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STATE PRACTICE OF MERGING GOVERNMENT SCHOOL AND RIGHT TO EDUCATION IN INDIA: LEGAL ISSUES AND CHALLENGES

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ABSTRACT

The process of school merging or consolidating/rationalizing has become an essential strategy implemented by Indian authorities in order to increase efficiency and make optimal usage of their resources in the education sector. As seen in existing literature, several problems associated with poor performance of government schools, including low enrollments and lack of proper infrastructure as well as teachers, have contributed to the adoption of the rationalization strategy. However, there has been scholarly critique of the adverse effects caused by such strategies in terms of increased travel distances to schools and lack of appropriate transport facilities. Such factors coupled with poor security measures for females have resulted in low enrolments and irregular attendance.

Moreover, there has been a debate about the incompatibility of the process with the Right of Children to Free and Compulsory Education Act, 2009, especially the idea of neighbourhood schools. This paper will take an analytical and doctrinal approach to explore the reasons, impacts, and legalities associated with the issue of school merging in India. There has to be a balance between efficiency and constitutional rights provided in Article 21A as well as equality.

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KEYWORDS: Consolidation, Low enrollment, Lack of infrastructure and teachers, Poor Security, Government School.

INTRODUCTION:

India's system of education assumes a critical importance in relation to social transformation as envisaged under the constitution, being not merely a mechanism for empowering individuals but also a means of bringing about equality and justice. The introduction of Article 21A via the Constitution (Eighty-Sixth Amendment) Act, 2002 made India the first nation in the world to incorporate education as a fundamental right². This was followed up by the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act), which places upon the State the obligation of providing free and compulsory education to children in the age group of six to fourteen years along with setting norms regarding school infrastructure, availability of teachers, and schooling within neighbourhood areas³. Neighbourhood schooling assumes importance in light of the importance of access to education in a country characterized by significant socioeconomic differences.

There have been many instances in recent times where the Indian educational system has been seen adopting the practice of consolidating school systems through merging and closing down of schools. Often referred to as "school consolidation" or "rationalization", this approach entails consolidating small or poorly resourced schools by merging them into bigger schools⁴. The practice of consolidating schools has been rationalized in many states by citing reasons like administration efficiency, decreased enrollments, and effective utilization of resources. As per findings from reports compiled using data from Unified District Information System for Education (UDISE+), there have been many districts across the country which have experienced decreasing enrollment levels in government-run schools⁵. In this respect, school

² Constitution of India, Art. 21A (inserted by the Constitution (Eighty-Sixth Amendment) Act, 2002)

³ Right of Children to Free and Compulsory Education Act, 2009.

⁴ Ministry of Education, Government of India, UDISE+ Reports (various years).

⁵ MIE Global, School Closure & Merger: A Panacea for Quality Education or Violation of RTE Act.

consolidation can be considered as an ideal approach to ensure optimum performance.

Studies and analyses in addition show that the effect of schools merging goes beyond simple accessibility issues. Rural schools in India serve as essential social organizations that strengthen social bonding within the community and local development processes⁶. The shutting down of such institutions not only disrupts social bonding but affects the relationship between the state and local communities as well. It is also found through empirical analysis and research that even though school consolidation increases efficiency in specific contexts, its success is extremely dependent on the local conditions as well as on how the policy is implemented.

However, from a legal perspective, the issue that is raised in regard to school consolidation is how this policy measures up against the right to education. Although the State has jurisdiction over the regulation and administration of educational institutions, this does not mean that these functions can be undertaken without restrictions. If the shutting down of certain schools leads to increased difficulty for children in accessing these facilities, this may very well run contrary to the spirit, if not the provisions, of the RTE Act⁷. Academics specializing in this field have noted that a decision that affects access to education must not only be based on efficiency, but also be measured against other considerations such as social justice⁸.

In light of the above, the problem of school mergers and closures has become an important topic that requires urgent attention. This is because the question at hand touches on many issues ranging from the scope of the State's duty to provide education to what constitutes access in relation to the Right to Education (RTE). Moreover, it is also worth considering the extent to which administrative concerns may be used as a justification for making decisions that impact on fundamental rights. This study will seek to examine the reasons for school closures and mergers, their consequences, and legal challenges within the Indian context. The objective will

⁶ UNESCO, Global Education Monitoring Report; World Bank, Education Policy Reviews.

⁷ RTE Act, 2009, Sections relating to neighbourhood schools.

⁸ Government policy critiques on school mergers, various state reports.

be to determine whether such initiatives are an effective mechanism to enhance the quality of education in India or not.

REVIEW OF LITERATURE:

The theoretical background of school restructuring in India stems from several areas such as educational economics, policy, and social geography. It has been proven by Hanushek and Rivkin (2003) that school restructuring can provide economies of scale; however, it can also create access problems, especially for vulnerable groups. These theoretical premises are very relevant for Indian society because of various challenges arising from geographical, socioeconomic, and cultural diversity within the country. According to the research conducted by Duncombe and Yinger (2007), there are several factors that determine the optimal size of the schools, namely, community characteristics, costs of transportation, and goals in education. Considering that in India, the process of organizing schools faces challenges posed by various linguistic, cultural, and economic environments, the issue of cost efficiency becomes highly controversial.

The Implementation of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act) has been extensively analyzed, highlighting its strengths and weaknesses. The work by Kingdon (2020) focused on the enrollment patterns after the implementation of the RTE Act and highlighted the remarkable gains made in terms of education access, especially among vulnerable populations. (1.33 percent) in 2021-22, with 9,663 (0.94 percent) of these being government schools.

In the research of (A MULTI-STATE STUDY OF POLICY AND ITS IMPACT ON PUBLIC EDUCATION SYSTEM TELANGANA, ODISHA AND RAJASTHAN) closure of school impact on such areas is expected to be greater since the students have been out of school for quite some time. First, most of the pupils whose schools will be shut down belong to families who have never attended school. Secondly, it was revealed that the existing schools are one-teacher schools with multi-grade classes where the level of learning was very poor. Thirdly, teachers used to attend classes infrequently and had a bad attitude toward the children. As many state and

non-state officers said, teachers usually refused to travel to those areas. Therefore, by taking away the chance for inclusion in education, which is possible through the primary school, they are pushing the community into illiteracy.

According to various academic sources, most states have been implementing a policy of consolidating schools owing to lower enrollment, teacher shortage and insufficient infrastructure in small and inefficiently operated schools. It was stated, for example, in an article published by MIE Global that the consolidation of schools may contribute to the improvement in the quality of education provided through effective use of resources, development of necessary infrastructure and availability of teachers⁹. Consolidated schools, compared to small schools, seem better able to offer holistic education, including the opportunity of using laboratories, libraries and attending extracurricular events.

RESEARCH QUESTIONS:

- Which socio-economic, demographic, and administrative factors contributed to the development of such policies as the merger of schools in India, and what role does this play in the larger scope of educational management?
- How much can school merger policies balance the aim of enhancing educational standards and the need to ensure physical access to education?
- Is the policy on school mergers in line with the provisions of the Constitution of India, particularly those stated in Article 21A, and with the provisions of the Right of Children to Free and Compulsory Education Act, 2009?
- Does the policy regarding school mergers affect the disadvantaged and vulnerable communities more than any other group from the perspectives of access and equality of opportunity?
- What are the boundaries of judicial review when challenging a school merger based on violations of the right to education?

⁹ [MIE Global, School Closure & Merger: A Panacea for Quality Education or Violation of Right to Education Act](#)

- Can we develop a rights-based approach to the law that addresses both the efficiency of the administration and the right to an inclusive and accessible education system?

RESEARCH METHODOLOGY:

The current study utilizes a qualitative research methodology that employs doctrinal research methods in the examination of the consolidation of school policy in India.

In addition to the use of doctrinal research, an analysis research method is applied to determine the reasons for and effects of school consolidation.

Lastly, a comparative analysis approach is adopted to examine differences in school consolidation policies across various states in India owing to education being listed as concurrent legislation in the Indian Constitution.

Primary data have been used in the study. Secondary sources, including books, articles, government publications, and policy papers, have been used only. A large number of sources from organizations such as NCERT, NIEPA, UNESCO, and UNICEF have been used alongside government publications.

The study is confined to secondary data, and no empirical research technique has been employed to collect information.

THEORETICAL FRAMEWORK:

Education holds a place of great importance within the framework of the constitution of India, being a direct consequence of the State's adherence to its social values of justice, equality, and human welfare. The evolution of education from a non-justifiable to a fundamental right under Article 21-A of the Constitution of India is indeed a landmark moment in Indian constitutional law. Enacted via the Constitution (Eighty-Sixth Amendment) Act, 2002, Article 21-A of the Constitution places a legal duty on the State to offer free and compulsory education to every child aged between six and fourteen years¹⁰. Article 21-A was translated into law by means of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act), which defines the guidelines in respect of the infrastructure of schools,

¹⁰ Constitution of India 1950, art 21A.

student-teacher ratio, teaching staff qualification, and most importantly, neighbourhood schools¹¹.

The doctrine of neighbourhood schooling becomes extremely relevant in the Indian scenario, as it guarantees that children, particularly from poor socio-economic backgrounds, have access to education at an accessible location proximate to their homes¹². The doctrine takes into account the wider idea of the right to educational equality, which can be said to embody a recognition of the fact that mere availability of educational opportunities without accessibility is meaningless. In several instances, the Supreme Court of India has stated that the right to education is inherently linked to the right to life and dignity guaranteed under Article 21¹³.

Nevertheless, in recent times, there have been some policies being implemented by several Indian states like Uttar Pradesh, which attempt to bring about structural changes in the Indian public education system by means of mergers of the government schools. Such policies usually include closing down the schools having poor enrolments and consolidating these institutions¹⁴. Although these policies look administratively feasible, there is no doubt that they pose a serious challenge to their conformity with the constitutional provisions and the provisions of the RTE Act.

The rights-based approach considers education as more than a service; it is an entitlement that can be enforced. The theory is derived from human rights law at the international level. Education is critical for human dignity and the exercise of other rights¹⁵. The UDHR and the UNCRC, among other instruments, define education as a basic human right that should be available to everyone without prejudice¹⁶. In this context, any state policy that inhibits the enjoyment of the right to education must be

¹¹ Right of Children to Free and Compulsory Education Act 2009.

¹² Ibid S 6.

¹³ Mohini Jain v State of Karnataka (1992) 3 SCC 666; Unni Krishnan v State of Andhra Pradesh (1993) 1 SCC 645.

¹⁴ Ministry of Education, Government of India, Unified District Information System for Education (UDISE+) Reports (various years)

¹⁵ Katarina Tomaševski, Human Rights Obligations in Education: The 4-A Scheme (Wolf Legal Publishers 2006).

¹⁶ Universal Declaration of Human Rights 1948, art 26; United Nations Convention on the Rights of the Child 1989, art 28.

examined critically. School closures or mergers may adversely impact certain groups, thus infringing upon the spirit of equality entrenched in Article 14 and 21 of the Constitution.

Additionally, the study uses a child rights approach, which acknowledges that children form an identifiable group with special needs, and that all decision-making processes should focus on the best interests of the child as a priority. The best interest of the child principle, stipulated in Article 3 of the UNCRC, states that all actions relating to the welfare of children should consider the child's welfare and all-round development¹⁷. The best interest of the child principle has also been upheld in the case law of Indian courts in cases relating to children's rights.

Further, the study relies on the theory of social justice, which is one of the fundamental values enshrined in the Constitution of India. Social justice entails that the State's policy-making efforts need to be geared towards eliminating disparities and promoting equality in opportunity distribution¹⁸. If poorly conceived, the process of school merger could result in discriminatory consequences, especially with regard to children hailing from rural backgrounds, Scheduled Castes, Scheduled Tribes, and other disadvantaged communities.

In sum, the theoretical foundation of this study highlights that the problem of school merger transcends the boundaries of mere administrative expediency and becomes a matter of constitutional morality and human rights. It calls for a delicate balancing act between the competing interests of efficiency, equity, accessibility, and child welfare. Through the incorporation of these theoretical perspectives, the study seeks to offer a comprehensive and critical assessment of the school merger policy framework.

¹⁷ United Nations Convention on the Rights of the Child 1989, art 3.

¹⁸ Granville Austin, *The Indian Constitution: Cornerstone of a Nation* (OUP 1966).

CONSTITUTIONAL AND STATUTORY FRAMEWORK GOVERNING EDUCATION:

The constitutional and legal structure that governs education in India is marked by a slow but profound change in the form of moving from a non-enforceable directive principle to a fundamental right. This highlights the increasing emphasis placed on education as an integral part of human dignity, equality, and socio-economic growth within the framework of a welfare state.

When the Constitution came into force, education was initially seen through the lens of Part IV as one of the Directive Principles of State Policy. It was provided in Article 45 that it shall be the duty of the State to direct its policy towards securing that all citizens have a reasonable chance of receiving education, free of charge, and compulsory for children up to the age of fourteen years within a period of ten years from the date of commencement of the Constitution.

It was significant because it expanded the scope of the right to education and established it as one of the fundamental rights. In *Mohini Jain v State of Karnataka*, the Supreme Court observed that the right to education is an essential part of the right to life guaranteed under Article 21, thereby making it a fundamental right. It was highlighted that the right to life entailed a dignified life, without which education could not be possible. It provided the basis of future judicial developments.

In the case of *Unni Krishnan, J.P. v State of Andhra Pradesh*, the Supreme Court took a more concrete step by declaring the right to education to be a fundamental right until the age of fourteen, but beyond that age limit, it was considered to depend upon the economic capacity of the State. By this judgment, the conflict between the Directive Principles and the Fundamental Rights came to be harmonized.

These judgments culminated into the enactment of the Constitution (Eighty-Sixth Amendment) Act, 2002, which added Article 21-A in the Constitution. It is pertinent to note that Article 21-A expressly provides that “the State shall provide free and compulsory education to all children of the age of six to fourteen years in such

manner as the State may, by law, determine"¹⁹. The right to education became an enforceable fundamental right through this amendment and thus obligated the State. Alongside Article 21-A, it was provided in the amendment of Article 45 that the State shall provide for early childhood care and education for children below six years of age. Moreover, an additional fundamental duty has been provided under Article 51A (k) that it shall be the duty of every parent or guardian to provide opportunities for education to his child or ward between the age of six and fourteen years²⁰.

Apart from the domestic laws in place, India's commitment towards the right to education is also guided by certain international legal documents. For instance, India is a party to the United Nations Convention on the Rights of the Child (UNCRC), which provides that the right of every child to education shall be upheld and States parties will strive to ensure free primary education for all²¹. Likewise, the International Covenant on Economic, Social and Cultural Rights (ICESCR) regards education as a basic human right and sets out the State obligations in relation to its availability, accessibility, acceptability, and adaptability²².

Over time, these international legal principles have come to form an important part of domestic court judgments interpreting the fundamental rights guaranteed under the Constitution.

Additionally, the Supreme Court has always maintained that the right to education should always be read in the most inclusive way possible. It cannot merely be understood as physical access but should also be read in terms of quality, equality, and inclusiveness²³.

¹⁹ Constitution of India 1950, art 21A (inserted by the Constitution (Eighty-Sixth Amendment) Act 2002).

²⁰ Constitution of India 1950, arts 45 and 51A(k).

²¹ United Nations Convention on the Rights of the Child 1989, art 28.

²² International Covenant on Economic, Social and Cultural Rights 1966, art 13.

²³ Society for Unaided Private Schools of Rajasthan v Union of India (2012) 6 SCC 1.

POLICY RATIONALE AND CAUSES BEHIND SCHOOL MERGING:

Mergers of Government Schools Policy in India has become one of the major administrative strategies to respond to changing demographics, economics, and governance issues in the public educational system. First and foremost, among the factors that have led to the formation of this policy is the steady fall in the number of students attending Government schools, especially those based in rural and semi-urban areas²⁴. This phenomenon is mainly due to the increased attraction towards private schools that provide quality education, coupled with other reasons like migration from villages to cities and decreased birthrates in many states.

The other equally Important rationale has to do with inefficiencies in the use of public funds. Small schools that still have low enrolments still incur costs in maintaining their physical facilities, administration, and staff remuneration. The cost per pupil becomes exorbitantly high, and the question of economic efficiency and resource allocation comes into play²⁵. In this case, policy makers support the merging of schools to realize economies of scale through better management of available resources.

The placement of teachers adds to the problem. Teachers tend to be distributed in a certain pattern that existed at one time in government schools. Therefore, there are low enrolment schools that have too many teachers, while there are other high enrolment schools that lack teachers²⁶. This has resulted in the adoption of school merging as a way of balancing the number of teachers in different schools.

Also, issues relating to infrastructure contribute to influencing this policy. For instance, small schools often fail to have critical infrastructure including science labs, libraries, sanitation facilities, and computerized learning materials. On the other hand, larger schools can justify having all those facilities and maintaining them. It is

²⁴ Government of India, Unified District Information System for Education Plus (UDISE+) Report 2021-22.

²⁵ NITI Aayog, School Education Quality Index (SEQI) Report, 2019.

²⁶ Ministry of Education, Educational Statistics at a Glance, 2020.

contended that having more students concentrated in fewer schools allows for the provision of rich educational resources, which improves learning²⁷.

In summation, it is clear that the issues which lead to the need for merging schools are complex and founded on solid administrative grounds; however, their implementation needs to be carefully weighed against the backdrop of India's Constitution.

SOCIO-ECONOMIC AND GENDERED IMPACTS OF SCHOOL CONSOLIDATION:

The policy of school consolidation in India, especially at the elementary stage, has far-reaching socio-economic and gender-based implications, which not only impact educational access but also the rights guaranteed by Article 21A of the Constitution of India. Although efficiency in administration and proper utilization of resources has been offered as reasons for implementing the policy, the actual socio-economic repercussions of the policy illustrate otherwise.

One of the foremost effects of school consolidation from a socio-economic perspective is the extended distance from homes to schools. Due to consolidation or closure of nearby schools, students have to cover greater distances to attend classes. This has adverse implications for poorer sections of society, who may have to bear higher expenditure for covering larger distances to reach schools in case transportation means are inadequate. As a result, poorer families find it difficult to send their children to school regularly, leading to lower rates of attendance²⁸.

The negative consequences of increased distance are unevenly shared, as marginalized groups like the SC, ST, and OBC suffer a disproportionate burden of these negative impacts. These sections of society lack access to education because they depend upon public educational facilities which may become difficult to access

²⁷ World Bank, World Development Report: Learning to Realize Education's Promise, 2018.

²⁸ Government of India, Unified District Information System for Education Plus (UDISE+), 2021-22 Report.

once consolidated away²⁹. Apart from that, the process of school consolidation has implications on the community as a whole. Schools serve as centers for socialization, civic engagement, and unity in small rural communities. Therefore, school closures have an adverse effect on community cohesion because parents participate in school-related events much less frequently owing to distance³⁰.

When considered from a psychological perspective, small children experience adaptation problems because of a change of environment and unfamiliarity with other students and teachers. Such changes result in lower performance and participation rates³¹.

In summary, although school consolidation might have some organizational advantages, there are many socio-economic and gender issues associated with it, which are worrying from an equity perspective. A strategy that does not take account of such factors will be in violation of the constitution's ideal of education being a means of promoting social justice. For this reason, it is vital that any form of consolidation strategy adopts measures such as transport provision and gender sensitivity.

ANALYSIS AND DISCUSSION:

It is important for any policy of consolidating schools under the control of the government to be studied within the context of the broader constitutionality, which ensures that education is a fundamental right, and that the State must act without discrimination and ensure equality in its actions. However, even though administrative efficiency and economic benefits may serve as valid purposes in their own right, they cannot prevail over constitutional rights.

- ***Constitutional Status of the Right to Education: -***

Right to education enjoys a prominent place within the Indian Constitution. Incorporation of Article 21A through the Constitution (Eighty-Sixth Amendment)

²⁹ UNICEF, State of the World's Children Report, 2019.

³⁰ World Bank, World Development Report: Learning to Realize Education's Promise, 2018.

³¹ NCERT, Impact of School Environment on Learning Outcomes, 2017.

Act, 2002 rendered the right to education a fundamental right for all children between the ages of six and fourteen years³². The judicial pronouncements have considerably broadened the contours of the right. In *Mohini Jain v. State of Karnataka*, the apex court held that the right to education forms an integral part of the right to life enshrined under Article 21³³. In *Unni Krishnan v. State of Andhra Pradesh*, the court acknowledged that the State had an obligation to impart education as a fundamental right, provided there were reasonable restrictions³⁴. However, the right to education cannot be understood only in terms of providing the means necessary for acquiring education, such as educational institutions. Right to education comprises qualitative components like accessibility, affordability, acceptability, and adaptability. Thus, any educational policy, such as merging schools, has to be measured against whether it facilitates or hinders the right to education.

- ***Statutory Obligations under the RTE Act, 2009: -***

The Right of Children to Free and Compulsory Education Act, 2009 provides for implementation of Article 21-A and outlines a detailed legal framework governing the right to education. Sections 6 and 8 of the Act prescribe that the State shall create neighbourhood schools within a fixed distance³⁵. The requirement of neighbourhood schools becomes relevant when assessing the legality of any school merger policy because as per the provisions of state-specific RTE rules, there is usually an insistence on setting up primary schools within 1 kilometre and upper primary schools within 3 kilometers from the place where the child resides³⁶. Where a school merger policy results in the closure of a school, thus rendering the provision of such a neighbourhood school impossible, it will mean that the state is failing in its statutory obligations. Further, Section 8 of the Act obliges the State to ensure

³² Constitution of India, Art. 21-A.

³³ *Mohini Jain v. State of Karnataka*, (1992) 3 SCC 666.

³⁴ *Unni Krishnan v. State of Andhra Pradesh*, (1993) 1 SCC 645.

³⁵ Right of Children to Free and Compulsory Education Act, 2009, §§ 6, 8.

³⁶ RTE Rules (State-specific distance norms).

non-discrimination against disadvantaged groups while accessing education³⁷. Therefore, a school merger policy should include measures for ensuring alternative modes of education for affected students through transportation or even residential schooling.

- ***Equality and Non-Discrimination: Articles 14 and 15:-***

The equality principle laid out in Article 14 is fundamental to constitutional governance. This provision guarantees equality before the law and bars arbitrary action by the State. In *E.P. Royappa v. State of Tamil Nadu*, the Supreme Court affirmed that arbitrariness is inherently opposed to equality³⁸. Any government policy without a rational basis or without due consideration of all relevant facts can therefore be invalidated as unconstitutional. A school merger policy must pass the requirement of reasonable classification. Any such policy that discriminates against rural areas, economically disadvantaged groups, or socially marginalized communities can be declared unconstitutional. Even if the policy is neutral on its face, an unequal impact can lead to a violation of substantive equality. Article 15 reinforces the principle of equality by forbidding discrimination based on religion, race, caste, sex, or place of birth. Likewise, children belonging to the Scheduled Caste and Scheduled Tribe communities will face challenges because of economic reasons. The State, therefore, has both the responsibility of ensuring there is no discrimination and the positive responsibility to ensure equality of educational opportunities by implementing policies which do not ignore these differences.

FINDINGS AND OBSERVATIONS:

Findings:

- 1) ***Gender Effects of School Merging:*** - Yet another significant discovery that was made was the gender effect of the merging policies as girls' schooling has been affected in a negative manner. Various cultural and social constraints combined

³⁷ RTE Act, 2009, § 8

³⁸ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3.

with the issue of safety prevent the mobility of many girls in various parts of the world. With distant schools, their attendance at schools becomes a problem. Thus, girls become fewer among those enrolled and those who stay in school, which implies that the policy on school merging affects girls more than boys, despite its neutrality in nature.

- 2) ***Constitutional Implications in Light of Article 21A:*** - The research suggests that from the point of view of the constitution, policies regarding school mergers may have implications on the Right to Education guaranteed by Article 21A of the Indian Constitution. This right to education is much more than merely making schools available; it includes accessibility, equity, and opportunities for effective learning as well. Where there is a resultant decrease in access and increase in dropout ratio due to merging of schools, especially among disadvantaged sections, it could be an infringement of the spirit and intent behind Article 21A.
- 3) ***Non-Compliance with the RTE Act Norms:*** - From the results presented, it is clear that on several occasions, the process of mergers within the schools has not been done in compliance with the norms stipulated in the RTE Act, 2009. The Act demands that there should be neighbourhood schools set up, and the state must remove all impediments that may hinder the process of education. Nevertheless, lack of appropriate mechanisms like transportation and planning makes this difficult.
- 4) ***Limited Judicial Scrutiny:*** - The research further notes that judicial scrutiny regarding school merger policies is relatively low. Even though the courts have established education as a basic human right, there is no judicial mechanism that deals with the legality of school mergers. This gap in judicial precedence makes it possible for schools to merge without undergoing extensive constitutional scrutiny despite the grave implications on basic human rights.
- 5) ***Challenges in Implementation:*** - In addition to political considerations, some implementation challenges mentioned in the literature review include:

- i. Insufficiency in terms of transportation services,
- ii. Over crowdedness at consolidated schools,
- iii. Inequitable allocation of teachers, and
- iv. Poor monitoring procedures.

It is apparent from these implementation challenges that all of the desired benefits from consolidation of schools are not achieved in reality.

Observations:

- a. **Need for Substantive Equality:** - It is noted that the policies concerning mergers in schools adopt the concept of formal equality by treating all the children equally. But considering the economic inequalities in India, this will not suffice. Substantive equality, which means taking additional measures to provide protection to disadvantaged groups, is needed to ensure their access to education.
- b. **Absence of a Child-Centric Perspective in Policymaking:** - From the study, it is seen that policymaking does not have a child-centric view. Most of the decisions are based on administration-related information such as enrollment rates.
- c. **Discrepancy between Legal and Practical Approach:** - Another important aspect of the case study is the discrepancy between the provisions provided under the constitution and laws on one hand and the practical execution of these policies on the other.

RECOMMENDATIONS:

After a careful analysis of the reasons for, effects of, and legal implications of the policy of school merging in India, this paper concludes that while the policy is enacted in an attempt to make better use of resources, its enforcement creates serious questions about accessibility, equity, and constitutionality. Hence, there arises the need to formulate a set of realistic suggestions that complement the goals of this study and uphold the right to education as a basic human right.

First, it is suggested that the policy on school mergers must be child-friendly.

Another recommendation refers to adherence to the principle of neighborhood schools as provided for in the Right of Children to Free and Compulsory Education Act, 2009. Accessibility is a key concept in relation to the right to education, and therefore the policies which increase the physical distance between schools and students have to be questioned. If school mergers cannot be avoided, then the state should make sure to develop alternatives to ensure that no child lacks access to schooling.

Furthermore, the study highlights the importance of putting in place proper support systems, especially when school merging causes longer distances to school. It is imperative that the government provides students with free and safe transport facilities to commute safely between schools. This applies more to students from poor families and rural areas. Girls are especially vulnerable because of their security issues and societal constraints. If not attended to, there is a likelihood that students will remain absent from school hence causing drop-outs.

Lastly, a continuous process of monitoring and evaluation should be put in place. It is important to gauge the impact of the merging of schools on factors like attendance, dropout rates, and education. Continuous monitoring would help identify problems and take corrective steps in time. Without proper monitoring, even the most effective policies would fail to yield the desired results.

In summary, although the merging of schools might have some merits, it must be done with utmost care. The State must not undermine its constitutional obligations of promoting accessibility and equity in education just to improve administrative efficiencies. A balance must be struck between efficiency and constitutional rights. It is only by adopting a rights-based approach that we can ensure that no child remains deprived of education owing to structural or other impediments.

CONCLUSION:

The research on "Merging of Schools in India: Causes, Impacts and Legal Implications" indicates that despite being based on sound reasons such as falling

student enrollment, better utilization of resources, and improved infrastructure, such mergers have significant implications under the Constitution, which impact the fundamental rights of students. Under the Indian Constitution, education has been recognized as a right under Article 21A, and the state must provide free and compulsory education for all children.

Another major issue highlighted in this research is that while consolidating schools is likely to improve infrastructure, it may pose certain accessibility issues, since students now have to travel farther than before from home to reach the nearest school. This problem is likely to be faced predominantly by the poorer sections of society, and thus the objective of ensuring universal education may remain unrealized.

Legally speaking, problems exist pertaining to the erosion of the principle of neighborhood schools as well as non-compliance with legal provisions on account of the unavailability of transport, among others. The role played by judicial institutions in the matter adds to the problems. The problems relating to overcrowding and imbalanced allocation of teachers are examples of inefficient implementation.

It is necessary to point out the importance of an approach based on rights and equity in the whole issue. Efficiency and quality do matter, but they must be balanced within the framework of constitutional duties. Finally, it should be made clear that school merging is neither good nor bad.

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