

1. Details of Module and its structure

Module Detail	
Subject Name	Education
Paper Name	Educational Administration, Management & Leadership in School Education
Module Name/ Title	Constitutional Provisions Governing Educational Administration in India: Sharing of Powers
Module Id	e-PG-EDN_13.09
Pre-requisites	The learner would be knowing constitution of India and educational setup in democracy.
Objectives	<p>After going through this content the learner will be able to:</p> <ol style="list-style-type: none"> 1. State Different articles related to educational administration. 2. Understand Role of centre government for educational administration. 3. Identify Role of state govt for educational administration. 4. Analyse the sharing of powers jointly by state and central government.
Keywords	Union list, State list, Concurrent list

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1. INTRODUCTION

India got Independence on August 15, 1947. There was a great need to formulate a constitution to administer the country. So a constitution committee was organised by the government of India to draft a constitution for the country. Dr. Rajendra Prasad was elected as the head of the committee and Dr. B.R Ambedkar was elected as the Chairman of the Drafting Committee. This Committee drafted the constitution of India after the hard work of 2 years, 11 months and 18 days. This constitution was regulated in the country on January 26, 1950.

The constitution of a country is the basic document which may be regarded as the source of legislations. The constitution of India has provided a large number of clauses and articles which have a direct or indirect bearing on education. Its preamble reflects the national ethos, values and aspirations. It gives the directs the nation to go ahead and achieve its aim.

2. LEARNING OUTCOME

After going through this content the learner will be able to:

1. State different articles related to educational administration.
2. Understand roles of centre govt for educational administration.
3. Identify roles of state govt for educational administration.
4. Analyse the sharing of powers jointly by state and central government.

3. CONSTITUTIONAL PROVISIONS GOVERNING EDUCATIONAL ADMINISTRATION IN INDIA

Constitutional Provisions have exercised a direct as well as indirect bearing on education at different stages. The various constitutional provisions regarding education in India are according to our social, economic, cultural and political needs.

The constitution of India provides for the following main areas of education in the country:

S. No.	Provisions	Article
1.	Right of free and compulsory education	45
2.	Right to education	21A

3.	Education for women	15(1) (3)
4.	Promotion of education and economic interests of SC, ST and other weaker sections	46
5.	Religious education	25 28(1), (2), (3)
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1. Free and compulsory education

Provision of early childhood care and education to children below the age of six years:

a) Article 45:

The state shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

2. Right to Education

a) Article 21A

The state shall provide free and compulsory education to all children of the age 6 to 14 years in such manner as state may, by law determine (86 amendment, Act 2002).

b) 93 Amendment (Primary Education a Fundamental Right)

Now by 93rd amendment of the constitution the primary education has made a 'Fundamental Right'. It has become a legal right.

3. Education for women

Article 15

This article is regarding no discrimination against any citizen on grounds of sex, religion, race, place of birth. Article 15 (3) of the constitution empowers the state to make any special provision for women and this includes their education also. Article 15(1) provides that, the state shall not discriminate against any citizen on grounds of sex, religion, race, place of birth.

4. Promotion of Education and Economic Interest of SC, ST and Other Weaker Sections

Article 46

Article 46 lays down, "The state shall promote with special care the educational and economic interests of the weaker sections of the people and in particular, of the scheduled castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation". It is one of the directive principles of state policy.

4. Provision for Religious Education

a) Article 25

Right to Propagate Religion

Article 25(1) of the constitution guarantees all the citizens a right of freedom of conscience and the right to profess, practice and propagate religion.

b) Article 28

Freedom as to attendance at religious instruction

Article 28 relates to 'Freedom as to attendance at religious instruction or religious worship in certain educational institutions'. This article has three clauses.

Article 28(1): states, "No religious instruction shall be provided in any educational institution wholly maintained out of state funds."

Article 28(2): states "Nothing in clause (1) shall apply to an educational institution which is administered by the state but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution."

Article 28(3): lays down "No person attending any educational institution recognised by the state or receiving aid out of state funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has

given a consent there to".

6. Protection of interests of minorities

Article 29

Article 29 relates the protection of interest of minorities it lay down

(a) "Any section of the citizen residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(b) "No citizen shall be denied admission into any educational institution maintained by the state or receiving aid out of state funds on grounds only of religion, race, caste, language or any of them".

7. Right of minorities to establish and administer educational institutions

Article 30

Article 30 relates to 'Right of minorities to establish and administer educational institutions.

(a) "All minorities whether based on religion or language shall have right to establish and administer educational institutions of their choice".

(b) "The states shall not discriminate against any educational institution in respect of grant-in-aid, on the ground that it is under the management of a minority whether based on religion or language".

8. Instruction in mother-tongue at the primary stage

Article 350-A

Article 350-A relates to facilities for instruction in mother-tongue at the primary stage.

It lay down as, "It shall be the endeavor of every state and of every local authority with the state to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the president may issue such directions to any state as he considers necessary or proper for receiving the provision of such facilities.

Article 350-B: provides for the appointment of a special officer for linguistic minorities with the object of investigating into the matter relating to safeguards provided for linguistic minorities under the constitution.

9. Promotion of Hindi

Article-351

Article 351 is related to promotion of Hindi. The constitution also provides for the development and propagation of national languages, Hindi.

According to article 351, it is the special responsibility of the centre to develop the national language i.e. Hindi so that it may serve as a medium of expression for all the elements of the composite culture of India. For this there is a directorate of Hindi in the Central Ministry of Home Affairs.

10. Education in the Union Territories

Article-239

Article 239 of the constitution states, " Save as otherwise provided by Parliament by law, every Union Territory shall be administered by the President acting to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify."

This means that every union territory has its own education department and the responsibility of education in union territory has been under union or centre government.

11. Fundamental duties to provide opportunity for education

Article 51A Clause 'K'

It shall be the duty of every citizen of India who is parent or guardian to provide opportunities for education to his child or as the case may be, wards between the age of six and fourteen years.

4. EDUCATIONAL ADMINISTRATION AT THE NATIONAL LEVEL

A perusal of the constitutional provision reveals that Central Government is expected to play a significant role in the field of education, through ministry of Human Resources Development (MHRD), through its Department of Education. Soon after India achieved its independence on 15th August, 1947 a full-fledged Ministry of Education was established on 29th August, 1947. The Nomenclature and responsibilities of the Education Department have undergone changes from time to time since Independence. Since 1985, the Ministry has been known as Ministry of Human Resources Development. At present, the ministry has three departments namely.

1. Department of secondary and Higher Education.
2. Department of Elementary Education and literacy.
3. Department of women and child development

Broadly speaking, following are the major function performed by the ministry of human resources development government of India.

1. **Planning:** The Central Government determine targets and prepares the education plan to be implemented by the country as a whole.
2. **Educational Reform:** From time to time, the Government of India has set up commission which have gone into the various aspects of education at different levels and have provided valuable recommendation and suggestions, which have further been considered by the experts and states requested to implement the recommendation on the expert bodies.
3. **Organisation:** For carrying out educational plans, government of India has set up institution like All-India council of Technical Education, National Council of Educational Research and training, National Institute of Educational Research and training, National Institute of Educational Planning and Administration which provide guidance to the states in the field of Education.
4. **Direction:** The Central Government also directs and guides the state Government, local bodies and private enterprise so as to encourage education on right line. This is done by the ministry through central advisory Board of Education.
5. **Control:** The Central Government allocates suitable grants to the states, local bodies and private agencies. Thus, it exercises considerable control on education.
6. **Equalization of Educational opportunities:** The Government of India is wedded to the establishment of an egalitarian society and therefore has taken many steps to provide equal educational opportunities to the weaker sections of the society. It has initiated a large number of programmes in this direction.
7. **Pilot Projects:** The Ministry of Human Resource Development, Government of India, has undertaken a large number of pilot projects like rural universities, regional institute, SSA, curriculum reforms and text books etc.

By starting these project, the ministry aim at providing enlightened leadership all over the country.

8. Administration of Education in the union territory and centrally administered areas: Centre is directly responsible for education in various union territories and other centrally-administered areas.

9. Clearing House Function: The Department of Education serves as a depository of information and ideas of education, research, training and statistics. The department of Education also published a few educational journals which have proved to be very helpful in disseminating information in the country.

5. EDUCATIONAL ADMINISTRATION AT THE STATE LEVEL

Minister of Education is the highest authority of education at the state level. He is selected by the Chief Minister from among the elected representatives and is appointed by governor. He is answerable to the state legislature for all his actions. In some states he is assisted by the state or Deputy Minister. The immediate responsibility of school education is of the state. The centre initiates in policy making and starting schemes and direct the states to implement its instructions. Minister of Education formulate the policies in consultation with the cabinet. He is responsible for the implementation of the policies. He is advised by education secretary and directors of Public Instructions (DPI). Generally the minister of Education is not an educationist. He takes policy decisions, provides leadership, works for raising standards, set up committees to evaluate the progress, prepares criteria for the schools and the teachers and work for overall development of education in the state. Following are the major Functions performed by Minister of Education.

- 1. Formulation of Polices:** Minister of Education formulate policies of education of the state
- 2. Educational programmes:** He provides leadership to the educational programmes of the state.
- 3. Formulation of Laws and principles:** Besides framing of policies and procedures, he formulates rules, regulation, laws and principles to

determine standard of education in state.

4. **Coordination:** He coordinates with the centre for the success of educational programmes determined by the centre. He also coordinates the educational programs of the states in order to promote efficiency.
5. **Investigation and evolution committees:** He formulates inspection, investigation and evaluation committees for promoting efficiency of educational programmes.
6. **Working of Schools:** His directions and guidelines are helpful in working of schools, qualification of teachers, criteria of recruitment, pay scale and retirement benefits and allowances are included in his direction and guidelines.
7. **Research activities:** He promotes research activities related to educational programmes in the state.
8. **Consultative and Informative Services:** He provides consultative and information services.
9. **Advising Legislature:** He advises the legislature on certain issues and matters and satisfies the legislatures about the efficient conduct of educational administration by replying the questions asked by them.

States further disseminate responsibilities at district and panchayat level for smooth administration of education at state level.

6. SHARING OF RESPONSIBILITIES JOINTLY THROUGH MEANINGFUL PARTNERSHIP BETWEEN CENTRAL GOVERNMENT AND STATE GOVERNMENT

The National Policy of Education (1986) revised in 1992 has described the relationship between the central and state government as that of a 'meaningful partnership'. The 1986 policy in part 3, para 13, has observed, "The constitutional Amendment of 1976, which includes education in the concurrent list, was a far-reaching step whose implications - substantive, financial and administrative-require a

new sharing of responsibility between the centre government and the states in respect of this vital area of national life. While the role and responsibilities of the states in regard to education will remain essentially unchanged, the union Government would accept a larger responsibility to reinforce the national and integrative character of education, to maintain quality and standards, to study and monitor the educational requirements of the country as a whole with regard to manpower for development, to cater to the needs of research and advanced study, to look after the international aspect of education, culture and human resource development and, in general to promote excellence at all levels of educational pyramid throughout the country. Concurrence signifies a partnership which is at once meaningful and challenging.

SHARING OF POWER FOR DIFFERENT EDUCATIONAL FUNCTIONS

According to our constitution, Education is a state subject and the central government plays an advisory role. The constitution of India is federal. In this legislative power are divided between centre and state government. Some powers are laid in concurrent list. There are three lists-

- (i) List-I Union List
- (ii) List-II State List
- (iii) List-III Concurrent List

I. List-I Union List

This list contains 96 subjects out of these 7 subjects are related with education.

Entry 13: Participation in international conferences, associations and other bodies and implementing of decisions made there at. This entry contains educational and cultural relationship with foreign countries.

Entry 62: National libraries and national organizations come under this entry.

Entry 63: Central Universities (Banaras Hindu University, Aligarh Muslim University, Delhi University and other Universities of National impact) comes under this entry.

Entry 64: Institutions for scientific and technical education financed by the government of India wholly or in part and declared by parliamentary law to be institutions of national importance comes under this entry.

Entry 65: Consists of Union agencies and institution for

- (a) Professional, vocational or technical training, including the training of police officers; or
- (b) The promotion of special studies or research.
- (c) Scientific or technical assistance in the investigation or detection of crime.

Entry 66: Arrangement, for higher education and research comes under this entry. It contains coordination and determination of standards in institutions for higher education or research and scientific and technical institution.

Article 239: Education in union territories comes under the central responsibility.

II. List-II State List

It consists of 61 subjects out of these 2 subjects are related with education.

Entry 11: Contains university education.

Entry 12: This contains library, museum and other memorable historical places which are not approved or we can say which are cared by both centre and state.

III. List-III Concurrent List: This list is of 47 subjects, out of these following 6 subjects are related with education.

Entry 25: Technical, medical and university education which is not related with centre list (63-66), so centre and state government both can make laws on it.

Entry 26: According to this, centre and state government both can take necessary steps for the development of law, maintenance of health and of other professional education.

Entry 39: Newspapers, books and printing presses.

Entry 47: Fees in respect of any of the matters in this List, but not including fees taken in any court.

Entry 10. Trust and Trustees.

Entry 28: Charities and charitable institutions, charitable and religious endowments and religious institutions.

7. SUMMARY

In the end we can conclude that in the constitution of India, special provisions have been made regarding basic education for students at pre-primary and elementary level under article 45 and 21A. Weaker sections of the society i.e. scheduled caste and scheduled tribes, women and minorities groups has also been focused under articles 46, 15(1), (3), 29 & 30. Instruction in mother tongue and promotion of Hindi as national language are some of the prominent provisions in constitution under articles 350A & 351. Religious and secular education are other important areas of consideration which have been focused under articles 25, 28, 29, 15 & 30. According to Indian constitution there are three lists which are as follows:

List I- Union List, which demarcate the exclusive responsibility of centre government.

List II- is a state list, which specifies the function/responsibility performed by state government.

List III- is concurrent list which specifies the joint responsibilities of centre and state government.

Some amendments are made in the constitution so as to match it with the changing national scenario. After the 42nd amendment act (1976) education has been included in the concurrent list and responsibility is shared by the centre and state. The Central Government formulate general policies and gives direction and aid, and responsibility of implementing those policies is shared by both.