The Right to Education Act and Minority Educational Institutions

Mains: *GS II – Government policies and interventions for development in various sectors and issues arising out of their design and implementation.*

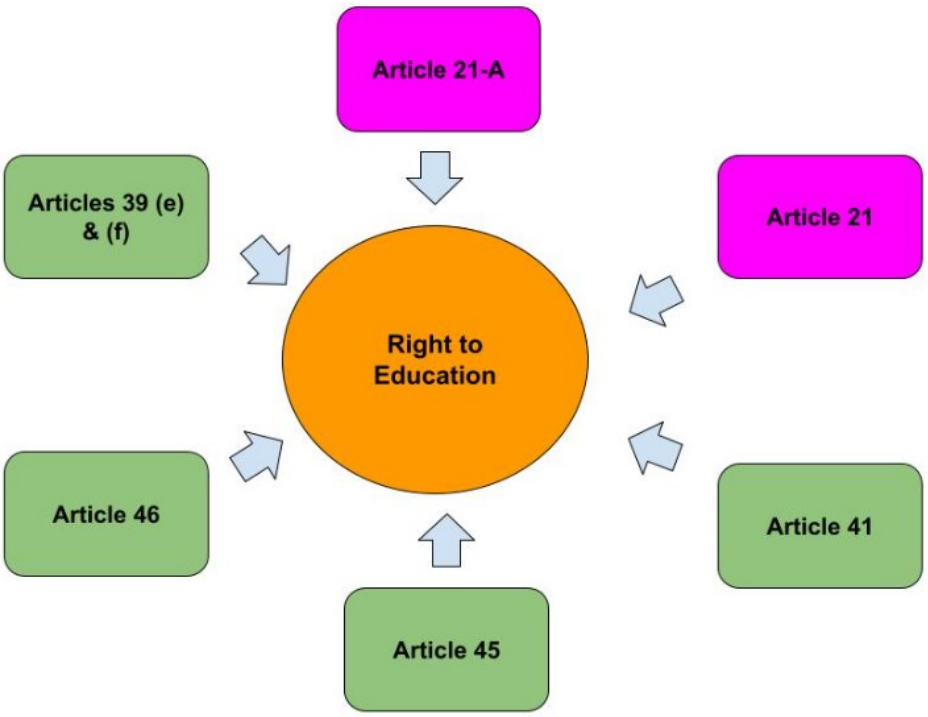
Why in News?

Recently, the SC has questioned a 2014 judgment that exempted minority schools from the ambit of Right to Education Act.

What is the Right to Education (RTE) act?

- **Free elementary education** – The Act guarantees free elementary education for children of ages 6-14.
- **Government schools** – They are required to provide free education to all enrolled children.
- **Aided schools** – They must provide free seats proportionate to the aid they receive.
- **Private unaided schools** – They are required to reserve 25% of entry-level seats for children from disadvantaged groups, reimbursed by the state (Section 12(1) (c)).
- **Minimum standards** – The Act sets minimum standards of pupil-teacher ratios, trained teachers, infrastructure, and libraries.
- It bans corporal punishment and capitation fees, and places an obligation on all schools to contribute to universal education.

> ***Corporal punishment*** *in education is the deliberate application of physical force intended to cause pain or discomfort to a student as a method of discipline.*
>
> *It typically involves hitting or slapping a student with a hand or an implement like a stick or belt.*



What is the ongoing issues?

- **Under representation** – A study by the *National Commission for Protection of Child Rights,* found that
  - only 8.76% students in minority schools were from disadvantaged backgrounds
  - 62.5% of students belonged to non-minority communities.
- **Opposition by private institutions** – Private schools and minority groups complained that the 25% quota infringed on their autonomy, and the law was challenged in court.
- **Exemption from 25% norm** – The 2014 ruling in pramati judgement extended the exemption *to all minority schools, regardless of whether they received government aid or not*.
- **Misuse of minority status** – Following the judgment, many *private schools were alleged to have sought minority status* sometimes to escape RTE compliance.
- Many so-called minority schools that were essentially private institutions with a minority label could escape norms.
- They did not admit poor children from their own community and continued as elite institutions.
- **SC's observation** – The Supreme Court recently cast doubt on a Constitution Bench judgment on pramati case.
- The pramati case judgement has *exempted minority educational institutions from the provisions of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act).*
- **Undermining of RTE** – The court observed that by taking minority schools out of the ambit of the RTE Act, the Pramati judgment may have jeopardised the fundamental right to quality education for children studying in them.

What is the pramati judgement?

- **The five-judge Constitution Bench** – It was deciding the validity of The Constitution (86th Amendment) Act, 2002, which introduced Article 21.
- The Constitution (93rd Amendment) Act, 2005, which introduced Article 15(5) in the Constitution.
    - **Article 21A** – It established education as a fundamental right,
    - **Article 15(5)** – It allowed the state to make special provisions for backward classes, SCs, and STs in educational institutions, including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions.
- **Exception to minority institutions** – It held that the RTE Act was *unconstitutional if it applies to minority schools, aided or unaided, covered under clause (1) of Article 30*.
- It upheld the validity of both amendments.
- The court reasoned that the unique character of minority institutions must be protected.
- **Concerns on Article 30(1)** –The court feared that forcing these institutions to comply with the RTE Act would *lead to an abrogation of their fundamental right under Article 30(1).*

***Article 30(1)** - All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.*

- **Deprivation of minority character** – *Section 12(1) (c) of RTE act* poses a legal obligation to admit children belonging to weaker section and disadvantaged group in the neighbourhood who need not to be children of minority community.
- This provision *may destroy the minority character of the institution in the long run.*

What are the Criticism held by court on Pramati ruling?

- **Unfair judgement** – The Bench said that the verdict in Pramati appeared legally suspect, questionable, and disproportionate.
- Because the five-judge Bench had struck down the applicability of the entire RTE Act to minority institutions based almost entirely on its analysis of a single provision of the Act — Section 12(1)(c).
- **Exemption creates conflict** – The court pointed to a critical conflict created by the sweeping exemption.
    - **Article 30(1) of the Constitution** – It protects the right of minority groups *to establish and administer their institutions*.
    - **Article 21A** – It guarantees every child a *fundamental right to education.*
- **Deprives the right to education** – The court noted that exempting minority schools from the RTE Act *denies children studying in them the statutory benefits.*
- It also *deprives the protections* that flow from the fundamental right under Article 21A.

What lies ahead?

- The court called for a harmonious interpretation where the rights under Article 21A and Article 30(1) can and must co-exist mutually rather than one being treated as an unqualified trump card over the other.
- The court's ruling takes a step towards helping children in minority institutions to benefit from RTE norms on libraries, pupil-teacher ratios, and bans on corporal punishment, etc.
- The key issue is to strike a balance between minority rights and the universal right to education.
- The RTE Act is child-centric and not institution-centric.
- The act was about the fundamental right of the child, not the administrative rights of schools.
- The right of an individual child should be held higher than the collective right of groups to run institutions as they wish.

Reference

[The Indian Express| RTE act and Minority Institutions]

