CHAPTER 1
INTRODUCTION

Education, next to family, is the most important factor which shapes society, makes or mars individuals. As such, it occupies an important place in the life of every individual. "It is a common belief that education has a significant role to play in social development. Education may increase economic productivity and hence the earning power. It can improve the power of understanding, enabling a person to be better socialised and play his role in the society in a more satisfactory way and it may in all probability enhance the cultural level of the recipient permitting him to enjoy the fruits of various arts."¹

Mr. Rajiv Gandhi, the late Prime Minister of India, in his inaugural address at the Conference of Education Ministers of the States and Union Territories in New Delhi in the month of August 1985 said, "when we talk of education, we are really talking of our people. Education is the core of human development." Education is a primary tool in stabilising our gains - gains from our freedom struggle, gains from our development programmes.²

The basic economic resource is knowledge. The wealth creating activities will be neither the allocation of capital to productive uses nor "labour". They will center around "productivity" and "innovation", both applications of knowledge to work. The representative social groups of the knowledge society will be neither the "capitalist" nor the "worker".
the two groups that characterized society since the Industrial Revolution 250 years ago. The ruling group will be knowledge workers, knowledge executives, knowledge professionals, and knowledge entrepreneurs who have the insight to allocate knowledge to productive use. Yet unlike traditional employees, these knowledge workers own their knowledge, the new "means of production" and can take it with them wherever they go. The economic challenge of the post-capitalist society will therefore be the productivity of knowledge work and the knowledge worker.3

In the history of mankind, education has formed a continuum and a basis for the development of human society. Through development of attitudes, values, capabilities both of knowledge and skills, education provides strength and resilience to people to respond to changing situations and enables them to cause and contribute to societal development. History has established beyond doubt the crucial role played by the human resources in the development of nations. And the development of human resources is the main function of education.4

The importance of education is stressed by the Supreme Court of India on 30th July, 1992 while delivering the judgement in the Miss. Mohini Jain versus State of Karnataka case. It declared that all Indians have a fundamental right to education at all levels. This new
fundamental right has been held to be part of the fundamental right to life under Article 21 of the Indian Constitution. The right to life and the dignity of an individual cannot be assured unless it is accompanied by the right to education.\textsuperscript{5}

The judgement has converted the non-enforceable right to education in the Directive Principles of the Constitution into an enforceable fundamental right. Justices Kuldip Singh and R.M.Sahai have spelt out the following list of further rights for citizens:\textsuperscript{6}

All State Governments are under a Constitutional obligation to provide educational institutions at all levels for the benefit of the citizens.

The State Governments and the Union Government can discharge their obligation to provide for this right through State-owned or State-recognised educational institutions.

The educational institutions whether State-owned or privately-owned but recognised by the State, must function to the best advantage of the citizens.

The educational institutions cannot be so run as to confine the opportunity of education to the richer sections of society.
Any State "action or inaction" which defeats this Constitutional obligation to give education to all citizens at all levels is per se arbitrary.

The Supreme Court of India on 4th February 1993, held that charging capitation fee in any form is wholly illegal in the eyes of law. Charging capitation fee in consideration of admission to educational institutions is a patent denial of a citizen's right to education under the Indian Constitution. As a result of this judgement the management of private colleges have pleaded their inability to run the institution and have decided to stop admissions. The debate is on over the extent to which the closure of capitation colleges will affect the students.7

Higher education provides people with an opportunity to reflect critically on social, economic, cultural, moral and spiritual issues facing humanity. It contributes to national development through dissemination of specialised knowledge and skills. It is, therefore, a crucial factor for development.8

The Constituent Assembly was set up in 1946 to frame a Constitution for free India, within the democratic framework, and it opted for a Parliamentary, Federal Democracy. As in every Federal Government, in India there is a clear demarcation of legislative powers between the Centre and the States. Generally, there are two ways of distributing such powers between Federal Government and its units. One is that Federal Government is given a number of specific powers
and the remaining powers may be vested in the States. This method is followed in the American and Australian Constitutions. The other is that the States may be given a number of specific powers and the remaining powers are vested in the Union Government. This method is followed in the Canadian Constitution.

In Australia, Constitutionally, education has been regarded as a state rather than a federal responsibility. Indeed, the Federal Constitution made no reference at all to education and so, by implication, education was regarded as a power reserved for the states. However, over the years, the Commonwealth Government gradually developed interests in education. These interests increased dramatically during the Second World War and the three decades which followed. The result is that today the Commonwealth Government has a major interest in all levels of education. It provides over forty percent of the total cost of public education and bears full responsibility for providing regular recurrent and capital funds for all universities and Colleges of Advanced Education. Thus, today the Commonwealth Government is a major force in Australian education and educational policies are influenced to a major degree by federal initiatives and directions.9

The United States of America maintains an educational ‘system’ which is probably more diverse, disparate, decentralised and dynamic than any other in the World. This system depends little upon national
government to make education policy or to provide financial support for educational institutions. Instead, governmental authority for education in America is distributed primarily among the fifty States, which, in turn, delegate administrative responsibility to thousands of local school districts. The consequence is fifty systems of public, tax-supported, lower and higher education in which policy is made by fifty sets of State officials. Governors, Legislatures, Judges, State Board of Education and their counterparts in thousands of local communities. To add to this complexity, there exists a parallel system of private or non-public institutions, generally outside the government, for both higher and lower education.¹

The Canadian type of distribution of legislative powers has been followed more or less in the Constitution of India. But there are some features in the Indian Constitution different from the Canadian Constitution. The distribution of legislative powers is provided under the Schedule VII to the Constitution of India, read with Article 246. They are:

List I - the Union List;

List II - the State List; and

List III - the Concurrent List.
Parliament has the exclusive power of making laws with respect to matters enumerated in the Union List. The State Legislatures have the exclusive powers of making laws with respect to matters enumerated in the State List. Still, Parliament may enact laws on matters in the State List which acquires national importance. As regards matters which are enumerated in the Concurrent List, both Parliament and State Legislatures have Concurrent powers with the provision that in case of a conflict, the Central law must to the extent of repugnancy, prevail over the State law. If, however, the State law has been reserved for, and received the President's assent, then it will prevail over the Central law unless and until Parliament passes a new law over-ruling the provisions of the State law. Inspite of the three exhaustive Lists of subjects, there may still be subjects that are not mentioned in the three Lists. They are known as Residuary Powers. The Parliament alone can make laws on such subjects as provided under Article 248 read with Entry 97 of List I.

In a Welfare State, education is provided and regulated by the State. The question arises as to whether the Federal or Regional Government is to regulate education in the federal set up in India.

India is a multilingual, heterogenous, agrarian society with rigid, hierarchical, social structure functioning with modern political institutions. In a developing country like India, education plays an
important role. Political development in India revolved around the need to relate parochial with the universal, to infuse components of indigenous culture with standards and practices of the modern world. Political development in India depends on how these might relate to political process that would be responsive to political forces in society. Lucian Pye lays down Equality, Capacity and Differentiation as the three important characteristics of development syndrome. He also propounded the crisis theory of development that suggests that when these three forces operate, it may be useful to conceptualize the process of political development as involving essentially six crises that must be met and dealt with, for a developing society to become modern Nation State. The theme of crisis of capacity of a political system means effectiveness and efficiency in the execution of policy. The inclusion of education to the Concurrent List will help to increase the capacity of the political system in effectively implementing policy on education.

Lucian Pye also discusses about the legitimacy crisis and penetration crisis as one of the six crises faced by the developing countries. Legitimacy crisis involves the acceptance of legitimate nature of authority and establishment of the correct relationship between central and local authorities. Penetration crisis involves problems of Government in reaching down into society and effecting basic policies. Though it is felt that the shifting of education from the State List to the Concurrent List is an infringement on the rights of the States,
it has helped to meet penetration crisis. The question of establishing correct relationship between Centre and State Governments in the sphere of education is analysed in this thesis.

In India, prior to and particularly since Independence, the demand has gradually grown in all parts of the country that there should be a National System of Education and National Educational Policy with certain common objectives and major programmes. When this demand seemed to have reached its peak and gathered strength, the Fourth General Election held in 1967 created a political situation which revealed how limited was the real central authority in education - a fact which had hitherto been disguised by the accident of a single dominant political party being in power in the Centre as well as in the States. The sudden gap that has developed between the deepening desire for a National Educational Policy on the one hand and the realisation of the lack of constitutional authority to formulate and implement it effectively on the other, adds a unique feature to the Centre-State relations in education. As regional parties came to power in various States after 1967, the differences between Centre and States came to the forefront.

On the other hand, there was also a wide-spread feeling that while the founding fathers of the Constitution had deliberately opted for decentralisation of education, the locus of 'educational sovereignty'
has gradually shifted. through the post-Independent years, to the Centre. This has sometimes made the Centre the target of strong criticism. Along with this, there has also been a demand for decentralisation and greater educational authority to the States. Some have even gone to the extent of recommending the abolition of the Ministry of Education at the Centre.\(^{13}\)

The Government of India had been extending a great measure of goodwill and co-operation in taking along with it the various State Governments in matters of education. when education was in the State List. Whenever the Central Government felt the need for a particular measure to be taken or an Act to be passed relating to any aspect of education, it discussed the same with the various State Governments and persuaded them to undertake the measure or pass an Act as the case may be. This was possible because of the fact that majority of the State Governments were controlled by the same political party which wielded powers at the Centre till 1967.

With a view to enabling the Central Government to provide adequate leadership and initiative for quantitative expansion and qualitative improvement of education, it is often felt that education should be kept in the Concurrent List. This issue has led to discussion time and again. The Government of India appointed a number of Commissions to go into the question of education.
As early as 1949, the University Education Commission under the Chairmanship of Dr. S. Radhakrishnan, had touched upon it in relation to the field of higher education and recommended that "University Education be placed on the Concurrent List of legislation." The all-India aspect of University Education, the repercussions and interchanges necessary and desirable between Universities, and the need for a national guarantee of minimum standards of efficiency made it undesirable to retain it as a purely State subject. This view was reiterated by the Committee of the Members of Parliament on higher education which desired education to be transferred from State List to Concurrent List.

The Government of India appointed another Education Commission headed by Prof. D.S. Kothari in 1964. This Education Commission discussed the matter specifically and observed, "we have examined this problem very carefully. We are not in favour of fragmenting education and putting one part in the Concurrent List and the other in the State List - education should under any circumstances, be treated as a whole. We are also of the view that in a vast country like ours, the position given to education in the Constitution is probably the best because it provides for Central leadership of a stimulating but non-coercive character." They were also convinced that there is ample scope for developing a better Centre-State partnership in education. The Commission felt that this scope should be fully utilised and
amendment of the "Constitution may be considered after the existing provisions are found inadequate. They have, therefore, suggested that the problems may be reviewed after ten years or so." However, two members of the Kothari Commission Mr. P.N. Kirpal and Dr. V.S. Jha were of the view that the whole of education should be included in the Concurrent List.

Before the inter-disciplinary Seminar in 1965 under the joint auspices of Indian Law Institute and Education Commission, the Government of India, Dr. P.K. Tripathi and some others made a strong plea for the transfer of education from State List to Concurrent List.

The Administrative Reforms Commission headed by Mr. M.C. Setalvad in 1966, however, levelled the charge of Central domination over Indian Education. A bill was moved in the Parliament in 1966 by Dr. L.M. Singhvi (Independent) for amendment of the Constitution to put education in the Concurrent List. Mr. Chagla, the then Education Minister, Government of India, supported this move and said, "we made a serious mistake when we drafted the Constitution in making education a State subject." Although Radhakrishnan Commission and the Sapru Committee had favoured making higher education a Concurrent subject, it was felt desirable to put the entire education in the Concurrent List. The Kothari
Commission also in a sense accepted in principle making education a Concurrent subject.²⁰

The Swaran Singh Committee (1976) opined that Agriculture and Education are subjects of prime importance to the country’s rapid progress towards achieving desired socio-economic changes. The need to evolve all-India policies in relation to these two subjects cannot be over emphasised. The Committee had recommended that both education and agriculture should be placed in the Concurrent List. The proposal did not find support from the States and most of the States were reluctant to bring education under the Concurrent List.²¹

The Government of India was interested and took the initiative in placing education in the Concurrent List as a result of pressures and counter-pressures. As a result of the Constitution (Forty Second Amendment) Act, 1976 which came into force on January 4, 1977, during the tenure of Mrs. Indira Gandhi, education was placed in the Concurrent List of the Schedule VII (Entry 25) to the Constitution of India. The Janata Party which came to power in 1977 revoked some of the Constitutional amendments passed by the earlier Government, but it did not alter the amendment in respect of education. With the fall of the Janata Government and the reinstatement of the Congress Ministry in 1980 at the Centre, education was retained in the Concurrent List of the Constitution. Subsequent Governments at the
Centre under the Prime Ministership of Mr. Rajiv Gandhi in 1984, Mr. V.P. Singh in 1989 and Mr. Chandra Shekhar in 1991, did not disturb the status of education in the Concurrent List. The present Congress (I) Government headed by Mr. P.V. Narasimha Rao is maintaining the status quo in respect of education.

The Government of India appointed three-member Sarkaria Commission with Justice R.S. Sarkara as its Chairman and Mr. B. Sivaraman and Dr. S.R. Sen as its other Members on July 7, 1983 to review the relationship between the Centre and the States, its working, and to suggest such changes as may be appropriate. In an unanimous report submitted in 1988, the Commission has expressed itself against the transfer of more subjects to the States. It has, in fact, advocated a strong Centre to preserve the unity and integrity of the country. The 1500 page report with 247 recommendations is an exercise to defend the existing Constitutional arrangements between the Centre and States. The Commission has recommended a process of consultation by the Centre with the States on Concurrent subjects. The Commission concedes that the Centre is not keeping the States informed in this respect. But the demand that subjects like education should be transferred from the Concurrent List to the State List has been rejected by the Sarkaria Commission.22
The Sarkaria Commission has recommended that the best way of working Union-State relations in the sphere of education would be that the norms and standards of performance are determined by the Union and its agencies like the University Grants Commission, set up for this purpose under the Central statutes, but the actual implementation is left to the States. By the same token, a system of monitoring would have to be established by the Union. The basic pre-requisites of successful working of such professional bodies are:23

(1) that their composition, functioning and mode of operation should be so professional and objective that their opinion, advice or directive commands implicit confidence of the States and universities, institutions concerned, and

(2) this objective cannot be achieved without close concert, collaboration and co-operation between the Union and the States.

The Sarkaria Commission has further recommended that ordinarily, the Union should occupy only that much field of a Concurrent subject on which uniformity of policy and action is essential in the larger interests of the nation, leaving the rest and the details for State action within the broad framework of the policy laid down in the Union law. Further, whenever the Union proposes to undertake
legislation with respect to a matter in the Concurrent List, there should be prior consultation not only with the State Governments individually, but also, collectively with the inter-Governmental Council which as recommended by the Sarkaria Commission should be established under Article 263. A resume of the views of the State Governments and the comments of the inter-Governmental Council should accompany the Bill when it is introduced in Parliament.

The theme of Centre-State relations is of perennial interest and concern. During the past decades, several scholars have done research work on Centre-State relations. Discussions, conferences, seminars and symposiums have been arranged on this topic of Centre-State relations. But, limited studies have been made on Centre-State relations with special reference to education especially higher education. J.P. Naik described the educational planning in India. R.N. Singh discussed the role of the federal government in Indian higher education since Independence. Abu Baker studied the Union and the States in educational finance and planning. Marina Pinto discussed federalism with reference to higher education in India. Chauhan analysed the achievements, failures and strategies of higher education in India.

However, these scholarly works have their focus on the whole country as such. They did not deal with the Centre-State relations in education with special reference to higher education in Tamil Nadu.
Hence, the Researcher has chosen to study the Centre-State relations in education with special reference to higher education in Tamil Nadu. The study is confined only to general education.

The objectives of this thesis are:

(1) To trace the historical development of Centre-State relations in education.

(2) To study the process of Centre-State relations in education both when the education was under the State List, and after the Forty-second Amendment to the Constitution of India when education was included in the Concurrent List.

(3) To examine the organisation and administration of higher education at the Centre and in Tamil Nadu.

(4) To identify the powers and functions of the University Grants Commission (UGC) and its role in consolidating the efforts of the Central Government and the Tamil Nadu Government.

(5) To analyse the educational expenditure of the Central Government and the Tamil Nadu Government.
(6) To study the issues between the Central Government and the State Government in respect of education.

(7) To stress the need for maintaining the Concurrent status of education in the Constitution of India.

The research design adopted in this thesis is descriptive and analytical against a historical backdrop. Data have been collected from the text of the Constitution of India, books, academic journals, periodicals, bulletins, newspapers, articles, monographs and other reports.

This thesis is divided into seven chapters. The first chapter forms the introduction. The second chapter traces the history of higher education in India. The third chapter deals with the organisation and administration of higher education at the Centre and in Tamil Nadu. The fourth chapter describes the origin and role of the University Grants Commission. The fifth chapter analyses the role of the Central and Tamil Nadu Governments in managing educational expenditure. The sixth chapter brings out the Centre-State relations in education. The last chapter presents the conclusion.
REFERENCES


