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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

ROLE OF JUDICIARY ON EDUCATION POLICIES

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Abstract:

Education is the essential basic need for mankind. Education plays a vital role in developing a nation. In India the government has taken a far step to provide the education to the citizen. In par with the government, the Indian judiciary has also played a very crucial and major role in making the right to education a fundamental right. Various judicial pronouncements have led to right to education becoming a fundamental right. Some of these important judicial decisions were discussed in this article. Here this article analyses about the various cases where the judiciary has given a decision on educational policies and also it analyses the impact of on the society in the development of education.

Key words:

Judiciary decisions, Educational Policies, socio-economic rights, economic development

Introduction.

Education has always been the foundation of human civilization, and the history of education in India is a fascinating story that combines creativity, tradition, and cultural diversity. India's unwavering quest for knowledge by fusing traditional knowledge with cutting-edge teaching methods that have shaped the country's educational landscape for millennia. India's educational history dates back to a period when ashrams and gurukuls were common place. Later on, Buddhism and Jainism had a profound impact on the history of education in India. Monastic centres were centres of study which provide instruction in literature, philosophy, and spirituality. This era also saw the founding of famous universities like Nalanda and Taxila, which strengthened India's standing as a hub for higher education. India's education faces difficulties during the Middle Ages due to political unrest and invasions that caused disruptions to the country's established educational institutions. But the coming of Islamic intellectuals brought Persian and Arabic education together, enhancing the quality of education in India. During the Mughals era establishment of madrasas and the maintenance of conventional knowledge systems occurred.

Development of Education system and policies:

India's educational history underwent a radical change with the arrival of colonial powers. The formal education systems that the British instituted resulted in the founding of colleges and schools. Western values and traditional Indian schooling clashed during this time, with the former frequently being side-lined. But the drive for independence increased the need for education and resulted in a renewed interest in conventional methods.

Following India's 1947 declaration of independence, the country's educational history advanced significantly. Emphasizing the value of literacy and elementary education, the government has implemented policies to increase access to education for all. The founding of prestigious universities such as the Indian Institutes of Technology (IITs) and Indian Institutes of Management (IIMs) demonstrated India's dedication to promoting excellence in postsecondary education. Other than these the government of state has also implemented various policies to provide education to the all citizens in various socially and economically backward communities. There are various instances where these educational policies were challenged before the court in various period, which leads the judiciary to play the role in educational development in India.

Judiciary Decision on Education Matters:

These policy decisions of government should not be changed or interfered by the Supreme Court unless they are proven to be arbitrary or unreasonable. Although there are certain instances of overlap, the separation of powers is the fundamental tenet of the Indian Constitution. The Legislature, Executive Branch, and Judiciary Branch comprise the three primary branches of the State apparatus. Every branch of the State is able to carry out actions within its own purview. The purpose of the legislature is to enact laws. The executive branch's duties include creating policies, putting them into action, and managing the government. The role of the judiciary is to administer justice, interpret the law, resolve conflicts and apply the law.

Therefore, the Executive is responsible for formulating and carrying out policies. It is outside the judiciary's purview. This merely provides a summary of what they do. Furthermore, the Judiciary lacks the domain knowledge and experience necessary to create or modify policies. In contrast, the Executive has access to specialists, experts, administrators, consultants, etc. in a particular subject and is qualified to formulate policies after carefully weighing all relevant factors.

In Civil Appeal Nos. 5133-35 of 2019 (arising out of SLP (C) No. 30090 of 2018) titled Vasavi Engineering College Parents Association Vs. State of Telangana & Ors,¹ the Supreme Court of India held that courts cannot usurp the jurisdiction of decision makers under the guise of judicial review. The court also set aside the Telangana High Court's Orders fixing the Fee Structure of Unaided Minority & Non-minority Institutions for Engineering Courses for 2016-17 and 2018-2019 academic years.

In the 2003 case Islamic Academy of Education & Anr v. State of Karnataka & Ors.², the Indian Supreme Court ordered the formation of a committee in each State to oversee the fee structure in unaided minority and non-minority educational institutions. Section 15 of the Telangana Educational Institutions (Regulation of Admission and Prohibition of Capitation Fee) Act, 1983, read in conjunction with Sections 3 and 7, formed the framework for the Telangana Admission & Fee Regulatory Committee (for Professional Courses offered in Private Unaided Professional Institutions) Rules, 2006. The Committee shall notify the State Government of the Fee Structure it has set in accordance with Rule 4(v).

The Fee Structure not approved by the Learned Single Judge was among other things for the B.E. & B. Tech Courses for the block period of 2016–2017 to 2018–2019, following a challenge from the institutions. The Telangana Admission & Fee Regulatory Committee received a remand of the case.

The Telangana Admission & Fee Regulatory Committee permitted some escalation upon reconsideration, but this was again contested. Asserting that the fixation was improper, the Learned Single Judge went on to satisfy himself with the Fee Structure.

the State of Telangana and the Fee Regulatory Committee challenged the matter before the Division Bench, but their attempts were unsuccessful. Upon receiving permission to do so, the Parent's Association also directly contested the contested orders before the Supreme Court. These are the cases where the Judiciary has opinion and took a decision over the policy engrafted by the governments. Even though the intervention is tough in certain cases, when it comes to education the court had leaned towards to protect the citizen and provide them the education right.

¹. In Civil Appeal Nos. 5133-35 of 2019 (arising out of SLP (C) No. 30090 of 2018).

². 2003 6 SCC 697.

In 2002, the Indian Supreme Court's ruling in the case of *Unnikrishnan J. P. v. State of Andhra Pradesh*³ set in motion a series of events that culminated in the insertion of article 21-A, which guaranteed every child between the ages of 6 and 14 the fundamental right to an education. The reason for the event was a challenge to a provincial state statute governing the collection of "capitation" fees from applicants on behalf of private medical and engineering universities. The college administrations wanted their business rights to be upheld. The court looked into the nature of the right to education after categorically rejecting this argument. The State's asserted margin of appreciation for DPSP's progressive realization as well as its non-enforceability were rejected by the court. "The Court inquired: It is interesting that, out of all the articles in Part IV, only Article 45 mentions a deadline. Is it of no importance? Is this, even after 44 years of the Constitution, just a wishful wish? Can the State disregard the aforementioned directive even after 44 years, arguing that the article just requests that it make an effort to offer the same, and further arguing that the aforementioned provision is unenforceable due to the declaration in Article 37? Does the duty created by the article not become an enforceable right after 44 years, which is more than four times the duration specified in Article 45? In this backdrop, we are compelled to state that the distribution of finances across India's many education sectors reveals a reversal of the priorities set forth in the Constitution." The Constitution allowed for the State to implement a crash program in order to accomplish the objective outlined in Article 45. It is important to note that, in contrast to Article 41, which discusses the right to education among other things, Article 45 does not discuss the "limits of its economic capacity and development."

In actuality, higher education has received more funding and attention than basic education, often at the expense of the latter. When we refer to elementary education, we mean the schooling that a typical child receives by the time he turns 14 years old. The weakest segments of society mentioned in Article 46 and the rural areas are more neglected. To be clear, our focus is solely on the constitutional policies revealed by Articles 45, 46, and 41. We do not intend to establish the Government's priorities. There is no doubting the wisdom of these fundamental safeguards.

The Court then moved forth to investigate the manner and scope of this right's enforcement. The court then used the ruling in *Unnikrishnan* to establish broad guidelines for the Government to follow in regards to the issue of ending child labor: It is now, strictly speaking, very reasonable to ask the State

³ . 1993 AIR 2178, 1993 SCR (1) 594

to ensure that an adult member of the family whose child works in a factory, mine, or other hazardous job finds employment anywhere in lieu of the child, in order to invoke Article 41 of the Constitution regarding the right to work and to give meaning to what has been provided in Article 47 relating to raising the standard of living of the population and Articles 39 (e) and (f) as to non-abuse of tender age of children and giving opportunities and facilities to them to develop in a health manner.

This would also result in the fulfilment of Article 41's wish after almost fifty years of it being in the supreme parchment, similar to Article 45's desire for primary education, which was granted the status of a fundamental right by the Unnikrishnan ruling. Unnikrishnan's designation of basic education as the fundamental component of the right to education has been significant. This was also implied in the phrasing of article 45, which established a deadline for the "progressive realization" of the right.

Second, it led to the formal recognition of this right's transition from a DPSP to an enforceable fundamental right by a constitutional amendment. The case is significant because it will have an effect on judicial decision-making, where originality and inventiveness are crucial factors in determining whether or not to intervene.

Conclusion:

The Court's involvement in a variety of issues, such as those pertaining to economic, social, and cultural rights, has sparked a discussion regarding the judiciary's legitimacy and competence to enter fields that are traditionally thought to belong to the other branches of government. That may not, however, adequately explain why the Court had to step in, when considering the bigger picture of how laws are developed and how sound democratic norms support public accountability. It might be important to quickly review the ramifications of judicial intervention through PIL in the field of ESC rights in order to put the debate in context. Among the benefits are acting as a catalyst for changes in legislation and policy regarding ESC rights. and another is demanding recognition and enforcement of the right to access judicial redress against workplace injuries to women, as established by the Supreme Court, becomes immediately useful. The ruling in Unnikrishnan is responsible for a great deal of the most recent modifications to laws and policies pertaining to primary education in particular and education in general. Creating ESC rights standards and indicators in a number of important areas. For example, the ruling in Paschim Bangal defines the right of accident victims to emergency medical care as a fundamental minimum of the right to health, and the rulings in PUCL v. Union of India

emphasize the right of those living in poverty to access food supplies as the absolute, non-negotiable minimum necessary to maintain human dignity. creation of a human rights jurisprudence that keeps pace with the advancement of international law. The Court has been able to establish and apply the "polluter pays principle", the precautionary principles, and the principle of restitution thanks to PIL cases involving environmental issues. Thus there are few of the many other issues that surface in the context of the Court's intervention through PIL.

