

Press Release

The Department-related Parliamentary Standing Committee on Human Resource Development under the Chairmanship of Shri Janardhan Dwivedi, M.P., Rajya Sabha presented its Report (213th) on the Right of Children to Free and Compulsory Education Bill, 2008 to both Houses of Parliament on 18th February, 2009. The main recommendations of the Committee are as under: -

I. AN EAGERLY AWAITED LEGISLATION

1.1 The Right of Children to Free and Compulsory Education Bill, 2008 is a sequel to 86th Constitution Amendment Act passed in 2006 which provided free and compulsory education to all children between the age group of 6-14 years. This Bill is an attempt to provide elementary education to all children including the ones who have dropped out of school before the completion of their elementary education.

1.2 The Committee is of the view that the proposed legislation has been brought after several stages and modifications and a considerable time has elapsed since the inception of the idea of bringing a legislation providing for universalisation of elementary education. The Committee appreciates the whole purpose with which the legislation has been proposed. Universalisation of Elementary Education has been a long awaited dream since the independence of our country and it is high time, the proposed legislation is given effect to at the earliest. The Committee appreciates the noble spirit with which the legislation has been proposed.

II. RESPONSE OF STATE GOVERNMENTS

Presently, 18 States and 2 Union Territories have their own legislations dealing with compulsory elementary education. The Committee noted that experiences of these States in implementation of their laws has not been very encouraging and to a large extent, they have remained unimplemented. **The Committee wonders whether the experiences of these States and UTs have been fully taken into account while drafting the Central legislation. The Committee is of the opinion that problem areas and short-comings noticed in the**

implementation of these State laws should be taken into account so that these are ameliorated beforehand in the present legislation. Community involvement and participation is an essential ingredient for the successful implementation of the provisions of the Bill.

III. TITLE OF THE BILL

The Committee recommends that the title of the Bill in its Hindi Version should be '*Nishulk aur Anivarya Bal Shiksha kaa Adhikar Vidheyak, 2008*' instead of '*Balkon kaa Nishulk aur Anivarya Shiksha kaa Adhikar*'.

IV. DEFINITION OF SCHOOL

Clause 2 (n) defines the term 'School'. The Committee recommends that definition of school be amended as "*School*" means any recognized school including primary schools and schools imparting elementary education.

V. NEIGHBOURHOOD SCHOOL

Clause 3 (I) deals with the concept of neighbourhood school. The Committee would like the inclusion of distance/time for commutation as one of the criteria for neighbourhood schools so that young children do not have to commute long distances which may cause exertion. This criterion can be different for plains, mountainous regions, deserts etc. The Committee, therefore, recommends that the term "neighbourhood school" be defined appropriately in Clause 3 (I).

VI. FINANCIAL IMPLICATIONS ON IMPLEMENTATION OF THE BILL

6.1 Clause 7 deals with the sharing of financial and other responsibilities between the Central Government and the State Governments. The Committee observes that the projected financial requirement does not reflect the actual distribution of the burden between the Centre and the States. The Government can not afford to ignore the fact that many State Governments have expressed their inability to bear the huge financial burden estimated for the implementation of the Act. In fact some States have advocated that the Central Government should assume full financial responsibility for the same. In the absence of any formula for sharing of funds between Centre and States, the State Governments may end up

facing acute financial constraints. The Committee is of the view that this formula should be finalized and reflected in the financial memorandum attached to the Bill. The formula for sharing of the funds should also be clearly stated and in the absence of any other credible formula should state that “till a revised formula is worked out through appropriate consultations, the present sharing formula would continue.”

6.2 The Committee feels that for enabling the Finance Commission to make appropriate recommendations both the over all financial cost as well as the sharing formula between the Centre and the States must be settled.

6.3 The Committee recommends that the Central Government may consider for a provision for development of skills of children through vocational training which should be an integral part of the school education at an appropriate level of elementary education under Clause 7 (6).

VII. DUTIES OF STAKEHOLDERS

Clauses 8, 9 &10 – These provisions specify the duties of the appropriate Government, local authority and duties of parents and guardians. The Committee would like to point out that there is no provision of a monitoring mechanism to ensure the compliance of the provisions by the appropriate Government authority, local authority and parents. The Committee also recommends that measures should be taken to create mass awareness about this social legislation and that regular monitoring of its implementation should also be ensured.

VIII. REIMBURSEMENT FORMULA AND EDUCATION FOR WEAKER AND DISADVANTAGED GROUPS

8.1 Clause 12 provides that unaided schools shall be reimbursed expenditure incurred on providing free and compulsory education to 25 per cent of children belonging to weaker sections and disadvantaged groups in the neighborhood subject to expenditure by State-run schools or the unaided school whichever is less. The Committee would like to be apprised about the mechanism for ensuring the admission of eligible students to private schools under this provision.

8.2 The Committee recommends that arrangements be made to see that expenditure incurred on 25 percent of underprivileged children is not passed on to the remaining 75 percent of children. For ensuring this, the reimbursement formula must be determined on the basis of norms by a Group of Experts and in consultation with the Planning Commission. Committee also recommends that the aided or unaided schools should give 25 percent of their admissions to the children of underprivileged class from the very beginning i.e from nursery class itself and not from class I as it may not be possible for such children to compete and cope up with the standard of the remaining children in class I. This procedure based on the aforesaid principle should be reflected in Clause 12 (b) of the proposed Bill.

IX. PENALTIES FOR VIOLATIONS

Clauses 13, 14, 15, 18 & 19 provide for penalty in respect of capitation fee, scrutiny procedure for admission, non-denial of admission due to lack of proof of age, mandatory requirement for certificate of registration and norms and standards for schools. The Committee appreciates the inclusion of such provisions which would pave the way for equal opportunities to all children in completion of their elementary education without any fear, trauma or anxiety. The Committee notes that there is no provision of a monitoring mechanism to ensure implementation of these provisions. The fear of penalties may arrest the alleged irregularities and corruption in the field of education but it requires a foolproof monitoring mechanism for its effective implementation so that no school denies admission to any child.

X. AGE PROOF FOR ADMISSION

Clause 14 (2) specifies that no child shall be denied admission in a school for lack of age proof. The Committee feels that this is a blanket provision which needs to be spelt out clearly. The Committee is of the view that the provision for admission without age proof is not desirable in a society which is developing at a rapid speed. Age is an important criterion for the children to encourage competition and to grow. In case the age proof is not available, there should be a

provision for production of an affidavit from the parents or an age certificate from the chief of the village panchayat/local counselor.

XI. PERIOD FOR ADMISSION

Clause 15 provides that a child shall be admitted in a school at the commencement of the academic year or within such extended period as may be prescribed. The Committee observes that it is not clear as to which authority will be deciding about extended period for admission. The Committee is of the opinion that there should be some provision with regard to the extended period of admission and the manner of completing study if admitted after the extended period. In this regard, rules may be framed for the same.

XII. COMPLETION OF ELEMENTARY EDUCATION

12.1 Clause 16 provides that no child admitted in a school shall be held back in any class from school till the completion of his/her elementary education. The Committee feels that there needs to be an element of fear through proper evaluation lest the non performers may become a liability for the society at large. An evaluation record should be maintained and shared with the child and the parents for encouraging improved performance particularly in cases where the child fails to meet acceptable quality. The Committee is of the opinion that a minimum level of grading or standardization should be fixed for the child to be promoted to the next class instead of blanket promotion.

12.2 Clause 16 also lays down that no child admitted in a school shall be expelled from school till the completion of elementary education. This provision seems to be a sweeping one and a rational consideration seems to be called for. The Committee is of the opinion that in cases where a child is habitually deviant or repeatedly creates nuisance and vitiates academic atmosphere of the school, in the first instance, suitable counseling be arranged through experts and academicians. If that does not work, suitable action may be taken against such a child in deserving cases. The action of expulsion should not debar him/her from taking admission in some other school.

XIII. SCHOOL MANAGEMENT COMMITTEE

The Committee opines that there should be adequate representation of women in the School Management Committee.

XIV. VACANCIES OF TEACHERS

Clause 26 provides that vacancies of teachers in a school shall not exceed ten percent of the total sanctioned strength of teachers. **The Committee feels that filling up of vacancies which should not exceed ten percent of the sanctioned strength is a daunting task. Delays in recruitment of teachers against vacancies often take 3-4 years. The gaps are managed by employing para-teachers. It is not clear as to what would be the status of para teachers in view of these provisions. Further, it is not clear whether States would be given autonomy in matters of recruitment of teachers and also filling up of vacancies. The Committee presumes that the Central Government has taken cognizance of the actual vacancies of teachers in the States and worked out the strategy to fill up these vacancies. This exercise is absolutely necessary to ensure that there is no conflict between State and Centre laws with regard to the recruitment of teachers and filling up of vacancies.**

XV. CERTIFICATE FOR COMPLETION OF ELEMENTARY EDUCATION

Clause 30 (2) provides that every child completing his/her elementary education shall be awarded a certificate, in such form and in such manner, as may be prescribed. **The Committee is of the opinion that for awarding a certificate to a child for completion of his/her elementary education, a standardized assessment of that child should be done periodically to enable the child to know his level and improve accordingly.**

XVI. NATIONAL COMMISSION FOR PROTECTION OF CHILD RIGHTS

Clause 31 - The Committee notes that in the event of inquiry into complaints by the National Commission for Protection of Child Rights and the

steps taken under Section 15 and 24 of the said Act, the party against whom an order is passed by the Commission may feel aggrieved by that order. There does not seem to be any provision in the proposed Bill to provide for an appeal against such an order. Therefore, a provision enabling an appeal may be inserted in the Clause.

XVII. REDRESSAL OF GRIEVANCES

Clause 32 provides for redressal of grievances by the local authority. The Committee is of the opinion that the use of the term “as early as possible” is a vague expression. Therefore, a time frame of three months, needs to be specified for the final decision of the local authority. Similar time frame for giving decision needs to be specified even for the State Commissions for Protection of Child Rights thereby safeguarding the interests of the child.

XVIII. STATE ADVISORY COUNCILS

Clause 33 deals with the constitution of the National Advisory Council to advise the Central Government on implementation of the provisions of the Act in an effective manner. The Committee therefore recommends for constitution of Advisory Councils at the State level first.

XIX. DIVISION OF POWERS BETWEEN CENTRE AND STATES

Clause 34 - The Committee recommends that in keeping with the constitutional scheme of division of powers between the Centre and States, the words “and directions” appearing in this Clause be deleted.