

# Right to Homeschooling vs Right to Education

JANDHYALA B G TILAK

The affidavit submitted by the Ministry of Human Resource Development to the Delhi High Court recently clarifying that parents can choose to homeschool their children is violative of the Right to Education Act.

Many attempts have been made during India's post-Independence period to fulfil the constitutional directive of universal elementary education through a number of education systems such as government and government-aided schools, local body schools, recognised and unrecognised private schools, non-formal education and open schools. According to an important clause in the Right of Children to Free and Compulsory Education Act 2009 (RTE), elementary education shall be provided only through recognised government and private schools. Private unrecognised schools, non-formal education and other alternative forms of education are no longer valid.

In the context of a petition filed in the Delhi High Court (*Shreya Sahai and Others vs Union of India and Others/wr* (Civil) No 8870 of 2011), the Ministry of Human Resource Development (MHRD) of the Government of India submitted an affidavit (dated 16 July 2012) in which two important statements were made that go contrary to the wider understating of the RTE Act: (a) "parents who voluntarily opt for systems of homeschooling and such alternative forms of schooling may continue to do so. The RTE Act does not come in the way of such alternative schooling methodologies or declare such form of education as illegal"; and (b) "the Act is with regard to the rights of children and does not compel children to go to a neighbourhood school...The compulsion therefore is not on the child but on that Government".

## Contradicting the RTE Act

From a simple reading of the RTE Act one might conclude that the above two statements made in the affidavit contradict the very letter of the RTE Act, not to speak of its spirit. According to the Act, eight-year formal schooling of primary and upper primary levels in recognised

schools is a fundamental right of the children of the age-group 6-14 and it is also mandatory that parents send their children to formal recognised schools.

The clause 2 in Chapter 1 of the Act defines school as a "recognised" school imparting elementary education. The Act recognises only four types of schools:

- (1) a school established, owned or controlled by the appropriate Government or a local authority;
- (2) an aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority;
- (3) a school belonging to specified category; and
- (4) an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority.

Schools of specified category are defined to mean Kendriya Vidyalayas, Navodaya Vidyalayas, Sainik Schools "or any other school having a distinct character which may be specified, by notification, by the appropriate Government". The Act makes it clear that all schools are necessarily recognised and puts a time frame for all existing unrecognised schools to acquire government recognition. As stated in the affidavit, even open schooling through the National Institute of Open Schooling will no longer be valid.

Norms and standards of a school in the "Schedule" of the Act also lead us to conclude that the RTE Act refers to formal schools with formal structures, teachers, curriculum, working days/hours, etc, and not to any kind of non-formal or informal or alternate education.

With regard to the compulsion, clause 10 of Chapter III of the RTE makes it clear:

It shall be the duty of every parent or guardian to admit or cause to be admitted his or her child or ward, as the case may be, to an elementary education in the neighbourhood school.

It is therefore mandatory for both the government and parents to ensure that children are educated in recognised schools. The very spirit of compulsory education laws around the world, including India, implies that the principle of individual choice is not valid in the case of compulsory education and that children have to go only to recognised, not alternative schools.

It is clear that except a formal school, all modes of imparting education like

Jandhyala B G Tilak ([jtilak@nuepa.org](mailto:jtilak@nuepa.org)) is with the department of educational finance at the National University of Educational Planning and Administration, New Delhi.

homeschooling, alternate schools of education or any other form of non-formal and informal education and schools not subscribing to the norms and curriculum mandated in the Act are illegal. To restate, the RTE Act in letter and spirit does not allow homeschooling; it is only for children with special, severe and multiple disabilities that the amendment made to the RTE Act in May 2012 allows homeschooling, which is also not proper, but can at best be treated as a very rare and exceptional category.

### Homeschooling

What is homeschooling and why is it not allowed in the RTE? One has to look at the spirit in which the RTE Act has been enacted. Elementary education is meant not just for learning alphabets or acquiring skills and knowledge; socialisation is also an important function of education. Socialisation means learning to interact with others in a meaningful, proper and respectful way and in the process acquiring common values. Education has to promote a common widely-shared perspective of social values and society at large and a sense of equity. It was for the same reason that the common school system was advocated by many in India and abroad. Though the RTE Act does not promise a common school system, it does share some of its values, albeit obliquely.

Homeschooling, also called “unschooling” by some scholars, refers to a method of education of children at home – typically by parents or sometimes by tutors instead of the formal settings of public or private schools. In fact, there is no “school” in homeschooling; it is home education or home tutoring, a method mainly used at a time when there was no formal schooling or when formal schooling facilities were not widely spread until the 17th and early 18th centuries in many countries. It has re-emerged in the recent years as some parents desire to provide religious, if not sectarian and non-secular education, or moral education. Since formal schooling systems are viewed to be rigid, some also view homeschooling as an expression of assertion of individual freedom.

Socialisation requires children to spend their time in their formative years with other children and teachers and learn from them – they need to learn how to have relationships with their peers. A formal school environment spontaneously enables the development of social skills and socialisation along with the formation of collective, secular and national values. Homeschooling cannot do this, certainly not effectively. The inability among the children to socialise well, the timidity that comes with not being around with other children, and

the inability to work with others can stem from homeschooling.

Since homeschooled children are not able to learn with friends, they are unable to associate and congregate with other kids of the same age and could end up with serious developmental problems. There are several other problems with homeschooling, also considered as “growing without schooling”. Above all, homeschooling takes away an important part of life as a child from the youngster. This can be construed as a violation of the child’s basic rights. At best, homeschooling can be used as a form of supplementary education but cannot be a substitute to formal schooling.

Homeschooling views education as the responsibility of parents only. In fact, it is not just parents, society as a whole is responsible for the education of the children. After all, education is not a “private good”. By making education free and compulsory in formal schools (the principle of individual choice is not relevant), the RTE Act in India, the United Nations Educational, Scientific and Cultural Organisation (UNESCO) resolution and similar Acts in other countries recognise the public good and merit good nature of education as a justiciable right. Unfortunately, the affidavit submitted by the MHRD does not recognise the letter and spirit of the RTE Act; in fact, it is violative of the statute.

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