

Right to Freedom of Religion
Article 25- 28

- **Article 25- 28** deals with the right to freedom of religion.
- Provides for freedom of conscience and free profession, practice and propagation of religion.
- **Article 26** provides for freedom to manage religious affairs.
- **Article 27** provides freedom as to payment of taxes for promotion of any particular religion.
- **Article 28** provides for freedom as to attendance at religious instruction or religious worship in certain educational institutions.

Freedom of conscience and free profession, practice and propagation of religion Article 25

- **Article 25 (1)** provide that all persons are equally and title to freedom of concise and the right really to Profess, practice and propagate religion.
- **Freedom of Conscience**: it is enough freedom of an individual to mould his relationship with God in whatever manner he likes.
- **Freedom to Profess**: religion means to declare openly and freely one's and belief.
- **Freedom to Propagate** religion means to spread and publisher is the religious views.

- The right is subject to following restrictions
- **Public order**
- **Morality**
- **Health**
- **Other provisions of part 3**

- In **S R Bommai Vs Union of India 1994** Supreme Court held that secularism is the basic feature of constitution. Indian constitution embodies a positive concept of secularism. In matters of religion, the state is neutral and treats every religion equally.
- In **Aruna Roy Vs Union of India Supreme Court** held that study of religion in school is not against secular philosophy of constitution. Secularism is susceptible to positive meaning that is developing understanding and respect towards different religions

- In **Ismail Faruqui versus Union of India 1994** Supreme Court held that offer of prayer for worship is religious practice but offering at every location where such there can be offered would not be an essential religious practice.
- **Church Of God (Full Gospel) Of India versus KKRMC Welfare Association 2000** Supreme Court held that no person can be allowed to create noise pollution or disturb the peace of other while exercising religious freedom. Religious prayers through loudspeakers are not an essential element of any religion.

- **Article 25(2)** provides that the state can make law for regulating or restricting Economic, financial, Political or other secular activities associated with religious practice and also for social welfare and Reform for throwing open of Hindu religious institution of public character to all classes and sections of Hindus.

- **Indian Young Lawyer Association & Ors. Vs. State of Kerala & Ors. 2018**
- On 28th September 2018, the court delivered its verdict in this case by 4:1 majority which held that the practice violated the fundamental rights to equality, liberty and freedom of religion, Article 14, 15, 19(1), 21 and 25(1). It struck down Rule 3(b) of the Kerala Hindu Places of Public Worship Act as unconstitutional. Rule 3(b) allowed for Hindu denominations to exclude women from public places of worship, if the exclusion was based on custom.
- The apex court has allowed entry of women of all age groups to the Sabarimala Temple, and held that “Devotion cannot be subjected to Gender Discrimination”

Freedom to Manage Religious Affairs

Article 26

- **Article 26** provides that subject to public order morality and health every religious denomination or any section thereof shall have the right.
- To establish and maintain Institutions for religious and charitable purposes.
- To manage its own affairs in matters of religion.
- To own and acquire movable and immovable property.
- To administer such property in accordance with law.

- In **SP Mittal versus Union of India 1983** Supreme Court held that religious denominations must satisfy the following requirements.
- It must be a collection of individuals who have a system of beliefs which they regard as conducive to their spiritual well-being.
- It must have a common organization.
- It must be designated by distinctive name.

Freedom as To Payment of Taxes for Promotion of Any Particular Religion Article 27

- **Article 27** provides that no person shall be compelled to pay taxes the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denominations.

Freedom as To Attendance at Religious Instruction or Religious Worship in Certain Educational Institutions

Article 28

- **Article 28 (1)** provides that no religious instruction shall be provided in any educational institution wholly maintained out of the state fund.
- **Article 28 (2)** provides that clause (1) shall not apply to any educational institution which is administered by State but it has been established by any endowment or trust which requires that religious instruction shall be imparted in such institutions.
- **Article 28 (3)** provides that no person shall be required to take part in any religious instruction in any e educational institution recognized by state or receiving aid out of state fund unless such person or his guardian has given his consent