do, shiksha do, Hamara Adhikar Hai. (Give us education, it is our right). A year long campaign by thousands of children and parents demanding free and compulsory education culminated at Shiksha Satyagraha at Delhi's Ramlila Maidan grounds last fortnight. Soon after, on November 28 the Lok Sabha passed the 93rd Amendment Bill to make education for children in the six- to 14-year age group a fundamental right. Even though the legislation was hailed as a 'positive move' to make India an illiterate-free country, experts say it contains several flaws making the task impossible to achieve in the coming decades.

Blasting the 93rd Amendment Bill, Anil Sadgopal, professor in education in Delhi University and senior fellow, Nehru Memorial Museum and Library, says it is designed to fulfill the dictates of the structural adjustment programme of the IMF and World Bank. "The legislation amounts to a withdrawal of the existing rights to education available to children. By excluding the 'upto six years age group', the bill annuls the commitment made by Article 45 to 'provide free and compulsory education for all children till age 14'. It also backtracks on the Supreme Court's 1993 judgment in Unnikrishnan J P versus state of Andhra Pradesh which held education to be a fundamental right for all children till age 14." This implies that almost 16 crore children in the zero-six age group will lose the fundamental right to education already granted to them in 1993 by the Supreme Court.

Says Sadgopal further, "In this sense, the new legislation is also anti-girl child as most poor girls are engaged in sibling care which deprives them of school education. By bringing the Bill to Parliament, the NDA government's Constitutional obligation emerging out of the Unnikrishnan judgment is reduced."

The legislation has also cleverly re-written Article 21A, proposed originally in the 83rd amendment Bill. The previous Bill had proposed to give the fundamental right to education to all children in the six-14 age group without any qualifying condition. The 93rd amendment Bill proposes to give this right 'in such manner as the state may, by law,

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This addition of a qualifying phrase to the provision of fundamental right cannot be dismissed lightly, especially in view of the now established policy of instituting parallel streams of education for poor children.

Also now judiciary will be so persuaded because of the addition of a sub-clause (k) as a fundamental duty of such parents in Article 51A, as proposed in the Bill. Sub-clause (k) makes it a fundamental duty of all parents not just to send their children to a school but, much worse, 'to provide opportunities for education' which will be read by the courts as the provision of educational facilities being a fundamental duty of the parents, and not a compulsion on the state.

Sanjiv Kaura of the National Alliance for the Fundamental Right to Education, (NAFRE), a coalition of 2400 voluntary organisations working in the education sector, says, "It's disappointing several positive recommendations we had made weren't incorporated in the bill." For instance, "We suggested the removal of the clause burdening parents with the fundamental duty to 'provide opportunities for education'. But the clause has stayed and can be misused by local mandarins to harass the poor people."

Union Human Resource Development, Minister, Mudi

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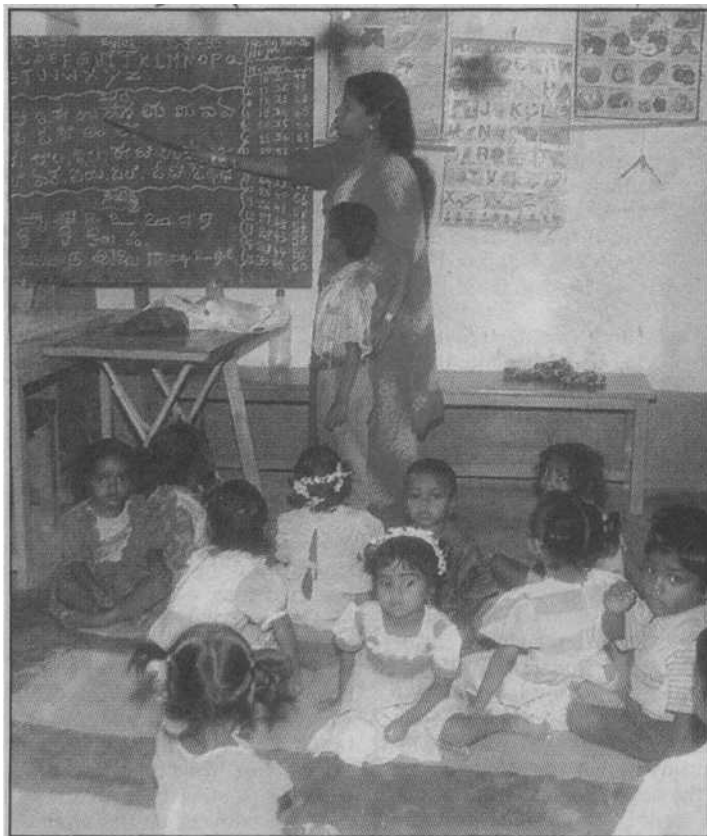
However there are others who think that the legislation amount to partial victory. Acknowledging the drawbacks in the legislation, Kailash Satyarthi of South Asian Coalition on Child Servitude says, "Right to education is challenging task not only for the government but also for the non-governmental sector. What should be focused is how the legislation can be translated into action?"

For this, what is required is genuine will among the political leadership, legislation backed by action at national, state and local level and allocation of adequate resources to achieve the objective.

What Satyarthi and others fear is how much the Centre is willing to allocate financial resources to achieve the set objective? Despite several recommendations by various committees like Kothari Commission in 1964, NDA government appointed Commission under Prof Tapas Mazumdar's recommendation that India spend at least 6 per cent of the GDP on education as against the current 3.8 per cent is gathering dust.

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Points out Eduardo Faleiro, Congress MP in Rajya Sabha, "The legislation has been rushed through without any discussion at any forum like controversial ordinance on terrorism, The bill was introduced in 1997 by S R Bommai, then HRD minister, and was referred to Standing Committee of Parliament. Since then when BJP led NDA government assumed office, the matter was referred to Group of Ministers (GoM) headed by Union Home Minister L K Advani. During the next four years, the bill was lying cold storage. Now all of a sudden, the bill was passed in rush with an eye in assembly elections in Uttar Pradesh and Punjab."

He further alleges, "why was not the issue not discussed in Central Advisory Board of Education (CABE)? After the row over Saraswati Vandana, Human Resources Development Minister, Joshi is yet to convene a meeting of CABE in which education ministers all over the country would discuss the issues concerning education."

centre, allow the child in adult literacy classes or provide a facility under the so-called Education Guarantee Scheme wherein a para-teacher will be appointed. The para-teacher scheme, already operating in a number of states like Madhya Pradesh, Rajasthan, Karnataka where the recruits appointed are under-qualified, untrained and under-paid youth as teachers on a contract basis.

What is worse is the possibility that the government might inform the court that it will do what the NCERT has recently proposed i.e., teach children in the six-14 age group through correspondence.

"Not even a para-teacher will be appointed. Rather, a postman will do. Today, the court is likely to reject all of these government proposals for cheaper and low quality alternatives as these violate the principle of equality and justice enshrined in the Constitution," says Sadgopal.

This would have also been the stand of the courts even if the 83rd amendment Bill, pending in the Rajya Sabha since July 1997, was passed by Parliament. But not after the 93rd amendment Bill. The dominant policy now is to provide various poor sections of society with cheaper and parallel streams of education under all sorts of euphemisms.

What is worse is the likelihood of the courts ordering the petitioner parents to ensure educational facilities for their children out of their own resources, failing which they would invite penal action under state legislation. It prepares the ground for transferring in a gradually incremental manner its Constitutional obligation towards education of the children, to their parents.

Mazumdar, Professor Emeritus in Jawaharalal Nehru University, who headed the Centre's expert committee says, "Any clause intended to punish poor parents who are not able to send their children to school is unjustified and not effective. It is a mere escape from the blame that government is doing nothing to make education a fundamental right. It will only lead to harassment of poor people."

The Public Report on Basic Education in India (PROBE) survey, 1999, had 80 per cent of respondents saying primary education should be compulsory. A whopping 95 per cent said it was 'important' that children be educated. A fundamentally right stance to take. But how it will be achieved is the question that abolition Indians face.

Laments Sadgopal, "what can be done if the government abdicates its own constitutional responsibility toward the education of poor children?"

K S Narayanan