CHAPTER VIII:
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In the Indian way of thinking, a human being is a positive asset and a precious national resource. In our national perception education is essential for all. This is fundamental to our all-round development; material and spiritual .The objective of education in India are drawn in the backdrop of the secular, democratic and federal structure of the Indian polity as set down by the Constitution of India. The Indian Constitution guarantees Right to Equal Treatment of all citizens irrespective of religion, caste, gender, or habitation; the right to education of minority; the right to protection of life which have been interpreted by the law of the land as the right to life to be lived with human dignity, implying that right to life of a child included a basic right to education. Mahatma Gandhi had visualized education as a means of awakening the nation's conscience to injustice, violence and inequality entrenched in the social order. The Gandhian concept of education has impacted the framing of the objectives of the Indian education emphasizing self-reliance and dignity of the individual which would form the basis of social relations characterised by non-violence within and across society. The use of the immediate environment, work experience forms a significant resource for socialising the child into a transformative vision of Society.

In ancient India, education was imparted in *Gurukulas* (teacher's homes) where students were sent to the teachers after attaining an age of 5 years. The pupils stayed there for 14 years continuously and learnt through the method of verbal chanting. During this stay at *gurukula* the pupil rendered all services to the teachers (guru) and the teachers in turn, provided education to the pupil's prepared them to face the real world. In *gurukulas*, the main objective was to provide overall personality development (cognitive, physical, social and emotional) of the pupil. This concept of education still prevails in India.

The above situation continued in India for thousands of years till British entered India through East India Company. During this period emphasis was on training a class of people qualified by their intelligence morality for employment in the civil administration

of India. Efforts were made to make natives of the country thoroughly good English scholars. The promotion of Europeon literature and science amongst the people of India was emphasised. The whole education system was tailored to suit the needs of the British regime, making the system more or less elitist in nature.

During the British regime the Indian leaders made tiredless effort to persuade the British government for the inclusion of right to education for all. The establishment of three universities in 1857, the inclusion of right under the Constitution of India Bill 1895 and the Nehru Report 1928 prove that our efforts was always up and our leaders never missed the opportunity to include right to education for all. When the Constituent Assembly was constituted to frame the Constitution for free India, the Member of the Assembly had taken this right with due care and included in Article 38 of the draft Constitution. The right to free and compulsory education was confined till the age of 14 years as because its purpose was to forbid any child being employed below the age of 14 and child must be kept occupied in some educational institution.

When the Constitution was finally adopted the right to education was included in the Directive Principles of state policy with the explaination that the state shall direct its policy towards securing this important right to its citizens. It was not possible to make this right enforceable and justiceable at the time of the commencement of the Constitution and it was therefore made dependent upon the economic capacity of the state. When, in due course of time the state failed to realise and visualise the high expectation of the Constitution makers into reality, the Judiciary came forward with its interpretative tools to evolve the right to education as a fundamental right included into the right to life guaranteed under Article 21 of the Constitution of India. Initially, the argument to include right to education within the purview of Article 21 of the Constitution was rejected by the Supreme Court and the Court refused to make this right enforceable under part III in view of Articles 41 and 45 of the Constitution of India.

For a long time, this development was halted and it was only after the decision of the Supreme Court in *Mohini Jain's and Unni Krishnan's* cases that it recognized and evolved the right to education as a fundamental right. The court directed the state to

provide education and educational institution as per the choice of the citizen. The right was conjucted with the right to life. The court even refused to accept the plea of poor economy of the state and it was of the view that right to education means that person has a right to call upon the state to promote education facilities to them within the limit of its economic capacity and development. It was submitted that in absence of legislation the judicial dynamism has protected the right to education in its entire sphere and gave the hope to all the people rich or poor that illiteracy will be wiped out from the Indian soil. Taking the note from the Supreme Court decisions, Parliament amended the Constitution and inserted Article 21-A making right to education as a fundamental right.

In International arena, the right to education has been recognised in several international instruments of which the `three key instruments are UDHR 1948, ICESCR 1966 and the Convention on the Rights of the Child 1989. Towards achieving the goal, to make education for all the international community has a position of major significance.

The sharing of experience, research, development of teaching material, training programmes, contributing to the equipment as resource needs of the national education programmes comprises a major dimension for work. The role of the United Nations agencies is of particular importance, in this connection. The contributions made by the experts of the UNESCO, UNICEF and the UNFPA in catalyzing international cooperation to promote education are highly appreciated.

The rapid growth of population has resulted into a wide gap between the aspirants for admission and limited number of seats available in the educational institutions. These limited number of seats which are not sufficient for all the admission seekers has attracted the attention of the court and the court has always been upholding the merit criteria and rescued those whose academic interest was violated. The Supreme Court in *Pavai Anmal Vaiyapuri Education Trust* upheld the criteria of merit and ruled that no person shall be allowed to steal a march over a more meritorious candidate because of his economic power and social strength. However the court allowed the Constitutional mandate of reservation and rule of relaxation in respect of down trodden.

Our Constitution has allowed the principle of protective discrimination in respect of socially and educationally backward sections of the society in so far as the admission in the educational institutions is concerned. Article 15(4) has specifically incorporated the provision of reservation for the backward classes students in the matter of admission. However, till recent past there was conflict regarding the percentage of reservation in favour of scheduled caste. Sheduled tribe and other backward classes in the matter of admission and the judicially was so flexuous that it was very difficult to rid on the problem. In *Indra Sawhney* the Supreme Court finally settled all doubts and suggested that the reservation on certain grounds is constitutionally permissible and it is to be judged on the touchstone of Article 15 of the Constitution. The court however ruled out to extend the provision of reservation in super speciality courses.

Another question of reservation in favour of Non Resident Indian and Foreign students was decided in *Parimal Roy* and it was opined that the Constitutional reservation is not applicable in the category of those student because in foreign country there is no distinction between general candidates and scheduled castes and scheduled tribe students and therefore this criteria can not be made available. The opinion of the court is undoubtedly a laudable step in the right direction. The court has also leaned and extended the provision of reservation for sports personnels but it has refused to include the wards of social workers, political sufferers and freedom fighters within the purview of Article 15. The court has also allowed the rule of institutional reservation to certain extent in matter of admission.

Reservation has always been a fiercely debated topic as the future of millions of students hangs in the balance. It is an issue which will make an even seemingly unbiased individual question his own prejudices. The question of merit, caste and class keeps recurring time and again inspite of the forward looking vision of the Constitution makers who attempted to visualize an undivided and equal society.

Opposing reservations at the higher educational level is a justifiable issue. The student community is not biased on grounds of caste or class; neither does it question the fundamental rights encircling this issue. In 1979, the Mandal Commission was established to assess the situation of the socially and educationally backward. The

Commission didn't have exact figures for a sub-caste, known as the Other Backward Classes (OBC), and used the 1930 census data to estimate the OBC population at 52%, and further classified 1257 communities as backward. In 1980, the commission submitted a report, and recommended changes to the existing quotas, increasing them from 27% to 49.5%. The report was implemented in 1990 amid a great deal of controversy, and led to the resignation of then acting Prime Minister, V.P Singh. According to 2001 census, out of India's population of 1,028,737,436 the Scheduled Castes comprises 166,635,700 and Scheduled Tribe 84,326,240 that is 16.2% and 8.2% respectively. There is no data on OBCs in the census. However, according to National Sample Survey's 1999-2000 around 36 per cent of the country's population is defined as belonging to the Other Backward Classes (OBC).

In other words, we do not have a reliable Census headcount for the OBCs except that made by State-level Backward Class Commissions, which are not really Census-like in nature. It may be useful to have a detailed caste-wise census to look at the actual numbers. This could be attempted at least in the coming Census.

An economic Census of the Central Statistical Organisation in 1998 reveals that of 31 million enterprises nearly 12 percent were owned by SC/STs and 33 percent by OBCs. Hence, the assumption that weaker sections are only employees or seekers may not be correct. Under Article 340 of the Indian Constitution, it is obligatory for the government to promote the welfare of the Other Backward Classes (OBC).Article 340(2) states, "A Commission so appointed shall investigate the matters referred to them and present to the President a report setting out the facts as found by them and making such recommendations as they think proper."

Consequent to the notification of the Constitution (Ninety-Third Amendment) Act, 2005, affecting the 104th Amendment to the Constitution in January this year, the Government of India indicated its intention to provide reservation for students coming from the socially and educationally backward classes of citizens, popularly known as 'Other Backward Classes (OBCs)in higher educational institutions.

Therefore, in Article 15 of the Constitution, after clause, (4), the following clause was inserted; "(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law for the advancement of any socially and educationally backward classes of citizens or for the Sheduled Castes or the Sheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the state, other than the minority educational referred to in clause (1) of article 30."

The 93rd Amendment Act, 2005 inserting Article 15(5) was without doubt introduced to overcome the law laid down by the Hon'ble Supreme Court in an unanimous judgment by 7 judges in *P.A Inamdar* declaring that the state can't impose it's reservation policy on minority and non-minority unaided private colleges, including professional colleges. This judgement was an attempt to bring clarity to two previous judgements by the Hon'ble Supreme Court in *T.M.A Pai Foundation* judgement. The Hon'ble Supreme Court ruled on the following issues to minority and non-minority un-aided higher education institutions.

i. reservation policy,
ii. admission policy,
iii. fee structure,
iv. regulation and control by the state and
v. the role of committees dealing with admission and fees,

The amendment is aimed at providing greater access to higher education, including professional education, to a large number of students belonging to socially and educationally backward classes of citizens and SC/STs and the OBCs as the government has not been able to so far been able to provide quality primary education through state funded schools. Infact, the official data of Central Universities reveals high drop out rates amongst SC/ST school children. The latest educational statistics released by the Union Ministry of Human Resource Development showed that in the year 2003-04 the dropout rate amongst SC/ST Class X students was 73.24% and 79.25%. Also, reservation at University and super speciality will not serve its so-called purpose unless

these students continue education till Class X. The Government instead of strengthening the education system at the primary and secondary level is concentrating in giving more and more reservation at the tertiary level.

The Prime Minister's Office, on the 27th of May 2006, constituted an Oversight Committee to monitor the implementation of this decision and directed that " the Committee would, *inter alia,* look into the following aspects and submit its report by 31 st August, 2006: Implementation of 27% reservation for the OBCs in institutes of higher learning and assessment of additional infrastructure and other requirements for increasing the overall availability of seats to a level so that the present level of seats available to the general category students does not decline." No doubt the Constitution guarantees by way of the above mentioned Articles a fundamental right for the realization of one's own potential, and it is the duty of the state to make available all plausible resources for achieving the same. But then bigger problems looming large in our faces are the questions of quality, the basis for identification of backward classes and inclusion of the creamy layer in the proposed Reservation Bill.

At a time when India enters its 60th year of independence one is compelled to question the social progress of this country. However, India's economic growth rate is estimated at a whooping 6-8% per year, with economists still forseeing the potential to exceed 9-10%. Country has superseded other developing nations with poverty depleting at a massive pace from more than half to less than a quarter since 1991. On the other hand, the implementation of 27% reservation no doubt would instill a level of confidence in the backward class candidate, however much is dependent upon his successfully completing his course.

Admission in technical education is generally regulated by All India Council for Technical Education Act 1987 but sometimes the court has to intervene to protect the interest of the student who has suffered because of the irregular and irresponsible act committed by the admission authority. While delivering the social justice the court leaned in favour of the merit and competence of the candidate particularly in the area of super speciality courses such as MD, MS. etc. In order to maintain the standard of

efficiency in such cases ultimately the court had to monitor the admission in the institution on all India basis particularly admission in the AIIMS and other national institutions. *Dr Veena Gupta* is an instance where the court opined that if there is any irregularities on the part of the admission authority then judiciary could not remain mute spectators. It has always been coming to rescue such victims who have been thrown out from the institution without their fault.

Legal education is the next significant aspect of professional education whose *syllabi* and criteria of admission is generally governed by the Bar Council of India and the court never allowed lowering the dignity of this education. In the *Manubhai* the Supreme Court moved a step ahead and declared that the right to legal education is enshrined under Article 39(A) and it should be read within Article 21. The court directed the government to grant aid to the private law colleges and avail all facilities for the continuance of the law courses.

India is a country where democracy is flourishing from the grass root level and to achieve this purpose the students should be well trained right from the schooling. To fulfil this purpose there should be students union at all the educational centres. Even the judiciary has also taken the cognizance of this right and held that right to education includes the participation in the activities of students union. Participation in the union could also be justified as a fundamental right in the light of Articles 41, 19(1) (a), (b) and (c) and 21 of the Constitution. However it is suggested that such students union must be well disciplined. A healthy students union may make the life of students more meaningful and purposeful at the same time the standard of education may be disrupted if the union is unruly.

It is submitted that the activities of criminal nature in the campus can not in general be controlled by the university management, but can be best curbed by the police, with the cooperation of the University authorities. However action by police may lead to student unrest, unless executed with fairness, tact and care to see that the innocent are not harrased.

The University reorganise itself as a student friendly system. The academic programmes, evaluation system, rules, regulations procedures and facilities should be redesigned to have maximum value for the students. The academic programmes should be made relevant and of high quality, implying challenge and hard work on the part of the students; the seriousness, concern and courtesy of teachers and employees, the facilities for co-curricular/sport activities, the nature of evaluation system and counselling service should be commensurate with commitment to provide best total education, suitable for maximizing employability and ability to contribute meaningfully to knowledge and society on the part of the graduating students. It is a tall order, but the answer to the question whether the teachers and the staff are trying their best to this end in a rational manner should come as no surprise to them. If this basic issue of educational reforms is not seriously addressed there is little hope of alleviation of student indiscipline.

Another important aspect of alleviating student unrest is an effective credible mechanism by which grievances of students are heard on individual and/or collective basis and genuine sincere efforts made to alleviate these in a time bound expeditious manner. In case no action can be taken, the reasons should be explained. The University administration should make all efforts to establish credibility, sincerity and efficiency in student relations. Meaningful communication with students should be pursued continuously.

The significant achievements of students in studies, sports and co-curricular activities should be publicly recognized to motivate the channelization of student energy in these fields. The academic programmes should also be made challenging and relevant, particularly for employment, requiring serious efforts on the part of the student. Special efforts should be made to have students take up sports and/ or co-curricular activities. This will leave little time for students to engage in undesirable activities.

The right to education does not include indulging in indiscipline and misbehaviour by the senior to their juniors at the temple of learning. Such misbehaviour what we call ragging in common parlance has never been allowed by the courts. The practice of ragging not only goes against the spirit of the education but also goes against one's good

manner and morality. Though the judiciary has sometimes leaned towards the career of the students but it does not mean that the accused was allowed to go scortfree. It is suggested that there should be effective and uniform legislation to prevent these inhuman practices.

The subsequent important aspect of educational system in India is affiliation or recognition of educational institution by the govt. or appropriate authority for its survival. Recognition or affiliation is essential for the meaningful exercise of the right to establish and administer educational institution. The judiciary has established liberal trend in this matter and suggested that purpose of the educational institution would be vanished if it is not properly recognised or affiliated within certain stipulated period. In *North Coorg Higher Education Society* the Karnataka High Court ruled that if any educational institution fulfils the conditions of recognition continuously for a period of five years, it is the duty of the authorities not to linger the permanent recognition of colleges but to grant it. So far as the affiliation or recognition of colleges are concerned it is mandatory for such colleges to fulfil the rules and norms of University Grants Commission. However, the court rejected the claim that right to seek affiliation and recognition is a fundamental right and state can not deny it. This right is further expanded in respect of minority educational institutions in view of Articles 29 and 30 of the Constitution of India. In *St. Xaviar College* case the court balanced the most complex problem of the minority institutions in regards to the extent of autonomy and independence of such institutions in the matter of administration and the scope of governmental role in the name of affiliation or recognition.

On the matter of minority institution, it is submitted that the march of law from *Re Kerela Education Bill* to *Islamic Academy* does definitely reflect that the issue of education, particularly rights of minority educational institutions always remains to be a controversial issue. The eleven judge bench of the Apex Court in *T.M.A Pai Foundation* also could not put an end to this unending problem.

Another important aspect of educational system is to receive grant-in-aid by the educational institutes. There is no Constitutional right to receive state aid outside Article

337. It could not be considered as Constitutional imperative. This problem has drew the attention of the judiciary at several occasions and the courts while considering economic capacity of the state has settled the matter as and when it was approached. It is submitted that the educational institutions may claim grant-in-aid from the government and the government is under legal and social obligation to provide it. It can not escape its responsibility because of poor economic capacity.

The view that 'education is a mission or noble vocation' does not appear to be true in present day scenario when we find mushroom growth of teaching shops which charge heavily by making false and tall claims regarding affiliation, standard and quality of education, placement, etc. The Supreme Court in *Bangalore water Supply and Sewerage Board* has also emphasised that –'It may well be said by realists in the cultural field that educational management depends so much on government support and some of them charge such high fees that schools have become trade and managers merchants. Whether this applies to Universities or not, schools and colleges have been accused at least in the private sector of being tarnished with trade motives. Let us trade romenties for realities and see, with evening classes, correspondence courses, admissions unlimited, fees and Governments grants escalating and certificates and degrees for prices, education –legal, medical, technological, school level or collegiate education – is riskless trade for cultural entrepreneurs and hapless nests of campus (Industrial) unrest. Imaginary assumptions are experiments with untruth.

The Commercialization of education, it is submitted has never been allowed in our Country. It has always been recognized as the religious duty and charitable object; It has never been a trade and business. If the education is commercialized then the importance of the educational institutions would be declined and the degree would be available in the open market like any other commodities. It would lead to lowering of standards and corruption in educational system. The judiciary has specifically prohibited such practices in any mode and manner. The court has also settled the disputes pertaining to the charging of capitation fee in lieu of education.

In *Capitation Fee Case* the apex court opined that the right to education at all level is a fundamental right of citizens under Article 21 of the Constitution and charging of capitation fee for admission to educational institution is illegal and amounted to denial of citizens right to education and also violative of Article 14 being arbitrary, unfair, unjust and unconstitutional. But in professional private colleges a limited capitation fee has been allowed on the ground of survival of the institution. The net result is that the private educational institutions can charge huge amount of fee for pursuing education. This is not it is submitted inconsonance with the right to education as fundamental right because only the rich could be able to buy the education and poor would be deprived? Thus allowing the capitation fee in private colleges, it is submitted that the education has become trade which can be purchased in lieu of payment.

Another important aspect of our educational system which has been discussed in this work is the conduct examinations. The judiciary has never tolerated any indiscipline at the educational institution particularly during examination period. It is suggested that every citizen has right to read and impart education but this freedom does not confer upon students to indulge in indiscipline and lawlessness. It is to be noted that examination is an integral part of educational system. The merit of the students always judged through examination based on their performance. Use of unfair means and malpractices in examination damage the image of the institution in general and career of the students in particular. The court has played the role of controller of examination and has refused to interfere in the decision of domestic tribunal in respect of expulsion suspension and rustication of those who has adopted unfair means during examination.

The court has taken the practice of unfair means very seriously and went a step ahead by pronouncing that even the possession of material inside the examination hall is enough to prove the charges of unfair means. However, talking among the co-examinee inside the examination hall would not amount to unfair means.

Cancellation of examination of the mass students on the ground of irregularities during examination is one of the easier tools in the hand of examination authorities. They believe that the cancellation of examination is the only punishment to eradicate unfair

means. But the courts never remained mute spectator if such cancellation was wrong and motivated. The court interfered in this process if the authorities exceeded their power destroying the career of students. Even if malpractices are proved, too harsh an attitude of the authority may be unwarranted. Very often the quantum of punishment is left to the discretion of the authority with practically no guidelines fixed by the law. It was suggested that even if the petitioners were guilty the quantum of punishment imposed must not be arbitrary, unreasonable and excessive. Such punishment despite of reforming the students would make them frustrated and convert them in to anti socials. However, the above trend of the judiciary, it is submitted, is not in consonance with keeping up the high standard of education.

In another important judicial development relating to educational system in our country it was decided that revaluation of answer scripts is an integral part of education but this can not be claimed as a fundamental right. It is purely discretionary act of the authorities which may vary from one institution to another. The Karnataka High Court recently held that claim of petitioner for revaluation, retotalling and supply of xerox photocopy of answers scripts in the absence of any such statutory provision was not proper and their demand was not sustainable. Thus whether revaluation would be permitted or not is a prerogative of the educational authorities and this can not be claimed as a fundamental right by the students. The grant of grace marks for the students who marginally fail or could not secure good position because of narrow margin has also been discussed in detail. If the education authorities allowed grace marks then it gives new breath to a student who is just on the border line of success. However there is no unanimity in judicial decisions in so far as the grant of grace marks is concerned. In the ultimate analysis it depends upon the regulation of the institution in regards to the system of allowing grace marks.

To regulate the fair examination system it is suggested that the use of multiple choice question papers and problem oriented thought provoking questions for which answers are not available can also discourage copying. A challenging academic programme and rational evaluation system, which makes the use of unfair means redundant is the best way to combat this menance. Good coordination with and optimum use of police

(varying from campus to campus) is a necessary condition for combating the menance of the use of unfair means in examinations under the present conditions. The strategy should be achievement of the objectives by show rather than the use of force because the latter leads to agitations and more indiscipline.

As indicated earlier the hostels represent centres of student indiscipline in the system. In addition to providing *de facto* immunity to students and others engaged in illegal (often criminal) activities, the hostels also harbour a number of unauthorized residents (thereby denying residence to bonafide allotees). Needless to say that the hostels can be declared of unauthorized persons, and maintained in that state by closely coordinated action by the University authorities and the police and continuance vigilance. An empowering legislation for prosecution of guilty persons will also act as a deterrent.

Meaningful participation of students in university management should be encouraged. In academics the class committees including nominated/ coopted ex students can contribute towards the content conduct and networking with the outside world of the academic programme. Students can contribute effectively to leadership and management in co-curricular activities, sports, NCC, NSS etc. and interaction with the world outside the universities. Representatives from different activities can form a student body for coordination and items of a general nature. Advisers from faculty may oversee the activities making sure that the financial discipline is maintained.

The last but not the least is the issue relating to the role of teachers in educational system in our country. In our country nexus between the teachers and students has been that of 'guru' and 'shishya'. The teachers occupy most prominent and pioneer position in all most all the society particularly in the temple of learning. Since the teacher occupies the dominant place in the educational institution, therefore, he or she must be highly dignified and qualified. The University Grants Commission has been issuing from time to time proper guidelines and requisite criterias to be the teachers at colleges and university level. It is submitted, that those guidelines of the University Grants Commission should be considered by the selection committee at the time of teacher's appointment. Even the judiciary in its various decisions showed that it could not

intervene in the matter of appointment if it has been made in accordance with the rule of law and as per the guidelines of the University Grants Commission. The court has always taken the stand of fair play but sometimes if the selection committee acted arbitrarily and against the established norms the court did not hesitate to interfere in the process of selection and prevent the murder of meritocracy. In the context of the appointment of teachers the Supreme Court took the view that the courts were not less sympathetic to the petitioners who were out of the job but the court can not forget the welfare of those who are not before the court, students are the tiny tots who require proper handling by well trained teachers. Thus it is submitted that the government and authorities must follow the guidelines of the U.G.C and they should make unified and mandatory provision for selection of teachers in all colleges and universities so as to give weightage to merit and arrest the falling academic standards. If merit is continued to be discounted there would be brain drain and the beneficiary would be the tutorial home in India and abroad.

It is accepted fact that the teachers are the pioneer of the society and their pay scale, perks and improvement of service conditions have always been considered by the various committees appointed by the government in a dignified manner. The judiciary has adopted the rule of equal pay for equal work and has warned the educational authorities not to discriminate on the ground of full time teachers and part time teachers, teachers of Government College and aided college. *Vijay Kumar* is an instance where the Supreme Court held that part time teachers are most exploited in the education community. They carry the highest burden of teaching at lowest cost and therefore they should be paid equally as per the pay scale and perks of the full fledged lecturers. The *Rastogi Committee* has recommended that teachers deservedly constitute the most important component of educational structure. Since teaching profession is considered as the mother of all profession of society hence their pay scale should be comparable if not better then those in similar profession.

The next significant problem which arises at the temple of learning is the problem relating to the promotion of the teachers in due course of time. The court has rejected the old orthodox view when the heads of the department used to act as feudal lord and did not allow any professor's post to be created so that there was none equal to him in the

department and his feudal superiority was intact. The apex court through various decisions usually set the controversy at rest and the principle of law laid down by it were normally welcomed by the parties to the controversy. The decision of the Supreme Court in *Rashmi Srivastava* is of special mention. Here the court instead of settling the dust has raised a storm. The court rejected the merit promotion scheme on the ground that university Act contemplated any one source of recruitment of university teachers through direct selections.

The termination of service has far reaching impact on teachers, education and educational institutions. However, the termination or suspension from the job has always remained the subject matter of judicial security and if the court found such termination is without merit, illegal or unreasonable then it has reinstated them with full dignity. Since the termination from the job is an economic death of a person such punishment it is suggested, should not be imposed, and the authority may find out other alternative mode of punishment.

The area of influence of teaching profession to the rest of the system is relatively greater than any other sub-system. It is therefore submitted that the profession must be accountable to all three segments viz. the students, the profession itself and the society. In this context, the brief recommendations of various committees appointed by the government to make teaching profession accountable are relevant.

The aforesaid submission thus brings the conclusion that the right to education has been the matter of controversy ever since the decision of *Unni Krishnan* and even the *T.M.A Pai Foundation* decision could not resolve the controversy. It is astonishing that fifteen years after the enunciation of the right by the Supreme Court, only in recent past, the right to education raised to the status of fundamental right by inserting Article 21-A in part III of the Constitution of India. At the same time it needs to improve the availability, affordability and quality of higher education.

This can be achieved through liberalising the education system, encouraging the migration of students from one state to another and providing more scholarships and soft loan to students from the poor and middle class.