



## **REVIEW OF EDUCATIONAL TRIBUNALS BILL 2010 WITH SUGGESTIONS**

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There are a number of problems and cases in the field of education, especially where there is requirement for specialist knowledge. The unrest in students' communities is more with respect to awarding system of marks and results declaration. Society is becoming more and more technologically advanced. Globalization and privatization of education have become need of the day.

Definitely Judges who sit in the chair need to be technically sound to solve the disputes of modern-day problems. Even the students are becoming more sensitive and lonelier and are committing suicides for not passing the examinations or getting admission to the courses of their choice. There is so much to do in the system of education from student's point of view. On the side of reservations are bringing down the quality instead of uplifting the needy. With respect to management each influential group in society owning the educational institutions which are financially lucrative. There are umpteen number of cases where the management failed to impress the court's affiliations rules with respect to each university is different.

Having kept in mind all the above a Bill for bringing reforms in the education system has been introduced.

We should know as to how long it will take for a bill to become law. How many numbers of bills are lased? The number of pending bills in the parliament are also more. This shows how much legislative activity is taking place. Once if we observe media and live telecast of legislator's mode of operation in the Houses where they represent, we tend to feel that one they came to fight each other or represent the people to make laws. An important part of everyone's life is education which has been neglected for many years.

### ***The Following is the Procedure of How a Bill becomes Law***

An ordinary Bill, bills other than money or a Financial Bill may originate in either House of Parliament. It becomes an Act when it is passed by both Houses and is assented to by the President. The procedure for the passage of a Bill in a House is contained in the rules of procedure of each House.

Usually, a Bill passes through three stages, popularly known as reading in a House. The first is the introduction stage. By convention no discussion takes place unless the Bill is very controversial eg. This convention has been broken when the preventive Detention Bill has been introduced. Then comes the consideration stage which has two parts:

- One, a general discussion of the principles and provision of the Bill (details of the Bill are not discussed at this stage);
- Two, its clause by clause consideration.

The general discussion takes place on motion either that the Bill be taken into consideration or that it may be referred to a select committee or that it be circulated for eliciting public opinion.

An important Bill is usually referred to a select committee of the House or to a joint select committee of both Houses. After the report of the committee is presented to the House, the Bill is discussed clause by clause. Amendments to clauses may be moved at this stage. At the final or third reading stage, after a brief general discussion, the Bill is finally passed. After its passage in one House, the Bill is transmitted to the other House where it undergoes more or less a similar procedure.

During 15<sup>th</sup> Lok Sabha had by Congress under Prime Minister Dr. Manmohan Singh and the Ministers of HRD Shri Kapil Sibal has introduced the educations Tribunals Bill 2010 with the number (55/2010). The objective of the bill is to provide for establishment of educational tribunals for effective and expeditious adjudication of disputes involving

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teachers and their employees of higher educational institutions and other stakeholders (including students universities institutions and statutory regulatory authorities) and to adjudicate penalties for indulging in unfair practices in higher education and for matters connected therewith or incidental thereto.

The aim of the bill of educational tribunals 2010 is very good. Honourable Finance Minister Mr. Kapil Sibal said that “Education impacts every child in this country very young man and woman who is going to the university every family who try very hard to make sure that their children get very high-quality education. Every thinking member of society is impacted by education that the state and the private sector providers in their country.

**The things taken into consideration during the debate on the Bill are:**

- To revive the Nalanda University States to India with good quality universities.
- To ensure good quality education to the children as a nation has to move in a forward direction.
- To have a balance between perfect and imperfect laws to build the nation future.
- To create valid solutions as the literacy level is improving day by day and colleges and universities are bound to multiply to the current levels.
- The disputes between universities, affiliating colleges authorities like UGC, AICTE, MCI, etc, for approvals, recognition, inter-university, inter-college, teachers and students’ disputes tend to grow exponentially.
- An architecture for solving the disputes away from civil court, appeal court. Giving importance to the value of time devoted by teachers and students in courtrooms instead of classrooms.
- The private sector in the field of education has multiplied problems though its existence is necessary to meet the increasing requirements of the people. Privatization even causes malpractices like capitation fees, invalid recognition and so on.

The Bill clearly supports the stakeholder of education as being the reasons for recommending the Education Tribunals Bill. The reduction of number of cases, burden of the court is part of it. A specialized or expert person in the adjudicatory body is a definite requirement.

The Department related Parliamentary Standing Committee on Human resource development Presented 225<sup>th</sup> Report of the committee on the Educational Tribunals Bill, 2010. Under its chairmanship of Mr. Oscar Fernandes, the observations of the committee are as follows:

- The committee is of the view that the Government should identify the weaknesses and lacunae of the existing tribunal's system and then address them in the right perspective.
- The committee hopes that proposed Bill do not in any way hinder the quality, innovation, and creativity in higher education and are able to deliver their mandate efficiently.
- It suggested to create Educational Division or the lines of commercial division may be created in each High court to hear appeals against the decision. If the state tribunals as it was decided in Chandramohan’s case. Regarding the setting of Educational Division, the Committee i.e., of the view that since the Government implementing the commercial dispute bench for the first time, it can consider the formation of such benches by increasing the number of High Court Judges wherever it plans to abolish the tribunals.



- Committee expressed its apprehension on the complex structure of tribunals, which may lead to litigation in other ways, instead of justice in a speedy way to be implemented. An easier and simpler administrative system for resolving disputes to be adopted.
- To overcome the financial burden and fixing of minimum court fee in case of tribunals can be considered. It also observed that before setting up tribunals, the magnitude of cases incurred in litigation should be assessed.
- Instead of three-tier tribunals system suggested in TMA Pai case and law commission report the Bill suggested only for 2-tier tribunals as it was opposed by the States during consultation process as it may escalate costs.
- The committee suggests having district level tribunals where number of educational institutions are concentrated or more.
- The word students must-be included in the Bill and thereby safeguard their interests.
- The committee seeks a clarification of justice delivery system to be different in public and private institutions.
- The committee suggests to keep the interests of the SCs and STs in the tribunal's representation should be protected.

The suggestions on the Bill are good if it can be implemented. There are various reasons for the Bill did not come into reality.

- If we observe the history, the politics, the election mandate by the public plays a vital role in bringing any Bills its shape. Right from 1990's beginning to till 2009 there was no stable government. To get a bill passed in both Houses majority votes are required in both houses where there is no stable government it is difficult to see that any governance taking place.
- Though congress government ruled for 10 years up to 2014 mostly it was with alliances. This led to not bring the major reforms. Even India is still under lower literacy rules. Of course, this led to introduction of Right to Education in the fundamental rights under Article 21-A of the constitutions providing force and compulsory education up to 14 years of age. To get this only it took many years we can imagine the state of affairs of our country where to get primary education guaranteed to its citizens took 62 years after independence. Understanding the importance of quality in higher education system again a step further which is yet to take its shape.
- There was an IT boom and the IT Act 2000 was introduced and it changed the lives of many in India. It brought changes in many Acts like RBI Act. Banker Books Evidence Act. IPC, Evidence Act. This really requires knowledge of basic education to be able to get the benefits.
- Globalization and privatization were advantages in the field of education. However, at the same time, it resulted in many types of disputes.
- When the Bill was introduced, they tried to bring other Bills at the same time. A step by step introduction of Bills could have been a good choice than trying to introduce at a time altogether. Hence, it resulted in the lapse of the Bill, and could not be able to pass in another House due to lack of majority.
- First refining and correction of Hight Education Regulatory authorities establishing tribunals will be of no use.

- There was a lack of political will bring the Tribunals Bill as Government was not here as to how to take a lead.

### **CONCLUSION**

There is definitely a specialized tribunal in the field of education is necessary to improve quality. The number of pending cases in the file of education was not completed as there is insufficient data available Nevertheless, in the point of view of students, teachers and educational institutions there is a necessity to have separate tribunals in education. At primary level and university level some of the states are having tribunals. So a uniform method to bring into one streamline the existing tribunals at different states it is necessary to bring the Bill its shape. As the number of cases is filed by medical & technical colleges are more, there seem to be many changes taking place in the admission process, affiliation regulations, etc. After the National Policy on Education, we can hope to get the implementation of the Educational Tribunals Bill.

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