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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

THE PROTECTION OF THE RIGHTS OF MINORITIES IN INDIA: A CRITICAL VIEW

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& DR. TANVIR KAUR**

Introduction:

The Protection of Human Right Act, 1993 indicates that liberty, equality and dignity are basic human rights necessary to make the life meaningful and complete. To achieve the goal legislature makes the law, judiciary interprets the law for justice and executive enforces the legal rights in the interest of people. Social justice is required for the protection of human rights. Justice is the correct application of law, as opposed to arbitrariness and social justice concerns.¹ Obligations of individual to community and its end is the common good. As far as the role of judiciary is concerned, judiciary has played a pivotal role in promotion and protection of social justice to minority groups by delivering landmark judgments. In Indian democracy where the number is everything and the minority community does not have number with them? Therefore, to protect minority rights, the concept of judicial review evolved.²

The present article will highlight the judicial incentive in the protection of the rights of the religious and linguistic minorities. But before enumerating this role of Judiciary, one must know who are to be included within the meaning of the term minorities.

What is a Minority?

The expression minority has been derived from the Latin word 'minor' and the suffix 'ity', which means small. The word minority as defined in U.N. Human Rights Commission sub Commission on Prevention of Discrimination and the Protection of Minorities include "A group numerically inferior

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¹ V.V. Devasia, Lellamma Devasia, "Women, Social Justice and Human Rights", APH Publication Corporation, New Delhi, 2013.

² Anjani Kant, "Human Rights: Recent Trend of Judiciary in India", AIR Journal, 2014.

to do rest of population of state, in a non-dominant position, whose members being nationals of the state possess ethnic religious or linguistic characteristic differing from those of the rest of the population and show if not implicitly, a sense of solidarity directed towards preserving their culture, traditions, religion or language.³

According to English language dictionary, ‘minority’ means: “The minority of people or things is a number of them that form less than half on the large group, used especially when the number is much less than half of the large group.”⁴

‘Culture’ means, “The custom and belief, art, way of life and social organization of a particular country or group.”⁵

According to UNESCO, “culture is usually interpreted as art. We speak of culture in connection with behavior of people in moral values and attitudes considered useful for interests of society or of a certain social group. We mean standard of living, of habitation and clothing, of physical culture of language, of thought, of work.”⁶

Minorities in India

What is Minority? That is the term which is not defined in the Indian Constitution. In *Re Kerala Education Bill*⁷ where the Supreme Court of India, through S.R. Das C.J., suggesting the techniques of arithmetic tabulation, held that the minority means a “community, which is numerically less than 50 percent of the total population. In *A. M. Paton v/s Kesavan*,⁸ a Division Bench of the Kerala High Court held that the word “Minority” is not defined in the Constitution, and in the absence of the special definition, any community religious or linguistic-which is numerically less than 50% of the population of the State concerned, is entitled a fundamental right guaranteed by Article 30 of the Constitution. In the case of *D.A.V. College, Bhatinda v/s State of Punjab and others*,⁹ the Supreme Court held that, “What constitute a linguistic or religious minority must be judged in relation to the

³ Tahir Mahmood, Minorities Commission Minor Role in Major affair, 2001, p 2.

⁴ A.S. Hornby, Oxford Advanced Learners Dictionary, 6th Ed. 2000, p-306

⁵ www.eurac.edu. visited on 11 March 2022.

⁶ www.hinduonnet.com

⁷ AIR 1958 SC 956.

⁸ AIR 1965 Ker. 75 at p-76.

⁹ 1971 (Supp) SCR 677

State in as much as the impugned Act was a State Act and not in relation to the whole of India.’’

In *St. Stephen's College v/s University of Delhi*,¹⁰ the court held that the minority under Article 30 must necessarily mean those who form a distinct or identifiable group of citizen of India. In *Bramchari Sidheswari v/s State of West Bengal*¹¹ the Supreme Court has held that the Ram Krishna Mission establish by Swami Vivekananda to propagate Vedanta values as expounded by Ram Krishna is not a minority religion separate and distinct from Hindu religion, but a religious sect or denomination of Hindu religion and therefore not entitled to claim the fundamental right under Article 30(1) of the constitution of establishing and administering educational institutions of their choice. Chief Justice Kirpal in *T.M.A. Pai Foundation v/s State of Karnataka*¹² held that, ‘‘a linguistic and religious minority is covered by the expression ‘minority’ under Article 30 of the Constitution. Linguistic lines, therefore, for the purpose of determining minority, the unit be the State and not the whole of India. Thus, religious and linguistic minorities, who have been put at per Article 30 have to be considered State wise.’’

The Indian Constitution provides the justifiable to the minorities. The scope of the rights of minorities are very wide. It is for the protection of the interest of the minorities. By the virtue of the constitutional mandate, the minorities are getting a special status. The legal position of the rights of minorities are subject to the regulatory power of the State. It must by keep in mind the minorities in a State must be counted on the basic religion or language and scheduled castes and scheduled tribes are not minorities.¹³

Basic Characteristics of Minority Groups¹⁴

1. Physical and cultural traits:

Members of a minority group share some physical and cultural characteristics that distinguish them from the dominant (majority) group. Each society has its arbitrary standards for determining which characteristics are most important in defining dominant and minority groups. Physical characteristics such as skin colour are commonly called racial. Cultural (ethnic) distinctions are rarely neutral and commonly associated with antagonism between groups.

¹⁰ AIR 1992 SC 1630.

¹¹ (1995) 4 SCC 464.

¹² AIR 2003 SC 355 at p-418

¹³ Kailash Rai, ‘‘The constitutional Law of India’’, Central Law Publication, Allahabad, 2010.

¹⁴ www.eurac.edu

2. Unequal treatment:

Members of a minority group experience unequal treatment. They are usually physically and socially isolated from the dominant (majority) community. For example, the management of a community hostel or an apartment complex (or building) may refuse to rent members of a minority community.

3. Ascribed status:

Membership in a dominant (or minority) group is not voluntary. People are born into the group. Thus, race, gender, ethnicity and religion are considered ascribed statuses.

4. Solidarity:

Minority group members have a strong sense of group solidarity. This sense of solidarity is the outcome of prejudice and discrimination experienced by the minority group members. It is based on 'in-group consciousness' which in turn gives rise to the feeling of 'us' versus 'them' or 'i' versus 'they'.

It heightens feelings of common loyalty and interests. W.G. Sumner, in his book *Folkways* (1906), noted that individuals make distinctions between members of their own group called 'in-group' and everyone else 'out-group'.

5. In-group marriage:

Members of a minority group generally marry within their own group in order to keep alive their cultural distinctiveness and to maintain group solidarity. Parsis in India and members of other minority groups (Muslims or Christians) seldom marry in other groups.

6. Subordination:

The minority is subordinate to the dominant (majority) in the distribution of power and privileges in a society. This is the key characteristic of a minority group. The members of minority groups have relatively low power, prestige and economic position in a society's system of social stratification. Not only this, they have to observe the norms, values, cultural patterns and laws of the majority (dominant) group.

Constitutional provisions relating to minorities

Right to conserve language, script or culture [Article 29(1)]

Clause (1) of Article 29 provides; “Any section of the citizens 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”¹⁵. Article 29 (a) thus guarantees the right to conserve one’s own language, script or culture. To claim this right the following conditions must be satisfied-

- a) The right can be claimed by any section of citizens. The right thus belongs to citizens and not to others,
- b) that section of citizens must be residing in the territory of India or any part thereof; and
- c) That section of citizens must have a distinct language, script or culture of its own.

The right to ‘conserve’ means the right to preserve or the right to maintain. The right to conserve one’s own language, script or culture, thus, means and includes the right to preserve and to maintain or to work for one’s own language, script or culture.¹⁶

Right of a citizen to admission to Educational Institutions [Article 29(2)]

Article 29(2) provides, “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.”¹⁷

This Article guarantees to every citizen the right to admission to institutions maintained by the State or aided by the State and no citizen can be denied admission to such institution on the ground only of religion, race, caste language or any of them.

The right contained in Article 29(2) is available to every citizen of India. Whether belonging to a minority or majority group. It is a right of a citizen as a citizen and not as a member of any community or class. The right being a fundamental right cannot be interfered with by any instructions, rules or regulations.¹⁸

¹⁵ S.M. Mehta, “Indian Constitutional Law”, Deep and Deep Publication, 1990

¹⁶ M.P. Singh, “The Constitution of India”, Delhi Law House, 2001

¹⁷ M.P. Jain, “Indian Constitutional law”, Wadhwa and Company, Nagpur, 2010

¹⁸ *Ibid*

Right of Minorities to Establish and administer educational Institutions [Article 30(1)]:

Article 30(1) provides, “All minorities whether based on religion or Language, shall have the right to establish and administer educational institutions of their choice.” Clause (2) of Article 30 further provides: “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”¹⁹

Article 30(1) guarantees to all linguistic and religious minorities ‘the right to establish’ and “the right to administer” educational institution “of their choice”. The right contained in Article 30(1) is available only to minorities whether based on religion or language.

Article 30 is held to be more in the nature of protection for minorities, and they are not immuned from regulatory control of the state.²⁰ It is to ensure equality with minority and not intended to place them in a more advantageous position, vis-à-vis majority.²¹

The word ‘or’ in Article 30(1) indicates that a minority, for the purpose of this Article may either be linguistic or religious and that it does not have to be both.²² In so far as Article 30(1) is concerned, religious and linguistic minorities have been put at par.²³

Judiciary for the protection of the rights of minorities

The Supreme Court in *T.M.A. Pai Foundation v. State of Karnataka*²⁴ highlighted the object behind Article 29 and 30; it is the recognition and preservation of the different types of people. With diverse languages and different beliefs which constitute the essence of secularism in India.

*Sindhi Education Society V. State of Delhi*²⁵ protection under Article 29 and 30 is not privilege but is a protection to the religious linguistic minority communities to attain equality with other religious/ linguistic groups of India. It is a constitutional mandate that a linguistic minority is entitled to

¹⁹ Narinder Kumar, “Constitutional Law of India”, Pioneer Publications, 2011

²⁰ P.A. Inamdar v. State of Maharashtra, AIR 2005 SC 3226

²¹ Malankara Syrian Catholic College v. T. Jose, AIR 2007 SC 570

²² D.A.V. College, Jullundur v. State of Punjab, AIR 1971 SC 1737

²³ T.M.A. Pai Foundation v. State of Karnataka, AIR 2003 SC 355

²⁴ AIR 2003 SC 355

²⁵ The Hindu July 8, 2010

conserve its language and culture.

Scope of Article 29(1)

Under Section 123 of the Representation of the People Act, 1951 an appeal by a candidate to vote, or refrain from voting for a person on the ground of language is made a corrupt practice. In *Jagdev Singh v. Pratap Singh*²⁶ the Supreme Court has emphasized that this clause must be read subject to Art 29(1), for it could not be construed so as to trespass upon the Fundamental Right in question.²⁷

Article 29(1) includes the right “to agitate for the protection of the language.” Making promises by a candidate to work for the conservation for the electorate’s language does not amount to a corrupt practice. Unlike Article 19(1),²⁸ Article 29(1) is not subject to any responsible restrictions. The right conferred upon the citizens to conserve their language etc. is made absolute by the Constitution.

*DAV College Jalandhar v. state of Punjab*²⁹

A legal provision requiring the Guru Nanak University to promote studies and research in Punjabi language and literature, and to undertake measures for the development of Punjabi language, literature and culture, does not infringe Article 29(1). The Supreme Court has emphasized that the purpose and object of the linguistic States, which have now come to stay in India, is to provide, grater facility for the development of the people of the areas educationally, socially and culturally in the regional language. The concerned State or the University has every right to provide for the education of the majority in the regional medium.

The Constitutional validity of the imposition of Marathi language as a compulsory study in schools run by linguistic minorities was questioned in *Usha Mehta V. State of Maharashtra*.³⁰ The Court relied on the “three-language formula” and held that “It is difficult to read Articles 29 and 30 in such a way that they contain the negative right to exclude the learning of regional language. *Ipsso facto* it is not possible to accept the proposition that the people living in particular State cannot be asked to

²⁶ AIR 1965 SC 183; (1964) 6 SCR 750

²⁷ G.S. Pandey, Constitutional Law of India, University Book House Pvt. Ltd. Jaipur 2009.

²⁸ *Supra* note 30

²⁹ AIR 1971 SC 1737; (1971) 2 SCC 269.

³⁰ (2004) 6 SCC 264, at p. 279; (2004) 5 SCALE 800

study the regional language.”³¹

In *State of Madras v. Champakam*,³² the communal G.O. of the State of Madras allotted seats in medical and engineering colleges in the State proportionately to the several communities, viz., non-Brahmin Hindus, Backward Hindus, Brahmins, Harijans, Anglo-Indians, Christians and Muslims. A Brahmin candidate who could not be admitted to engineering colleges challenged the G.O. as being inconsistent with Article 29(2).

The Supreme Court held that the classification in the G.O. was based on religion, race and caste which were inconsistent with Article 29(2). Even though the petitioner had got much higher marks than those secured by many non-Brahmins who were admitted in the seats allotted to them, he could not be admitted into any institution. The only reason for denial of admission to him was that he was a Brahmin and not a non-Brahmin.³³

In *State of Bombay v. Bombay Education Society*³⁴ an order issued by the Bombay Government banning admission of those whose language was not English to a school using English as a medium of instruction, was declared invalid under Article 29(2).

The Government had argued that the order did not debar citizens from admission into English medium schools only on the ground of religion, race, caste, language, but on the ground that such denial would promote the advancement of the national language. Rejecting the contention, the Supreme Court pointed out that the argument overlooked the distinction between the object underlying the impugned order and the mode and manner adopted therein to achieve that object. The object underlying the order was laudable but even then its validity had to be judged by the method of its operation and its effect on the Fundamental Rights guaranteed by Article 29(2). The immediate ground for denying admission in English school to pupils whose mother tongue was not English was only language and so the order could not be upheld. Thus, discrimination in matters of admission on the basis of language was vetoed by the Supreme Court under Article 29(2).³⁵

³¹ *Ibid* at page 280. The “three-language formula” adopted for the country under the Report of the Education Commission, 1964-66 appointed by the Government of India.

³² AIR 1951 SC 226

³³ This led to the insertion of Article 15 (4) of the Constitution (First amendment) Act, 1951.

³⁴ AIR 1954 SC 561

³⁵ V.N. Shukla, “Constitution of India”, Eastern Book Company, 2001

T.M.A. Pai case³⁶ drew a distinction between aided and unaided educational institutions holding that the State cannot insist on private educational institutions which receive no aid from the State to implement the State's policy on reservation for granting admission on lesser percentage of marks i.e. on any criterion except merit. This was sought to be overcome by the Constitution (Ninety-third Amendment) Act, 2005 by which Clause (5) was inserted in Art.15 of the Constitution. The clause empowers the State to make special provision, by law, for the advancement of any social and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes insofar as such special provisions relate to their admission to the educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in Clause (1) of Article 30. Unlike clause (4) of Article 15, clause (5) does not exclude Article 29(2). Therefore a law made in exercise of power under Article 15 (5) would not be barred under Article 29(2).

Parliament then passed the Central Educational Institutions (Reservation in Admission) Act, 2006, section 3 of which provides for reservation of 15% seats for Scheduled Castes, 7½% seats for Scheduled Tribes and 27% for Other Backward Classes in Central Educational Institutions. Both the Constitutional amendment as well as the Act were recently challenged by State maintained institutions and aided educational institutions in *Ashoka Kumar Thakur v. Union of India*.³⁷ The argument that the Constitutional amendment is violative of the “basic structure” of the Constitution was rejected. The constitutionality of the Act was also upheld.

The Supreme Court has pointed out in *Ahmadabad St. Xaviers College v. State of Gujarat*,³⁸ that the spirit behind Article 30(1) is the conscience of the nation that the minorities, religious as well as linguistic, are not prohibited from establishing and administering educational institutions, of their choice for the purpose of giving their children the best general education to make them complete men and women of the country.

The expression “educational institutions” means institutions that impart education, including education at all levels from the primary school level up to the postgraduate level as also professional

³⁶ (2002) 6 SCC 481

³⁷ (2008) 6 SCC 1

³⁸ AIR 1974 SC 1389

education.

The ruling in the *Kerala Education Bill case* has been reiterated by the Supreme Court in *the Guru Nanak University case*.³⁹ In that case, the Supreme Court rejected the contention of the State of Punjab that a religious or linguistic minority should be a minority in relation to the entire population of India. The Court has ruled that a minority has to be determined, in relation to the particular legislation which is sought to be impugned. If it is a State law, the minorities have to be determined in relation to the State population. The Hindus in Punjab constitute a religious minority. Therefore, Arya Samajists in Punjab also constitute a religious minority having their own distinct language and script.⁴⁰ ‘They are therefore entitled to invoke the right guaranteed under Article 29(1) because they are a section of citizens having a distinct script and under Article 30(1) because of their being a religious minority’. The Court has left open the question whether the Arya Samajists can be regarded as a “religious denomination” or not for purposes of Article 26(a).

The Supreme Court has ruled in *S.K. Patro v. State of Bihar*⁴¹ that a minority claiming privilege under Article 30 should be a minority of persons residing in India. Foreigners not residing in India do not fall within the scope of Article 30. Residents in India and forming the “well defined religious or linguistic minority” fall under the protection of Article 30.

Future, while rights under Article 29 can be claimed only by the Indian citizens, Article 30 does not expressly refer to citizenship as a qualification for the members of the minorities. The fact that funds have been obtained from outside India for setting up and developing a school is no ground for denying to it protection under Article 30.

*T.M.A. Pai Foundation v. Karnataka*⁴²

This decision specifically dealt with the issue whether in order to determine the existence of a religious or linguistic minority in relation to Article 30. The state or the country as a whole is to be taken as the unit of the eleven judges constituting the Bench, Kirpal C.J. delivered judgment for six judges. There were three concurring and two dissenting judgment on the issue. The majority view

³⁹ *Supra* note 32, at 1742

⁴⁰ *Ibid* at 1744

⁴¹ AIR 1970 SC 259; (1969) I SCC 964

⁴² AIR 2003 SC 355

was that language being the basis for the establishment of different States, for the purposes of Article 30, a “linguistic minority” will have to be determined in relation to the State in which the educational institution is sought to be established. The position with regard to the religious minority is similar, since both religious and linguistic minorities have been put on a par in Article 30. Therefore the test for determining, who are linguistic or religious minorities within the meaning of Article 30 would be one and the same either in relation to a State legislation or Central legislation.

The minority view was that the question of minority status must be judged in relation to the offending piece of legislation or executive order. If the source of the infringing action is the State, then the protection must be given against the State and the status of the individual or group claiming the protection must be determined with reference to the territorial limits of the State. When the entire nation is sought to be affected by Union legislation, the question of minority status must be determined with reference to the country as a whole. Thus assuming that Parliament itself prescribes Hindi as the compulsory medium of instruction in all educational institutions throughout the length and breadth of the country, if a minority’s status is to be determined only with respect to the territorial limits of a State, non-Hindi speaking persons who are in a majority in their own State but in a minority in relation to the rest of the country, would not be able to impugn the legislation on the ground that it interferes with their right to preserve a distinct language and script. Such examples can be multiplied.

In *Andhra Pradesh Christian Medical Association v. Government of Andhra Pradesh*,⁴³ the Supreme Court has asserted that the Government, the University and ultimately the court can go behind the claim that the institution in question is a minority institution and “to investigate and satisfy itself whether the claim is well- founded or ill founded”. The Government, the University and ultimately the court “have the undoubted right to pierce the minority veil” and “discover whether there is lurking behind it no minority at all and in any case no minority institution.”

The Supreme Court emphasized that the object of Article 30(1) is not to allow bogies to be raised by pretenders. The institutions must be an educational institution of minority in truth and reality and not mere masked phantoms.

⁴³ AIR 1986 SC 1490

In the instant case, the Court held that the institution in question was not a minority institution. The Court clarified that the protection of Article 30(1) is not available if the institution is a mere cloak or pretension and the real motive is business adventure. Such institutions must be of the minorities “in truth and reality and not “mere masked phantoms”. In this case, the claim for minority status was made by a purchaser of the school. The institution was started as a business adventure with a view to make money from gullible persons anxious to obtain admission to professional colleges. So, the Court refused to treat it as a minority educational institution.

In *Yogendra Nath Singh v. State of Uttar Pradesh*⁴⁴, the Government recognized an institution as a minority institution. This order was challenged in the High Court through a writ petition. Looking into the antecedent history of institution right from its inception, the Court concluded that the institution was not established as a minority institution, and, therefore, it could not be granted minority status even though presently it was being managed by the minority community. Under Article 30(1), the requirements of establishment and management have to be read conjunctively. The twin requirements have to be established and in the absence of one, an institution cannot be granted minority status.

In *P.A. Inamdar v. State of Maharashtra*⁴⁵ Supreme Court observed:

“The employment of expressions “right to establish and administer” and “educational institution of their choice” in Article 30(1) gives the right very wide amplitude. Therefore, a minority educational institution has a right to admit students of its own choice; it can, as a matter of its own free will, admit students of non-minority community. However, non-minority students cannot be forced upon it. The only restriction on the free will of the minority educational institution admitting students belonging to a non-minority community is, as spelt out by Article 30 itself, that the manner and number of such admissions should not be violative of the minority character of the institution.

“The management has the right to order immediate suspension of an employee in cases of gross misconduct but in order to prevent an abuse of power by the management a safeguard is provided to the employee that approval should be obtained within 15 days. The Director is also bound to accord his approval if there are adequate and reasonable grounds for such suspension. The provision appears

⁴⁴ AIR 1999 All 356

⁴⁵ AIR 2005 SC 3226

to be eminently reasonable and sound.⁴⁶

The Frank Anthony ruling has been reiterated by the Supreme Court in *Mrs. Y. Theclamma v. Union of India*⁴⁷ Section 8(4) of the Delhi School Education Act, inter alia, provided that no employee shall be suspended without the approval of the Director of Education. The question was whether this provision would apply to minority institution or not. The principal of a Government aided minority school was suspended by the management pending an inquiry against her. She challenged her suspension. The Frank Anthony ruling holding the provision applicable to minority institutions was reiterated with the remark that the provision in question was designed to afford some measure of protection to the teachers of such institutions without interfering with the management's right to take disciplinary action. The Court has argued: "A regulation which is designed to prevent maladministration of an educational institution cannot be said to infringe Article 30(1)." The Court has observed:

"It cannot be doubted that although disciplinary control over the teachers of a minority educational institution is with the management, regulations can be made for ensuring proper conditions of service of teachers and also for ensuring a fair procedure in the matter of disciplinary action.

In *Christian Medical College Hospital v. Employees' Union*,⁴⁸ the Supreme Court was called upon to decide an important question, viz. whether Ss. 9A, 10, 11A, 12 and 33 of the Industrial Disputes Act, 1947 are applicable to educational institutions established and administered by the minorities which are protected by Article 30(1) of the Constitution. Answering the question in the affirmative, the Court has pointed out that the Industrial Disputes Act has been passed with the twin object of preventing industrial disputes between employers and employees and settlement of such disputes.

The managers of a Roman Catholic Boys' School applied to the education authorities in Kerala for permission to admit girls as well. There was a Muslim Girls School in the locality, but the Christian community wanted its girls to receive education in its own school. Permission was refused on the ground that a girls school already existed nearby. The Supreme Court held in *Mark Netto V State of Kerala*⁴⁹ that because of the play of Article 30, education authorities could not refuse permission to

⁴⁶ P.M. Bakshi, *The Constitution of India*, universal Law Publishing Cp. Pvt. Ltd. 2001

⁴⁷ (1987) 2 SCC 516

⁴⁸ AIR 1988 SC 37

⁴⁹ AIR 1979 SC 83

the Christian school to admit girls. If the Christian community wants its girls to be educated in its own school, and if it does not regard it in its interest to send the girls to a Muslim school, then denial of permission to do so would violate Article 30 as this would amount to interference with the administration of the institution run by a minority- a right guaranteed by Article 30. The Court has also ruled in the instant case that the specific rule sanctioning such refusal of permission crosses the barrier of regulatory measures and falls in the region of interference with the administration of the institution-a right which is guaranteed to the minority under Article 30(1). The Court has restricted the operation of the rule and has made it inapplicable to the minority educational institutions.

Conclusion

The courts, however, seem to have been persuaded by practical compulsion rather than be swayed away by a feeling of faithfulness to the spirit. Their course of opinion seems to have been determined as that provisions in question seeks to protect minorities against state action, which term includes laws and also under them, executive actions. That it's being a federal democratic system; political and legislative processes operate not only from the national center of power but also from the states. That these states are autonomous in their respective legislative spheres-and laws are passed by majority votes. That minority, considered as much on the national level, do constitute numerical majority in some states. That these majorities may, by their laws, deny the protection to the non-dominant group which the Constitution so emphatically seeks to secure. That these majorities may, by their numerically strength, overshadowed the distinct shadow the distinct characteristics and individuality of the non-dominant groups, and the latter may have to live under a psychological fear of being discriminated and overwhelmed. That the assurance to protection for minorities can tell it's true meaning only when a non-dominant group in a state is define and ascertain as 'minority' where the law in question is a state law, even though the group happens to be a part of the 'majority', considered a majority in the context of the whole country. That the same reason that became the basis for Article 29 and 30 to find a place in the category of justiciable Fundamental Rights must be valid in this situation also.

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