

Bill No. 37 of 2024

THE RIGHT OF CHILDREN TO FREE AND COMPULSORY
EDUCATION (AMENDMENT) BILL, 2024

By

DR. SHRIKANT EKNATH SHINDE, M.P.

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BILL

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

BE it enacted by Parliament in the Seventy-fifth 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, 2024.

Short title and
commencement.

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

STATEMENT OF OBJECTS AND REASONS

Education is a fundamental right of every child, which is essential for their growth and development. The importance of education cannot be overstated, as it enables children to acquire knowledge, skills, and values that are necessary for their personal and social development. The right to education for children is enshrined in various international and national laws, including the United Nations Convention on the Rights of the Child (UNCRC) and the Indian Constitution. Article 26 of the UNCRC recognizes the right of every child to an education, which should be directed to the development of the child's personality, talents, and mental and physical abilities to their fullest potential. The Indian Constitution also recognizes the right to education as a fundamental right under article 21A, which was inserted by the 86th Amendment Act in 2002. This amendment made free and compulsory education a fundamental right for children between the ages of 6 and 14 years.

It has been more than a decade since the Right to Free and Compulsory Education Act, 2009 (RTE Act) was enacted to enforce the fundamental right to education for children between six and fourteen years of age. Since then, India's disability rights framework has also evolved to enforce obligations under the United Nations Convention on the Rights of Persons with Disabilities. With the passage of the Rights of Persons with Disabilities Act, 2016 (RPWD Act), inclusive education got statutory backing in India.

However, even as legal standards that guarantee the right to education for children with disabilities have evolved in India, several inconsistencies exist. As a result of the inconsistencies, there's a lack of clarity in what 'inclusion' means in terms of quality education for children with disabilities, leading to challenges in on-ground implementation of the laws.

The Bill seeks to focus on inclusive education by amending the definition of children with disability who have been identified as specially abled or divyangjan by the Honorable Prime Minister and we need to reform laws concerning education to provide them accessibility and a feasible environment which will take care of their special needs. We also need to focus on pre school education and the Bill also makes pre school education mandatory and the onus for the same is on the government.

Hence this Bill.

NEW DELHI;
July 3, 2024.

SHRIKANT EKNATH SHINDE

ANNEXURE

[EXTRACT FROM THE RIGHT OF CHILDREN TO FREE AND COMPULSORY
EDUCATION ACT, 2009]

(35 OF 2009)

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

Definitions.

* * * * *

(*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 (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).]

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(*g*) “guardian”, in relation to a child, means a person having the care and custody of that child and includes a natural guardian or guardian appointed or declared by a court or a statute;

* * * * *

3. (*l*) Every child of the age of six to fourteen years, including a child referred to in clause (*d*) or clause (*e*) of section 2, shall have the right to free and compulsory education in a neighbourhood school till the completion of his or her elementary education.

Right of child to free and compulsory education.

* * * * *

[(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 (1 of 1996), 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:

Provided that a child with “multiple disabilities” referred to in clause (*h*) and a child with “severe disability” referred to 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) may also have the right to opt for home-based education.]

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8. The appropriate Government shall—

Duties of appropriate Government.

(*a*) * * * * *

(b) ensure availability of a neighbourhood school as specified in section 6:

* * * *

Appropriate Government to provide for pre-school education.

11. With a view to prepare children above the age of three years for elementary education and to provide early childhood care and education for all children until they complete the age of six years, the appropriate Government may make necessary arrangement for providing free pre-school education for such children.

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Curriculum and evaluation procedure.

29. * * * *

(2) The academic authority, while laying down the curriculum and the evaluation procedure under sub-section (1), shall take into consideration the following, namely:—

(a) * * * *

(c) building up child's knowledge, potentiality and talent;

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(Dr. Shrikant Eknath Shinde, M.P.)