

1. Details of Module and its structure

Module Detail	
Subject Name	Education
Paper Name	Educational Administration, Management & Leadership in School Education
Module Name/ Title	State Acts and Rules Related to Educational Administration in India: A Critical Appraisal
Module Id	e-PG-EDN_13.10
Pre-requisites	Knowledge regarding Education as a subject of concurrent list and issues related to it.
Objectives	<p>After going through this content the learner will be able to:</p> <ol style="list-style-type: none"> 1. Describe the 'Education subject' as reflected in the Indian constitution 2. Enlist various state acts and rules related to educational administration 3. Critically appraise the prominent state acts and rules related to educational administration at school level. 4. Appreciate the need and importance of these acts and rules in uplifting the level of school education system.
Keywords	Tamil Nadu Compulsory Elementary Education Act, Delhi School Act, The Punjab Free and Compulsory Education Act

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1. INTRODUCTION

For the good and efficient educational system in the country, the control of Government over education administration is a necessary requisite. That is why, sufficient attention has been given towards the educational administration in India. In the independent India, different commissions have made their suggestion in order to improve and reform the educational administration in India. To administration effectively, the state and centre both play their part seriously. Every state in India has

the department of education. It has three main functions - regulatory, operational and directive. Regulatory function is main functional which we deal with in detail in this unit. It involves three important aspects (a) Development of standards, rules and regulations (b) examination and inspection to determine competence (c) the investigation where the necessary of compliance procedure. In order to keep pace with the present era it is necessary to solve various problems to deal with the certain challenges various states formulate various acts and rules and various levels, which is a matter of discussion in this unit.

2. LEARNING OUTCOMES

At the end of this module, the students will be able to:

1. Describe the 'education subject' as reflected in the Indian constitution.
2. Enlist various state acts and rules related to educational administration.
3. Critically appraise the prominent state acts and rules related to educational administration at school level.
4. Appreciate the need and importance of these acts and rules in uplifting the level of school education system.

3. EDUCATIONAL ADMINISTRATION

Educational administration is that part of administrative setup which is responsible for the development and expansion of different educational systems. It is the function of educational administration to make the educational systems useful and capable according to the needs of the people and also to enable them to take maximum advantage from those systems. Thus the main function of educational administration is to regulate education systems and to channelize them for public good and utility.

4. EDUCATIONAL ADMINISTRATIVE UNITS AS REFLECTED IN THE CONSTITUTION

The constitution of a country, which is the basic document and a source of legislations, has provided a large number of clauses and articles which have a direct or indirect bearing on education and its administration at various levels. In India, there are three units of educational administration. The first is the union or central government, which is responsible for certain specific provisions of education under special circumstances like financial help and specific education. The second is state government which is responsible for the entire system of education in state and third is local administrative units, which provides education only up to primary stage. The constitution has prescribed the jurisdiction of all the units. It has divided the responsibility of education between the centre and the states.

It is with 42nd amendment in the constitution 'education subject' was placed in the concurrent list. Thus, according to constitution, Education became the common subject of the centre and state government. Both governments can make laws on it, but if there is any conflict between the laws of central and State government the law of central government will prevail.

Broadly, Education, being on the concurrent list of subjects, both the centre and the states are empowered to enact through their respective legislatures and to make codes, rules, regulations and policies that provide educational services to the people. These acts and policies empower the administration with the authority to implement the tasks assigned to it and also protect the interests of the state, institutions and individuals with the broad framework of the principles enshrined in the country's constitution.

For the good and efficient educational system in the country, an efficient education administration is a necessary requisite. That is why, sufficient attention has been given towards the educational administration in India. In the independent India, different commissions have made their suggestions in order to improve and reform the educational administration in India. To administer effectively, the state and centre both play their part seriously. Every state in India has a department of education. It has three main functions - regulatory, operational and directive. Regulatory function is the main function which we will deal with in detail in this module. It involves three important aspects:

Development of standards, rules and regulations

Examination and inspection to determine competence

The investigation of the necessary compliance procedure

In order to keep pace with the present era it is necessary to solve various problems related to it. To deal with the certain challenges, various states formulate various acts and rules at various levels.

5. STATE ACTS AND RULES RELATED TO EDUCATIONAL ADMINISTRATION

There are various state acts and rules in the Indian constitution for the administration of education at various levels. These are approximately 182 in number and formulated from time to time. These acts/rules aim to improve the entire system of education by having direct or indirect bearing on education and its administration.

6. PROMINENT ACTS AND RULE RELATED TO EDUCATIONAL ADMINISTRATION AT SCHOOL LEVEL AND ITS CRITICAL APPRAISAL.

Prominent Acts and Rule related to Educational Administration

Tamil Nadu Compulsory Elementary Education Act, 1994

Delhi School Act And Rules, 1973

The Punjab Free And Compulsory Education Act, 2014

6.1 TAMIL NADU COMPULSORY ELEMENTARY EDUCATION ACT, 1994

The main features related to educational administration in this act are:

i) Competent authority:

The Government may, by notification, appoint any officer of the education department, not below the rank of District Educational Officer, to be competent authority for the purpose of carrying into effect the provisions of this Act and the rules made there under and different competent authorities may be appointed for different areas. The competent authority shall exercise such powers and perform such other functions as may be prescribed.

ii) Cognizance of offences:

No court shall take cognizance of an offence punishable under this Act except on a complaint in written made by an officer authorized by the government in this behalf by general or special order.

iii) Competent authority to be public servants: The competent authority appointed under section 6 and the officer authorized under section 8 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

iv) Power of Government to give directions: The government may, in the public interest, by order, direct the competent authority to make an inquiry or to take appropriate proceedings under this act in any case specified in the order, and the competent authority shall report to the government, the result of the inquiry made or the proceedings taken by him within such period as may be prescribed.

v) Protection of action taken in good faith: No suit, prosecution or other legal proceedings shall lie against the government or an officer of the government, for anything which is in good faith done or intended to be done in pursuance of this act or any rule or made there under.

vi) Power to make rules: The government may make rules to carry out all or any of the purposes of this Act.

vii) Power to remove difficulties: If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion require by order published in Tamil Nadu Government Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient for removing the difficulty, provided that no order shall be made after the expiry of a period of two years from the date of commencement of this Act.

Critical Appraisal of the Act:

Article 45 of the Indian Constitution had clearly said, “The State shall endeavor to provide, within a period of 10 years from the commencement of the Constitution, for free and compulsory education until they complete the age of 14 years”. This Act has been so defectively conceived that it still awaits President’s assent. The Act conveniently omitted the word “free education” in the text and had no guarantee for quality education either. There has been no effort to remove the anomalies in the Act (even in its 1995 amended version), in the line of universal free primary education. The Act needs to be seriously amended and passed.

The Compulsory Education legislation as enacted in 14 States and 4 Union territories has remained unimplemented due to various socio-economic and cultural factors as well as administrative and financial constraints. The Government of India has not enacted any Central legislation in this regard so far. It has held the opinion that compulsion contemplated in Article 45 of the Constitution is a compulsion on the State rather than on parents. It has, therefore, been advocating a consensual approach to motivate parents and children. The key elements of this approach have been

- I. Community involvements
- II. Decentralization of planning and management of school education to Panchayati Raj Institutions (PRIs)
- III. Motivation of children to attend schools regularly
- IV. Improvement of infrastructure and facilities in schools
- V. Development of locally relevant curricula
- VI. Improvement in quality of textbooks
- VII. Teacher training and
- VIII. Child centered learning

6.2 DELHI SCHOOL ACT AND RULES, 1973

The main features related to educational administration in this act are:

- Admission to schools and fees
- Regulation of Education
- Establishment, management, recognition and upgradation
- Taking over the management of the school
- Terms and Conditions of the service of the employees
- Duties and responsibilities of Schools Managing Committees
- Inspection of schools, etc.

Critical Appraisal of the Act:

1. Registration of schools:

Registration of schools is an extremely essential provision completely overlooked by the Act. Consequently there is no account of the number of unrecognized schools functioning in Delhi. Unauthorized schools continue to proliferate in the city, despite the fact that school cannot run without obtaining the permission of the Director of Education.

The consequences of absence of any provisions to monitor these unrecognized schools are borne by the children, their parents and the teachers. They are being exploited perpetually by these schools that provide dubious quality education in congested and overcrowded premises that violate minimum safety rules and do not provide basic amenities such as clean water, toilets and first aid despite levying high fees. A large number of schools deliberately do not go for recognition as they would be no longer under any obligation to comply with the various statutory regulations like the payment of salaries to the staff at par with those of Government school employees.

2. The system of inspections:

The absence of an adequate mechanism of inspection of schools remains a matter of concern. Rule 192 provides that except when a surprise visit is considered to be necessary, an advance intimation of the proposal to carry out inspection of a school shall be given to the head of the school. This may have been included to ensure availability of the Principal and school staff at the time of inspection, but the advance notice gives the schools to clean up their act, prepare students and teachers to portray a false sound image that may be far from the real picture.

Section 24 of the Act provides that every recognized school shall be inspected at least once in each financial year. This is done by Education Officers of the Directorate of Education but the Government schools are hardly visited by the Senior Officers of the education Department.

The Chandla committee Report, 1997 recommended that each inspection officer should inspect not less than 30 schools in a year. It also suggested that appropriate action be taken against education officers for not discharging their duties and a School Inspection Cell to be constituted that would follow up and monitor school and take disciplinary action. It further states that

There is an urgent need for greater accountability on part of inspectors themselves, as it was commonly accepted by official sources as well as private school teachers that there is rampant corruption. While the Act provides for the penalty of stoppage of aid and withdrawal of recognition in case of a deficiency in Aided and Unaided schools but in case of Government schools there is no penalty for non-compliance and non-rectification that can be imposed. Moreover, there is no existence of proper and distinct monitoring mechanism to ensure that the problems identified during the inspection of the school have been rectified.

3. Fee structure of private unaided schools: Reminding that the private schools are governed by the **Delhi School Education Act And Rules (DSEAR)**, the accompanying circular says, "As the law stands today, the provision of act and rules do not explicitly prescribe any cap for fixation of fee and other charges to be levied by the unaided recognized schools of Delhi not to limit the fee hike done by the schools. The government is committed to fee rationalization for bringing it within the reach of the common man and making admission process transparent. Therefore, in order to ensure effective redressal of complaints regarding exorbitant fee/unjustified fee hike, Government of National Capital Territory (NCT) of Delhi intends to amend the sections 17, 24 and 27 of Delhi School Education Act, 1973.

6.3 THE PUNJAB FREE AND COMPULSORY EDUCATION ACT, 2014

The main features related to educational administration in this act are:

1. Sharing of financial and other responsibilities which includes

- The Government and local authority shall have concurrent responsibility for providing funds for carrying out the purposes of this Act.
- The Government may approach the Federal Government to provide as grants-in-aid such percentage of expenditure for education as may be determined with mutual consultation.

2. Establishment of schools

- For carrying out the purposes of this Act, a local authority shall make arrangements for the requisite number of schools, within such area as may be prescribed.
- The Government shall devise a scheme for using the schools in the evening hours for providing education to the children and for making arrangements for providing non-formal education to the children in other educational institutions.
- The Government and a local authority may encourage enterprises, institutions and other segments of civil society, by granting exemption or rebate in taxes and offering incentives for those who establish, maintain or run schools for provision of free and compulsory education to children.
- The Government and a local authority shall devise a system of grant-in-aid to encourage admission of a child in a school and to support the school attendance of a disadvantaged child.

3. Pre-school education - The Government or the local authority may establish a kindergarten school or childcare centre in a local area or consolidate or merge such schools or centers for providing free pre-school education and early childhood care for the children above the age of three years until they join a school for education.

4. Management of schools – The Government or the local authority shall establish a school management body of a public school consisting of its representatives, teachers, parents of children admitted to the school and confer on it the prescribed powers in relation to the school.

5. Taleem Fund-

- The Government may permit a school management body to establish, in the prescribed manner, a Taleem Fund for the school.
- All voluntary contributions from the philanthropists, alumni, students and parents shall be credited to the Taleem Fund, maintained at a scheduled Bank.
- The Fund shall be utilized for the welfare of the students of the school in the prescribed manner.
- All money from the Fund shall be withdrawn in the prescribed manner jointly by at least two members of the school management body.

Critical Appraisal of the Act:

1. Sharing of responsibilities by Government & Local Authority: Section 7 provides for sharing of financial and other responsibilities by the government and local authority but it does not specify any clear strategy for such allocation; on other hand, section 8 rests responsibility of establishment of new schools on shoulders of the local authority. It is not clear that what percentage of share will the provincial government share and what will be the mechanism of sharing?

2. School Management Body: Section 11 provides for establishment of “School Management Body” (SMB) but does not clearly specify who will form it (provincial government or local authority), what will be its composition, what will be its roles and responsibilities, who will chair the body? How will it be run?

3. Establishment of Farogh-e-Taleem Fund (FTF): Section 12 provides for establishment of Farogh-e-Taleem Fund (FTF) by the School Management Body. For last many years, Taleem Fund has been a major contributor in resources for recurrent expenditure of the schools in Punjab. The idea of Taleem Fund is really good and has already proved its success but the practice has been that the fund was collected from the students; this practice is in clear contravention with RTE as well as section 3 of this law that prohibits collection of any charges from the students or parents.

4. Responsibility of private schools: Section 13 seeks the private schools to share the responsibility and provide free and compulsory education to a proportion of students under clause (a) or ten percent of total strength of a class under clause (b). After stating this, the clause (d) of the same section states that such private school “shall not charge any amount other than tuition fee, admission fee or prescribed

security”; how can this be said free education? This law should not allow collection of any fee from the students.

5. Implementation: Implementation at both ends requires a unique mechanism; that, on one hand, ensures abidance by the beneficiaries and on other hand by the service providers. Section 4 clause (2) (b) states that the local government shall be responsible “to ensure and monitor admission, attendance and completion of education by every child residing within its jurisdiction” but does not equip the local authority with any penalty to impose the law. Section 18 clause (1) (a) rests the responsibility of effective implementation of the law on the shoulders of the government; Section 9 clause (3) says that government may recommend for withdrawal of the government subsidies or support, but this might not apply to the families that are not covered under any such poverty support program. Further section 18 clause (2) provides that complaints regarding RTE may be filed before the government or its designated authority

SUMMARY

This module discusses about State acts and rules related to educational administration in India and their Critical appraisal. Education, being on the concurrent list of subjects, both the centre and the states are empowered to enact through their respective legislatures and to make codes, rules, regulations and policies that provide educational services to the people. These acts and policies empower the administration with the authority to implement the tasks assigned to it and also protect the interests of the state, institutions and individuals with the broad framework of the principles enshrined in the country's constitution. All these acts in one way or the other consolidate and amend the laws relating to the educational system in the state with regard to reforming, organizing and developing it. More specifically these acts formulate the guidelines for the functioning of the system namely regulation of Education, establishment, management, recognition, upgradation, terms and conditions of the service of the employees, admission and fees, taking over the management of the school, code of conduct funds duties, inspiration and responsibilities.

