

Cultural and Educational Rights

Article 29- 30

Article 29 – Protection of Interests of Minorities

- **Article 29(1):** This provides all citizen groups that reside in India having a distinct culture, language, and script, the right to conserve their culture and language. This right is absolute and there are no ‘reasonable restrictions’ in the interest of the general public here.
- **Article 29(2):** The State shall not deny admission into educational institutes maintained by it or those that receive aids from it to any person based on race, religion, caste, language, etc. This right is given to individuals and not any community.

- In terms of religious minority communities, Section 2(c) of **The Minorities Act 1992** recognizes 5 religions as minority communities namely Muslims, Sikhs, Christians, Buddhists, and Zoroastrians (NCMA).
- **In Re Kerala education bill** where the supreme court held that minority means a community which is numerically less than 50% of total population. But the question arose that whether the total population is the population of the state or the population of the whole country; this was resorted to in **TMA Pai Foundation case**. The supreme court confirmed the position that minority status of a community is to be decided with reference to the state population
- Provides that no citizen shall be denied admission in any educational institution maintained by state or receiving aid out of the state funds on Grounds only of religion, race, caste, language or any of them.

Article 30 – Right of Minorities to Establish and Administer Educational Institutions

- (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice
- (1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause
- (2) The state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language..

- This right is given to minorities to form and govern their own educational institutions. Article 30 is also called the “**Charter of Education Rights**”.
- **Article 30 (1)** provides that all minorities, whether based on religion or language shall have the right to establish and **administer educational institutions of their choice.**
- **Article 30 (2)** provides that state shall not discriminate educational institutions on Grounds of minority in granting it to them.

CASES

- **In Frank Anthony Public School Employees Association Vs Union of India 1987 Supreme Court** held that idea of giving special rights to minorities is to give them a sense of security and feeling of confidence.
- it also held that regulatory measures aimed at making minority institution effective instruments for imparting education, without nullifying management right are permissible.

- **In T M A Pai Foundation Vs State Of Karnataka 2002**
Supreme Court laid down the following
- State is to be regarded as a unit for determining linguistic as well as religious minority
- Institutes which receive aid from state could be subject to government rules and regulations.
- In respect of an aided institution only regulation which the government may put is regarding the qualifications and minimum conditions of eligibility of teachers and principal.
- Conditions of recognition and affiliation by or to a board or university are to be complied with.
- An aided institution has to admit a reasonable number of non minority students.
- Minority Institutions may have its own procedure and method of admission but the procedure must be fair and transparent.

- In **Islamic Academy Of Education Vs State Of Karnataka 2003** Supreme Court held that educational institutions can have their own fee structure but there must be no profiteering and capitation fee cannot be charged.
- In **P A Inamdar vs. State of Maharashtra**- The supreme court held that the policy of reservation to admit students is not applicable to a minority Institution and the policy of reservation and terms of employment is not applicable to a minority institution

- **SP Mittal versus Union of India**- the Supreme Court stated that the benefit of article 30 can only be demanded by religious or linguistic minority community and their organization; the Auroville community in this case was not held to be a religious or linguistic minority.