

The Educational Right of Minority in India: A Constitutional Analysis of Rights, Challenges and Judicial Interpretation of The Rights

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Abstract

The India Constitution provides necessary safeguards for the educational rights of the linguistic and religious minorities. Encouraged by the "Objective Resolution moved by Pt. Jawaharlal Nehru", Under the Constitution of India, art. 30(1) guarantees of minority rights to administer and establish educational institutes of their choice, though, Art. 30(2) prohibits the State from discriminating contrary such institutes just because of they are maintained by the minority. Though, mainly regarding the scope of minority rights, the interpretation of these articles has raised many questions before the Supreme Court or High Courts, the distinction between unaided and aided institutes, and their relationship with the Right to Education under Arti. 21(A) of the Constitute. In this research paper researcher examines the changing judicial interpretation of Arti. 30 and the constitutional protection of minority educational rights. It emphasizes the equilibrium between the State's regulatory powers, equality and minority rights. The research paper also highlights the current areas of legal indecision, consistency in interpretation, the need for greater clarity and application of minority's educational rights.

Keywords: Educational Rights, Right of Minority, Fundamental Rights, Equality, Discrimination.

Introduction

Our India is a country Conversant for its rich linguistic, cultural, and religious, variety. The People of our country belonging to different cultures, communities, and religions they live together and follow their personal customs and traditions. The India is likewise home to numerous dialects and languages, which have importantly contributed to its cultural heritage. As Justice H.R. Khanna observed that, "Despite the diversity of religion and language, there runs through the fabric of the nation the golden thread of a basic innate unity. It is a mosaic of different religions, languages and cultures. Each of them has made a mark on the Indian polity and India today represents a synthesis of them all."

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The architects of the Indian Constitution intended to bring different communities of society together and encourage a intellect of equality and unity among them. They introduced the arrangement of “joint electorates” and concluded the “practice of separate electorates” to achieve this. The special safeguards were providing to protect the interests of minorities, at the same time. As Justice H.R. Khanna elucidated that, "These provisions were a kind of a Charter of Rights for the minorities so that none might have a feeling that any section of the population consisted of first class citizens and the others of second-class citizens."

“Pt. Jawaharlal Nehru” presented the “Objective Resolution” in the Constituent Assembly on the Dec. 13, 1946. It assured that the Constitution of India would provide acceptable safeguards for disadvantaged groups, tribal areas, backward classes, and other minorities. Keeping this objective in the mind, Arti. 25 to 30 were introduced in the Constitution to protect the rights of minorities, linguistic diversity and religious diversities. In specific, Arti. 30(1) of the constitution provides linguistic minorities and religious minorities the right to establish and administer educational institutes of their choice. The State cannot discriminate in contradiction of an educational institution just because it is maintained by a linguistic or religious marginal provides under the provision 30(2) of the Constitution.

In “the 44th Constitutional Amendment, 1978” detached “the right to property” from the provisions of Fundamental Rights. Though, for minority educational institutes, the special protection was reserved. The Amendment introduced Arti. 30(1A), which delivers safeguards, when “property of a minority educational institution” is necessarily acquired by the State. Under Arti. 30(1), The compensation or amount decided for such acquisition necessary such that it does not take away or restrict the minority institute’s right to administer and establish the institution. These articles show the Constitution’s determination to protect the minority educational institutes while maintaining their effective functioning.

For the empowerment of minority peoples Cultural and educational rights are very important rights for their development. Although, education delivers opportunities for economic and social progress, language, Culture, and religion assistance children understand their heritage and identity. Without admittance to quality education, neither community and class can achieve meaningful growth. There has been a gap continue between majority and minority communities, in the several societies. Consequently, special protection for the minorities is crucial to encourage mutual respect, social harmony and equality. Similarly, the rights of minority recognized the importance of protecting the cultural and educational rights of minority by the international human rights apparatuses.

As per the English Linguistic Dictionary, “Minority means”: - “The Minority of people or things is a number of them that form less than half of the large group, used especially when the number is much less than half of the large group”.

A significant report ready for the “United Nation Human Rights Commissions Sub-Commission on Prevention of Discrimination and the Protection of Minorities describe” as “Minority” :- “A group numerically inferior to do the rest of the population of a State, in a non dominant position, whose members being nationals of the State possess ethnic, religious or linguistic characteristics 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”.

“Culture” Means: - “The custom and belief, art, way of life and social organization of a particular country or group”.

According to the “UNESCO culture is usually Interpreted as art. We speak of culture in connection with behaviours 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.”

As per the “Black’s Law Dictionary”, education means: - “Comprehends not merely the instruction received at school or college, but the whole course of training, moral, religious, vocational, intellectual and physical. Education may be particularly directed to either the mental, moral or physical powers and faculties, but in the broadest and best sense it relates to train and develop the individual”.

Relating to the Education, the Planning Commission of India says that: - “Education is an important input both for the growth of the society as well as for the individual. Properly planned educational input can contribute to increase in the gross national product, cultural richness, build positive attitudes towards technology and increase efficiency and effectiveness of the governance. Education opens new horizons for an individual, provides new aspirations and develops new values. It strengthens competencies and develops commitment. Education generates in an individual a critical outlook on social and political realities and sharpness the ability to self-examination, self-monitoring and self-criticism”.

Through the various international legal gadgets, the right to education has been solidify and recognized. “Article 26 of the Universal Declaration of Human Rights” (UDHR) identifies education as a elementary human right and says that basic education should be allowed free of cost and compulsory to each community. This right was again evolved beneath “Article 13 of the International Covenant on Economic, Social and Cultural Rights” (ICESCR), which

identifies education as an important for the growth of an individual's behaviours and for expressive participation in the society. The "United Nations Educational, Scientific and Cultural Organization" (UNESCO) has highlighted the requirement of education in encouraging sustainable development, peace, and equality. More lately, "Sustainable Development Goal 4" (SDG 4) below the 2030 Agenda has repeated the global promise to providing comprehensive, quality and equitable, education for all the communities children by 2030.

2.- For Protection of Minority Rights Constitutional Framework In India

2.1.- The Constitutional right to protect culture, script, or language, under the provision 29(1), provides, "Any segment of the population living in India or any portion of it with a unique language, script, or culture has the right to preserve it." . Though, the Arti. 29 (1) of the constitution provides promises, the right to protect our culture, script and language. For claiming these guarantees the following conditions must be fulfilled: -

- A). - Any classes of citizens shall have the right be claimed. These right available to the citizens of our country not for the others,
- B). – These classes of citizens must be resident of Indian territory or any part of the territory, and
- C). – The classes of citizens necessarily have a distinct culture, script or the language, of its own.

There is right to "Conserve" implements the right to maintain and the preserve the rights. Therefore, the right to work, to maintain, and to preserve first our culture, script, or language. means right to conserve our culture, script, or language.

2.2.- The Constitutional right of citizens to Educational Institutions for there admission under the provision 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."

Under this provision of the constitute, no citizen can be deprived of admission in to the institute on the ground of their cast, race, and religion, or any of them, this provision provides guarantees to each citizen of India for their admission in to the institutes aided by the State and holly maintained by the State.

The right provides in Arti. 29(2) of the constitution, accessible to each citizen of India. Whether they belong from a majority group and minority. These rights provides as right of a citizens not as a member of any class or community. The right existence as fundamental right cannot be restricted with any regulation, rule or instructions.

2.3.- Under the provision 30 (1) of the Constitution, “Right of Minorities to Establish and administer educational Institutions”,:- Provides, “All minorities whether based on religion or Language, shall have the right to establish and administer educational institutions of their choice.” And Clause (2) of this provision said: “When providing help to educational institutions, the state is prohibited from discriminating against any institution because it is run by a minority, regardless of their language or religion.” Under this article assurances available to all the religious and linguistic minorities “the right to administer” and “the right to establish” educational institute “of their choice”. These rights implied in this provision is accessible only to minorities communities, whether depend on language or religion.

Provision (30) of the Constitution of India is not protected from regulatory compliance of the state and said to be supplementary in the nature of protection for the minority community. It is not purporting to stead them in a extra advantageous place, as the majority, for the safeguard of minority with the equality. In this provision word “or” shows that the minority, for the reason of this provision may either be religious or linguistic, it does not have to be both as given in this. Also it is worried, that linguistic minorities and religious minority have been put at balance.

3.- Position of Judiciary for Protection Minorities Rights

The Supreme Court, in “T.M.A. Pai Foundation v. State of Karnataka” , emphasized that Provision 29 and 30 of the Indian Constitution aim to recognize and protect the distinct identities of different communities. These provisions safeguard India’s diversity of languages, cultures, and beliefs, which form an important foundation of the country’s secular and pluralistic character.

3.1- Expansion of Article 29(1) of the Constitution of India.

Under “Section 123 of the Representation of the People Act, 1951” , it is considered a corrupt electoral practice for a candidate to ask people to vote for or against someone only because of that person’s language. However, in “Jagdev Singh v. Pratap Singh” , the Supreme Court of India clarified that this provision must be interpreted consistently with Article 29(1) of the Constitution, which protects the right of citizens to preserve their language and culture.

The Court recognized that Article 29(1) also includes the right to express concerns and make efforts for the protection and development of one’s language. Therefore, if a candidate

promises to work for the preservation or development of the language of the people in his or her constituency, such a promise by itself does not amount to a corrupt electoral practice. Unlike some other Fundamental Rights, Article 29(1) does not expressly provide for reasonable restrictions. It gives citizens a constitutional right to protect and preserve their language, script, and culture.

In “DAV College, Jalandhar v. State of Punjab”, According to the Supreme Court of India, "Guru Nanak Dev University" essentially support literature teaching and Punjabi language and research as well as take action to development culture, literature and Punjabi language. According to the Court, Article 29(1) is not violated by such a provision. The Court further observed that one important purpose of linguistic States in India is to promote the educational, social, and cultural development of the people through their regional language. Therefore, a State or university may provide education in the regional language, particularly for the benefit of the majority population of that region, without violating the constitutional protection under Article 29(1).

In “Usha Mehta v. State of Maharashtra” , the Highest Court of India, considered whether making Marathi a compulsory subject in schools running by linguistic minority was constitutionally valid. The Court referred to the “three-language formula” and held that Articles 29 and 30 cannot be interpreted as giving minority institutions an absolute right to prevent their students from learning the regional language. The Court made it clear that people living in a particular State can be required to study the regional language. Therefore, requiring students to learn Marathi does not, by itself, violate the rights protected under Articles 29 and 30.

In “State of Madras v. Champakam Dorairajan”, A government direction that distributed seats in engineering and medical colleges and universities amongst various communities -including to the Muslim, Christians, Anglo-Indian, Lower casts, Backward Hindu, Pandits, and non-Brahmin Hindus, was reviewed by the Highest Court of the India. The government order was challenged by a Brahmin candidate, who was twisted down for the admission to an engineering college. The Court's main concern was whether, the community-based seat dispensation arrangement violated Article 29(2), which prohibits discrimination in admission to educational institutes on certain grounds..

The Highest Court of India, in “Ahmedabad St. Xavier’s College v. State of Gujarat”, explained that the key purpose of provision 30(1) is to defend the constitutional rights of linguistic minorities and religious minorities. It ensures that minorities are free to emplacement and accomplish educational institutes of their choice. The determination of this protection is to

allow them to provide excellence education to their families and assistance them become responsible and well-rounded members of the country.

4.-Conclusion

The courts appear to have considered the practical need to protect minorities rather than relying only on the broader spirit of the Constitution. Their approach is based on the understanding that Articles 29 and 30 are intended to protect minorities from actions of the State. These State actions include not only laws passed by the legislature but also actions taken by the executive authorities.

India follows a federal and democratic system in which political and legislative power is exercised both by the Central Government and by the State Governments. The States have their own areas of legislative authority, and laws are generally made through majority voting. As a result, a group that is a minority at the national level may actually form the majority in a particular State.

This situation can create a possibility that the majority group in a State may use its numerical strength to make laws that adversely affect smaller or non-dominant groups. Such laws may weaken the distinct language, culture, identity, or other characteristics of these groups and may create a sense of insecurity or fear of discrimination.

Therefore, the protection given to minorities can have its real meaning only when the term “minority” is understood in relation to the particular State concerned. A community may be a majority in India as a whole but may still be treated as a minority in a particular State if it is numerically smaller there.

The same principle explains why Articles 29 and 30 were included among the Fundamental Rights and made enforceable by courts. Their purpose is to protect minority groups from possible discrimination and to preserve their distinct identity, culture, language, and educational rights. This constitutional protection should therefore apply even when a group that is a national majority becomes a minority within a particular State.

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