

Bill No. XIX of 2010

**THE RIGHT OF CHILDREN TO FREE AND COMPULSORY
EDUCATION (AMENDMENT) BILL, 2010**

A

BILL

to amend the Right of Children to Free and Compulsory Education Act, 2009.

BE it enacted by Parliament in the Sixty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Right of Children to Free and Compulsory Education (Amendment) Act, 2010. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

35 of 2009.

2. In the Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as the principal Act), in section 2,— Amendment of section 2.

(a) in clause (d), after the word "means", the words "a child with disability or" shall be inserted;

10

(b) after clause (e), the following clause shall be inserted, namely:—

'(ee) "child with disability" includes,—

(A) a child with “disability” as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;

1 of 1996.

(B) a child, being a person with disability as defined in clause (j) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;

5
44 of 1999.

(C) a child with “severe disability” as defined in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999.

44 of 1999.

Amendment
of section 3.

3. In section 3 of the principal Act,—

10

(a) in sub-section (2), the proviso shall be omitted;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) A child with disability referred to in sub-clause (A) of clause (ee) of section 2 shall, without prejudice to the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, and a child referred to in sub-clauses (B) and (C) of clause (ee) of section 2, have the same rights to pursue free and compulsory elementary education which children with disabilities have under the provisions of Chapter V of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.”.

15
1 of 1996.

20

Amendment
of section 21.

4. In section 21 of the principal Act, in sub-section (2), the following proviso shall be inserted, namely:—

“Provided that the School Management Committee constituted under sub-section (1) in respect of a school established and administered by minority, whether based on religion or language, shall perform advisory function only.”.

25

Amendment
of section 22.

5. In section 22 of the principal Act, in sub-section (1), for the words "School Management Committee, constituted", the words "School Management Committee, except the School Management Committee in respect of a school established and administered by minority, whether based on religion or language, constituted" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

Consequent upon the enactment of the Constitution (Eighty-sixth Amendment) Act, 2002, the Right of Children to Free and Compulsory Education Act, 2009 which provides for free and compulsory education to all children of the age of 6 to 14 years was enacted.

2. Clause (d) of section 2 of the aforesaid Act of 2009 defines the expression “child belonging to disadvantaged group” to mean a child belonging to the Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class or such other group having disadvantage owing to social, cultural, economic, geographical, linguistic, gender or such other factor, as may be specified by the appropriate Government, by notification. However, children with disabilities, even though disadvantaged, are not specifically included in that clause. Children with disabilities constantly experience barriers to the enjoyment of basic rights, and to their inclusion in society. It is, therefore, proposed to include children with disabilities in the definition of “child belonging to disadvantaged group” with a view to ensuring that their specific needs are given precedence in the elementary education system in the country, and enable them, over time, to participate as full and equal members of the community in which they live. Secondly, the proviso to sub-section (2) of section 3 of the Act states that “a child suffering from disability, as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection and Full Participation) Act, 1995 (Act 1 of 1996) shall have the right to pursue free and compulsory elementary education in accordance with the provisions of Chapter V of the said Act”. It has been pointed out that Persons with Disabilities (Equal Opportunities, Protection and Full Participation) Act, 1995, does not cover children with cerebral palsy, mental retardation, autism and multiple disabilities, who are covered under the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (Act 44 of 1999). Accordingly, it is proposed that children with cerebral palsy, mental retardation, autism and multiple disabilities are also explicitly covered under the Right of Children to Free and Compulsory Education Act, 2009.

3. Sections 21 and 22 of the Right of Children to Free and Compulsory Education Act, 2009 provides for the constitution and functions of the School Management Committee and preparation of school development plan by the School Management Committee. However, unaided schools, not receiving any kind of aid or grants from the appropriate Government or local authority to meet their expenses, are exempted from constituting School Management Committees. Article 30 of the Constitution provides that all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. It is, therefore, proposed to amend section 21 of the aforesaid Act so as to provide that the School Management Committees constituted under sub-section (1) of section 21 of the aforesaid Act in respect of minority institutions shall function only in an advisory capacity. It is also proposed to amend section 22 of the Act so as to provide that the functions envisaged under the said section 22 for School Management Committees would not apply to minority institutions.

4. The Bill seeks to achieve the above objects.

NEW DELHI;
The 12th March, 2010.

KAPIL SIBAL.

ANNEXURE

EXTRACTS FROM THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009

(35 OF 2009)

* * * * *

Definitions.

2. In this Act, unless the Context otherwise requires,—

* * * * *

(d) "child belonging to disadvantaged group" means a child belonging to the Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class or such other group having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factor, as may be specified by the appropriate Government, by notification;

* * * * *

CHAPTER II

RIGHT TO FREE AND COMPULSORY EDUCATION

Right of child to free and compulsory education.

3. (1) *

* * * * *

(2) For the purpose of sub-section (1), no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the elementary education:

Provided that a child suffering from disability, as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection and Full Participation) Act, 1995, shall have the right to pursue free and compulsory elementary education in accordance with the provisions of Chapter V of the said Act.

1 of 1996.

* * * * *

School Management Committee.

21. (1) *

* * * * *

(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.

School Development Plan.

22. (1) Every School Management Committee, constituted under sub-section (1) of section 21, shall prepare a School Development Plan, in such manner as may be prescribed.

* * * * *

RAJYA SABHA

A

BILL

to amend the Right of Children to Free and Compulsory Education Act, 2009.

(Shri Kapil Sibal, Minister of Human Resource Development)