

JUDICIAL ACTIVISM

AND PRIMARY EDUCATION

The Allahabad High Court's direction to the Uttar Pradesh Government to ensure that the children of bureaucrats and political leaders are compulsorily admitted in the Govt. schools so as to improve the quality of education exhibits the dangers of jurisdictional transgression by the Court inspired by a passionate arrogation of political discretion to administer a subject matter regarding which it neither possesses mandate nor the holistic and technical understanding in terms of feasibility. The direction smacks off arbitrariness, *ad hocism*, jurisdictional breach and a very shallow and simplistic perception of subject matter.

Firstly, the Honorable Judges, instead of orchestrating their reformative campaign on the shoulders of bureaucrats and political leaders, should have set a precedent by making it mandatory for all the members of Judiciary to secure admission of their children in govt. schools and the first step could ideally be taken by the Judges particularly those who discovered this one shot *panacea* to the long drawn problem of education in India.

Secondly, if politicians and bureaucrats can be subjected to such reformative regulations on account of the fact that they are at the helm of affairs or are responsible for such pathetic state of affairs in Govt. schools, why cannot our judges contemplate similar type of austere regulations to deal with equal or more pathetic state of affairs in our courts.

Thirdly, by the same stretch of imagination, one fine morning we may come across another order wherein the members of medical fraternity and others (in the wisdom of our judges) would be compelled to seek treatment in Govt. hospitals in pursuance of qualitative improvement of services in Government hospitals and employees associated with the concerned department would be compelled to use public transport system so as to improve the quality of services and so on.....

Is it feasible?

The problems related to Government schools are too deep rooted and multifaceted in character to be addressed by such cosmetological exercise being suggested by our Judges. The presence of the scions of 'politico administrative' establishment may improve things to some extent in administrative terms but core issues concerning the deteriorating standard of school education lies deep into a self generating matrix of obsolete policy paradigm, a general political indifference, intricacies of federal relations, ideological concerns and deep rooted corruption pervading the larger part of the operational spectrum of education. In a more visible form at the very first instance, the sub ordinarieness of education in Government schools '*inter alia*' is attributable to consistently increasing lot of unwilling, incompetent and de motivated teachers who come to teach more because of compulsion than choice or because of choice for a job with more of leisure hours and the least of stress.

Unfortunately, none of the successive governments in India has ever taken it with due seriousness recognizing its great emancipatory value for the society. The root cause of the problem begins with our wrongful and mechanical perception of teaching and learning. The consequence being a general acceptance of education merely as an instrument to be wielded for livelihood only. No doubt, we have developed a well established and thriving market dealing in professional degrees like MBA, LL.B., MCA, BCAlet alone M.A., B.A., B.ED and many more. In addition to all pervasive corruption, the menace of reservation has eaten into the efficacy and integrity of this profession. There is no denying the fact that a majority of teachers in Government schools for one or other reasons have a very poor and deficient role perception. India's global ambitions to occupy a place of prominence in different spheres of engagement confronts the most dreadful challenge in the form of shoddy education at primary level which is leading to a massive internal brain drain with a high potential loss of resource. If the cause of primary education is not taken up seriously, all the high octane call for make in India, start up India, stand up India will gradually end up submitting into stalling silence. Everyone is in hurry to seek the guidance of a branded teacher to reach the destination fast but none of the students wants to be a part of teaching profession. The government schools have become a victim of an unending vicious cycle of deficient physical environment and demotivated teachers mutually reinforcing each other to the detriment of our innocent and unsuspecting children.

The need of the hour is to bring a genuine democratization of education in India which should be based on universal accessibility, affordability and uniformity of education (as far as possible) so as to provide a level playing field to all and to ensure a prospective preponderance over futuristic disabilities.

The much hackneyed incrementalism which invariably finds its expression in education policy every year in the budge needs to be replaced by some tough and revolutionary decisions under the aegis of 'co-operative federalism', oriented to bring a broad based uniformity with a reasonable space for regional aspirations. Further, we need to devise a far more vigilant and specialized institutional machinery than a struggling Education inspector for a more efficient enforcement of standards.

Can we stem this tide merely by one or other symbolic actions?

The honorable Judges seem to have taken a very simplistic view of the subject matter without adequate homework. It is to be noted that *judicial activism* in India, for all its good intention and action, has also been selective in application and disproportionately outward in orientation. It is secret to none how the 'Central Information Commission' had to initiate legal proceedings in Delhi high court to bring the honorable Judges within the ambit of *Right to information Act* against which many Judges were seeking immunity from by deploying their jurisprudential sense politically just to avoid the obligation of disclosing their assets. They came to terms only when the landmark judgment of Delhi High court which brought even chief Justice of India within the scope of RTI and the nationwide appreciation of the same left the Judges with little scope to think otherwise. Similarly, we have not witnessed a single credible initiative on the part of judges to improve the quality of legal education in India. The courts have pursued the cause of good governance more prolifically in the domain of the other two wings of the government. Despite more than one instances of corruption, moral turpitude at higher levels, the higher judiciary have not shown due sensitivity to the imperatives of bringing greater transparency and accountability in its functioning. We have yet to see much initiative on part of Judges for a better in house management.

Thus, instead of sprinkling water on the leaves which may create a short term illusion of growth, we should pour water into the roots of the plants. The honorable judges would do well to exert pressure on the Government to elicit a time bound commitment of concerted action by whole politico administrative establishment along with other stakeholders to develop a 'mission driven' plan to overhaul the entire educational infrastructure with specific focus on attracting best of the lot in this profession with a credible institutional mechanism for quality training, scientific placement, motivational incentives based on performance evaluation and an unfailing enforcement of accountability. The judges need to acknowledge that their direction is much less likely to be enforced and it may also fail to stand the scrutiny of the Supreme Court. The trigger for 'qualitative amelioration' in Government schools has to come from somewhere else. The primary education has to be liberated from the policy of reservation, policy of quantitative incrementalism, sub ordinary level of sensitivity of political leadership, the dynamics of federal polity, ideological obsession and a blindfolded and half baked imitation of the west to the self defeating indifference and disregard for our invaluable cultural and educational heritage.

The High Court's direction contain an element of 'co-ercion' which is not only repugnant to much esteemed 'right of choice' constituting one of the important principles of democratic governance all over the world but also contravenes an implicitly settled 'principle of persuasive movement in ancillary domain of jurisdiction.

It is to be noted that a large chunk of our professionals like doctors, engineers, teachers and others are not deployable by international standards and one of the core reasons is extremely poor standard of primary education (public or private schools) which in many ways inhibits their elevation to the very basic intellectual disposition wherefrom higher studies could be initiated and sustained.

All of us do invariably celebrate the success of that proverbial poor guy who used to work for the whole day and studied at night under the illumination of street lamp because every exceptional case has its own appeal but it is equally true that very often it masks the bewildering reality of millions of dreams dying the unnatural death of darkness in the silence of midnight because they could not even manage to reach the street lamp.

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