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**CONSTITUTIONAL SAFEGUARDS & JUDICIAL
OVERSIGHT; EXPLORING THE TRAJECTORY OF
MINORITY EDUCATION IN INDIA**

AUTHORED BY - R. SRIBRINDA

DECLARATION

I, SRIBRINDA.R, solemnly affirm that the project entitled submitted in partial fulfillment of the requirements for the LLM – Criminal law and criminal justice administration degree to The Central Law College, Salem under the subject Legal Education and Research Methodology, is the result of my independent academic effort.

I further declare that this work has not been submitted, either in part or in full, to any other university or institution for the award of any degree, or certificate. All materials, ideas, and references drawn from scholarly sources have been appropriately acknowledged.

DATE: SIGNATURE OF STUDENT

PLACE:

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SRIBRINDA.R

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ABSTRACT

The Indian Constitution embodies a profound commitment to safeguarding the rights of minorities, ensuring cultural, religious, and linguistic pluralism within a democratic framework. The Rights of Children to Free and Compulsory Education Act, 2009 (hereinafter referred to as Right to Education Act) is a landmark law that ensures elementary & primary education in India. The Constitution of India enshrines the Right to Education as a basic fundamental right under Article 21(A) & further endeavors to safeguard the right of minorities through Article 29&30. Article 21-(A) of the Constitution of India and right to Education Act mandate free and compulsory education for children between 6-14 years old. Even though the provision for a 25% of reservation of seats in private unaided schools for children from economically weaker sections and disadvantage groups is stipulated in section 12(1)(c) of the right of children to free and compulsory education act 2009, the actualization of these measures has been uneven & inconsistent it highlight multiple obstacles in upholding minority rights, such as the absence of political determination, insufficient inclusion of minority groups in decision making roles and sway of majoritarian political dynamics. It also assesses the effectiveness of legal provision and affirmative action policies designed for the upliftment and empowerment of the marginalized group. In Indian judicial system through Unni Krishnan case has recognized education as a fundamental right under Article 21 providing elementary education. this study examines the role of the Indian judiciary in interpreting constitutional provisions related to minority rights. It evaluates significant judicial decisions that have influenced the jurisprudence of minority rights, exploring the development of legal doctrines and precedents, particularly Articles 25 to 30, landmark judgments, including in re Kerala Education Bill (1957) and St. Stephen's College v. University of Delhi (1992), to identify trends and trajectories in minority education rights.

KEY WORDS: Right of Minority, Free and Compulsory Education, Judicial Interpretation, Article 21-(A), 29 and 30,

1. INTRODUCTION

Education stands as the most powerful driver of social and economic transformation. A population that is well educated and equipped with knowledge and skills is not only vital for sustaining economic growth, but also indispensable for ensuring that growth is inclusive. It is the educated and skilled individual who can truly seize the opportunities that development

creates. Guided by this vision, the Ministry of Human Resource Development has embraced an inclusive agenda committed to unlocking India's human resource potential in its entirety, with a focus on both equity and excellence. Minority education holds a vital place in India's educational landscape, as it not only advances the learning and empowerment of minority communities but also fosters pluralism, cultural harmony, and social justice.

Rooted in the principle that every social group has the right to education aligned with its cultural, religious, and linguistic identity, minority institutions strive to provide a respectful and supportive environment that builds confidence among students and encourages active participation in the learning process. At the same time, by admitting students from majority communities, these institutions promote tolerance and social integration.

Constitutionally, Article 30 grants them autonomy in administration and policy-making, enabling diversity and innovation while placing the responsibility of maintaining educational standards on their shoulders. Despite these safeguards, minority education in India continues to face significant challenges, including economic disadvantage, high dropout rates, social prejudice, inadequate infrastructure, and gaps in the implementation of government initiatives. Poverty and financial constraints often disrupt educational continuity, while discrimination and alienation undermine the very essence of inclusive education.¹

2. REVIEW OF LITERATURE

India's approach to minority education is built on a constitutional promise of cultural autonomy and equal opportunity, moderated by judicial oversight to keep institutions aligned with public interest and educational standards. The literature traces a nuanced trajectory from strong protection of minority autonomy to calibrated regulation and recent reaffirmations of rights in the era of universal education. The India's Constitutional architecture embeds a pluralistic education framework that recognizes both universal rights to education and special protections for minorities under the fundamental right to education is guaranteed under Article 21A, aimed at free and compulsory education for children aged 6-14 and cultural educational right Article 29- 30 protect minority groups rights to preserve culture and administer education institutions of their choice. These are the two pillars of universal education and minority education autonomy and its form the core constitutional safeguard the judiciary continually refines.

¹ Introduction -The Constitution of India; P.M.Bakshi;13th edition; 2015

Especially in Indian Judiciary the Hon'able Supreme Court has played a dynamic interpretive role in balancing minority institutional.

2.1 CONSTITUTIONAL SAFEGUARDS AND MINORITY EDUCATIONAL

Article 29-30 Minority Autonomy

Article 30(1) explicitly grants all religious and linguistic minorities the right to establish and administer educational institutional of their choice, and jurisprudence ensures this is not merely symbolic but a real guarantee against discriminatory state action

Article 29 complements this by ensuring linguistic and cultural minorities can conserve their educational identity. The constitutional language is broad, protecting against state interference in administration, admission policies, and character of minority institutions. Equality (Article 14) and nondiscrimination (Article 15) reinforce that minority educational rights exist within broader right framework ensuring no group is unjustly disadvantaged

Right to Education Act, 2009 (Article 21A), imposes standards for primary education for all, while also intersecting with minority rights.

2.2 EVOLUTION THROUGH JUDICIAL OVERSIGHT

The India's Constitutional architecture embeds a pluralistic education framework that recognizes both universal rights to education and special protections for minorities under the fundamental right to education is guaranteed under Article 21A, aimed at free and compulsory education for children aged 6-14 and cultural educational right Article 29-30 protect minority groups rights to preserve culture and administer education institutions of their choice. These are the two pillars of universal education and minority education autonomy and its form the core constitutional safeguard the judiciary continually refines. Especially in Indian Judiciary the Hon'able Supreme Court has played a dynamic interpretive role in balancing minority institutional.

Landmark interpretations of Article 30 have emphasized that minority rights are protective, not preferential, ensuring equality with the majority rather than advantage. Judicial decision have repeatedly upheld the administrative autonomy of minority institutions against excessive regulatory interference, reinforcing minority educational freedom.

2.3 RIGHTS TO EDUCATION ACT, AND MINORITY INSTITUTIONS; JUDICIAL FAULTLINE

The Pramati Educational & Cultural trust Vs Union of India(2014) Supreme Court decision exempted minority institutions from RTE compliance (such as 25%reservation obligations), considering mandatory RTE compliance an infringement of Article 30 rights. Recent judicial scrutiny (2025) has questioned the correctness of this exemption, indicating the court may revisit the balance between universal education norms (Article21A) and minority autonomy, acknowledging that RTE norms need not inherently violate Article 30. The court has also highlighted concerns that broad exemptions could undermine quality and equitable education goals intrinsic to the constitutional scheme.²

3. RESEARCH PROBLEM

- This study explores how Articles 29 and 30 of the Indian Constitution have evolved to safeguard minority educational rights and how judicial interpretation has shaped their scope.
- It examines the judiciary’s role in balancing minority autonomy with state regulation aimed at educational standards, social justice, and equality, while assessing the impact of landmark Supreme Court judgments on the realization of these rights.
- The study examines whether contemporary regulatory frameworks align with constitutional intent and seeks to identify challenges and future directions in harmonizing minority rights, judicial oversight, and the state’s duty to ensure inclusive, quality education in India.³

4. RESEARCH METHODOLOGY

The study “Constitutional Safeguards and Judicial Oversight: Exploring the Trajectory of Minority Education Rights in India” adopts a doctrinal and analytical approach, relying on secondary sources such as constitutional provisions, statutes, parliamentary debates, policy documents, commission reports, and scholarly literature. It undertakes detailed case law analysis of Supreme Court and High Court judgments interpreting Articles 29 and 30, particularly in relation to state regulation and educational reforms. A historical method traces the evolution of minority education rights, while critical analysis assesses judicial oversight in

² Review of literature – <https://www.reseachgate.net>

³ Research problem -<https://educationforallindi.com>

balancing autonomy with public interest. Where relevant, comparative insights from international practices are included. The study concludes with an evaluative assessment of existing gaps, challenges, and potential reforms⁴

5. RESEARCH OBJECTIVES

- To Discuss about the Articles 29, 30, and 350A of the Indian Constitution, focusing on safeguards for minority education rights.
- To Identify challenges in implementing constitutional safeguards, including issues like admissions, curriculum, and funding.
- To Discuss About Constitutional Provisions for Minority in Indian Constitution.
- To measures the strengthen constitutional safeguards and improve judicial oversight for minority education rights⁵

6. WHO IS A MINORITY

In India, a minority refers to a community whose population is smaller than that of the majority. Minorities are generally identified on the basis of religion, language, or culture. Religious minorities in the country include Muslims, Christians, Sikhs, Buddhists, Jains, and Parsis. Each of these groups has its own unique traditions, beliefs, and cultural practices. The Indian Constitution grants special safeguards to minorities to protect equality, religious freedom, and the right to preserve their culture and educational institutions, helping promote unity, diversity, and harmony in a democratic society.⁶

7. MINORITY IN INDIA

The term “Minority” is not defined in the Indian Constitution. The Motilal Nehru Report (1928) showed a prominent desire to afford protection to minorities, but did not define the expression. The Sapru Report (1945) also proposed, inter alia, a Minorities Commission but did not define Minority. The Year Book on Human Rights (1950), page 490. The U.N.Sub-Commission on Prevention of Discrimination and Protection of Minorities has defined minority (by an inclusive definition) as under;

- i. The term minority includes only those non-document groups in a population which

⁴ Research methodology -<https://www.papers.ssrn.com>

⁵ Research objective – www.amei2021.com

⁶ Who is a minority in India- <https://minorityrights.org>

- possess and wish to preserve stable ethnic, religious or linguistic traditions or characteristics markedly different from those of the rest of the population;
- ii. Such minorities should properly include a number of persons sufficient by themselves to preserve such traditions or characteristics; and
 - iii. Such minorities must be loyal to the state of which they are nationals

Article 27 of the International Covenant on Civil and Political Rights does not define the expression but gives the following right to them; In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right in, community with the other members of their right group, to enjoy their own culture to profess and practise their own religion or to use their own languages.

However, the Constitution recognizes religious and linguistic minorities. The Central Government has notified six religious minority communities viz. Muslim, Christian, Sikh, Buddhist, Parsi and Jain.⁷

8. ROLE OF MINORITY EDUCATIONAL INSTITUTION

Education is regarded as the cornerstone of development, social stability, and national integration in any democratic and multicultural society. In a country as diverse as India, where multiple religions, languages, cultures, and social traditions coexist, the role of education becomes even more critical. It serves not only as a means of imparting knowledge and skills but also as a powerful instrument for fostering unity in diversity, promoting mutual respect, and nurturing values of equality and justice. By bridging social and cultural differences, education strengthens the fabric of national integration while empowering individuals to contribute meaningfully to economic growth and social progress.

Minority educational institutions play a crucial role in extending educational support to socially weaker and marginalized sections of society. Many of these institutions provide opportunities for disadvantaged students through scholarships, concessional fee structures, and various supportive facilities. In doing so, they contribute significantly to reducing educational inequality and advancing the cause of social justice. Beyond their immediate function, minority institutions serve as guardians of the educational rights of minority communities while

⁷ Minority in India- the constitution of India- Durga Das Basu: 22nd edition; 2015

simultaneously reinforcing the foundations of a multicultural and democratic education system.⁸

9. CONSTITUTIONAL PROVISIONS

The Constitution (44th Amendment) Act, 1978. This Amendment abolished the right to property as a fundamental right by omitting Articles 19 (1) (1) and 31 from Part III of the Constitution. However, a new clause (1-A) was inserted in Article 30 of the Constitution. Clause (1-A) provides that 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 determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under the clause.

9.1 *Right to education [Article 21(A)]*

The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

Article 21A of the Constitution obligates the State to provide free and compulsory education to all children aged 6 to 14 years, in a manner prescribed by law. Introduced through the Constitution (86th Amendment) Act, 2002, this provision elevates education within this age group to the level of a fundamental right, with particular focus on primary education. The right conferred under Article 21A is universal, guaranteeing access to every child in India regardless of majority or minority status.

Accordingly, children from minority communities within the specified age bracket are equally entitled to free and compulsory education and cannot be denied this right on the basis of their identity.⁹

9.2 **Environmental & Consumer Protection Foundation v. Delhi Administration**

(2011) reflects the Supreme Court's commitment to ensuring that all schools, whether privately managed or state-run, possess adequate infrastructure to uphold the right to education. Initiated by the Environmental & Consumer Protection Foundation (ECPF), an Indian charity, the

⁸ Role of minority education institution -Constitutional law in India: Dr.J.N.Pandey

⁹ Constitutional provision – the Constitution of India- E.B.C (Publication); 42nd edition:2018;

petition sought improvements in school conditions under Article 21A of the Constitution. In its ruling, the Supreme Court affirmed the validity of the Right of Children to Free and Compulsory Education Act (RTE Act) and issued comprehensive directives mandating essential facilities such as functional toilets, safe drinking water, sufficient classrooms, and qualified teaching staff in every school. While compliance has been partial, with several states continuing to fall short, the judgment highlights the critical role of infrastructure in creating a conducive learning environment and emphasizes the necessity of ongoing judicial oversight in the implementation of the RTE Act.

In this case **Associated Management of (Government recognised Unaided English medium) primary and secondary schools in Karnataka v. State of Karnataka**¹³⁹⁰The Karnataka High Court, in interpreting Article 21A, observed that the medium of instruction for a child must be determined solely by the preferences of the parents and the child. The Court further emphasized that no authority can claim greater insight than the parents in understanding the educational requirements essential for shaping the child's career and future.

State of Tamil Nadu v. K. Shyam Sunder represents a landmark ruling in Indian constitutional law concerning the validity of the Tamil Nadu Uniform System of School Education Act, 2010. The Supreme Court upheld the Act, reiterating that the right to education is a fundamental right and must be delivered with quality and without discrimination. The Court struck down the amendment to Section 3 of the Act, which had sought to delay the implementation of the uniform education system following a change in government. This judgment reinforced the sanctity of judicial decisions and underscored the necessity of continuity in educational reforms.¹⁰

9.3 *Right of minorities to establish and administer educational institutions (Article 30)*

(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(1 A) 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

¹⁰ Constitutional provision – <https://www.scobserver.in>

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.

Article 30 of the Indian Constitution which explicitly guarantees minority groups the right to establish and administer educational institutions for the advancement of their languages and religions there are several other constitutional provisions that safeguard educational rights for all citizens of India. These rights are not limited to the majority population but extend equally to both majority and minority communities. This universality underscores the importance of examining and elucidating these provisions to fully appreciate the constitutional commitment to educational equity and inclusive.

Frank Anthony Public School Association vs Union of India, AIR 1987 SC 311, an unaided minority institution in New Delhi, paid its staff lower salaries and benefits than those in government schools due to Section 12 of the Delhi School Education Act, 1973, which excluded such schools from protective provisions. The Employees Association challenged this before the Supreme Court under Articles 14, 21, and 23.

During the case, teachers held peaceful marches in April 1986, leading to suspensions, which the Court stayed along with related inquiries. The Court rejected management's plea of potential financial collapse, observing that educational excellence is inseparable from treating teachers fairly. Teachers in unaided minority schools in Delhi are entitled to government-equivalent pay and service protections under the Delhi School Education Act. The ruling balances minority management autonomy with employee welfare, affirms that such regulations do not violate Article 30(1), and reinforces existing jurisprudence by mandating immediate parity.

Christian Medical College Hospital Employees Union vs C.M.C. Vellore Association, (1987) 4 SCC 691 Medical Council of India (MCI) and The Dental Council of India (DCI) introduced NEET for medical and dental courses through amendments to education regulations, later incorporated into Section 10D of the Indian Medical Council Act and Dentists Act. In 2013, the Supreme Court quashed the notifications but recalled the judgment in 2016. Petitioners, led by Christian Medical College, Vellore, argued that NEET infringed on the autonomy of private unaided and minority institutions under Articles 19(1)(g) and 30.

The Supreme Court upheld NEET, ruling that regulations under the Medical and Dental Acts are reasonable, mandatory, and do not infringe constitutional rights under Articles 14, 19(1)(g), 25, and 30. It emphasized that minority institutions have the right to establish and administer schools but not to mismanage them, and the state can regulate admissions to protect educational standards and national interest. The Court reaffirmed that Article 30 rights cannot override public interest or prevent uniform merit-based assessments in admissions. The petition was rejected.¹¹

St. Stephen's College vs University of Delhi,(1992) 1 SCC 558;In this case the St. Stephen's College in Delhi (affiliated with Delhi University) and Allahabad Agricultural Institute in Naini (affiliated with U.P. University). Both colleges are affiliated with and funded by the state but have their own admission processes. They give preference to Christians, as they claim to be minority-run institutions. The issue before the Court was the validity of having a separate admission programme and giving special religious preference during admissions. The Supreme Court, after reviewing precedents, held that the right to establish and administer institutions under Article 30 is inseparable, and only institutions founded by minority communities can claim this right. It laid down parameters for minority status: the community must reside in India, be a recognized religious or linguistic minority, and foreign missions cannot qualify. Reaffirming the A.P Christian Education Society case, the Court stressed that Article 30 was intended to protect genuine minority institutions and must not be misused.¹²

9.4 Provision for free and compulsory education for children (Article 45)

The State shall endeavor to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

In **Unni Krishnan v. State of Andhra Pradesh (1993)**, the Supreme Court examined the validity of state laws regulating capitation fees in private professional institutions. The Court held that although professional education is not a fundamental right under Article 21, the right to basic education is implicit in the right to life when read with Article 41. It further clarified that Part III rights do not override Part IV directives, recognising that Article 45 had effectively become a fundamental right. The judgment emphasised the state's duty to progressively realise

¹¹ Constitutional provision –Indian constitutional law; M.P.Jain; 8th edition

¹² Constitutional provision – <https://indiankanoon.org>

education for all within its resources, marking a turning point in India's jurisprudence on educational rights.

In **Mohini Jain v. State of Karnataka (1992)**, a private medical college demanded ₹4,50,000 as capitation fee, denying Mohini admission when she could not pay. The petitioned challenged the Supreme Court under Article 32, challenging Karnataka notification and seeking equal treatment with local students. The Court held that the right to education flows from Article 21, linking dignity and life with education, and declared the notification invalid. Mohini's appeal succeeded, though private colleges later argued the ruling threatened their survival.¹³

9.5 Facilities for instruction in mother-tongue at primary stage (Article 39(A))

It shall be the endeavor of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.

Article 350A was introduced through the Seventh Amendment Act, 1956, after the linguistic reorganization of Indian states. Since states were reorganized on the basis of dominant regional languages, concerns arose among linguistic minorities about losing educational access in their mother tongue. The framers acknowledged that learning in one's native language is vital for both cognitive growth and social inclusion. Article 350A was enacted to reinforce the constitutional protection of minority rights in education. It works in harmony with Articles 29 and 30, which safeguard the cultural and educational interests of minorities.

STATE OF KERALA VS N.M.THOMAS

After Kerala's formation in 1956, several exemptions were granted to SC/ST employees regarding qualification tests, culminating in Rule 13AA (1972), which allowed them two years' exemption. A dispute arose when promotions in the Registration Department favored SC/ST employees without passing tests, while a qualified respondent was denied promotion. The respondent filed a writ under Article 226, arguing violation of Article 16. The Kerala High Court struck down Rule 13AA as unconstitutional, and the matter was later appealed before the Supreme Court. The Supreme Court upheld Rule 13AA and related orders, overturning the

¹³ Provision for free and compulsory education for children - Indian constitutional law: M.P.JAIN: 8th edition

Kerala High Court's decision. It held that Articles 14, 15, and 16 must be read together to ensure equality, while allowing reasonable classification and compensatory measures for SC/STs without undermining service efficiency. The Court stressed that equality of opportunity applies to all citizens, with classifications requiring a rational nexus to their objectives. Referring to Articles 46 and 335, it emphasised the State's duty to uplift backward classes while balancing efficiency in public services. The High Court's view was deemed incomplete, as the respondent failed to prove unjust discrimination.¹⁴

Dr. T.M.A. Pai, founder vs State of Karnataka, In this case the T.M.A. Pai established the institution under the Societies Registration Act, 1860, originally in Manipal, then part of Madras State. After state reorganization, Manipal became part of Karnataka. To curb excessive fee practices, the Governor issued the Karnataka Educational Institutions Ordinance, 1984. A writ petition challenged both the ordinance and a government directive dated 19 July 1984, which limited student intake and reserved 40% of seats as government seats. While the petition was pending, the Karnataka Educational Institutions (Prohibition of Capitation Fee) Act, 1984 was enacted, regulating capitation and tuition fees in private unaided institutions not receiving state aid. The majority judgment (six judges) held that minority status is determined by the State, and the right under Article 30 to establish and administer institutions is not absolute. Minority institutions are subject to general laws in public interest, but the State cannot restrict essential functions like forming governing bodies, appointing teachers, or admitting students. Admissions must remain fair, transparent, and merit-based.¹⁵

10. NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTION

Article 30(1) of the Constitution of India guarantees linguistic and religious minorities the fundamental right to establish and administer educational institutions of their choice. To safeguard these rights, Parliament enacted the National Commission for Minority Educational Institutions Bill, 2004, which, after receiving the assent of the Hon'ble President, came into force as The National Commission for Minority Educational Institutions Act, 2004 (Act 2 of 2005). The Act established the National Commission for Minority Educational Institutions (NCMEI) as a quasi-judicial body vested with the powers of a Civil Court to effectively

¹⁴ Facilities for instruction in mother-tongue at primary stage - The constitution of India; P.M.Bakshi; 13th edition.

¹⁵ Constitutional provision – the constitutional law of India; Dr J.N.Pandey; 59th edition; 2022

discharge its functions. The Commission's mandate encompasses three primary roles: adjudicatory, advisory, and recommendatory, thereby ensuring the protection and promotion of minority educational rights within the constitutional framework.

10.1 POWERS OF THE COMMISSION

The powers of the Commission extend to determining all matters related to the status of an institution as a Minority Educational Institution (MEI). It also functions as an appellate authority in disputes concerning the grant of Minority Status or issuance of a No Objection Certificate (NOC). Institutions dissatisfied with the refusal of Minority Status or NOC by the competent authority of a State or Union Territory may appeal to the Commission against such decisions. Additionally, the Commission is empowered to revoke the minority status of an institution if such status has been granted in violation of the provisions of the Act. The Commission further possesses the authority to call for information while investigating complaints regarding the violation or denial of minority educational rights. If an enquiry confirms such violations, the Commission may recommend to the appropriate government or authority the initiation of disciplinary proceedings or any other action deemed necessary against the concerned individuals.¹⁶

As per the judgment of the Hon'ble Supreme Court in **Sisters of St. Joseph of Cluny v. State of West Bengal and Others (2018) 6 SCC 772**, the National Commission for Minority Educational Institutions (NCMEI) possesses both original and appellate jurisdiction. The principle of parliamentary supremacy, enshrined in Articles 246 and 254 of the Constitution, ensures that the NCMEI Act, 2004, as a Central legislation, prevails over any conflicting State law. Consequently, State Governments are not empowered to amend, alter, or supplement the provisions of the Act through executive instructions. Furthermore, except for the Supreme Court and High Courts exercising Jurisdiction under Articles 226 and 227, no other court is authorized to entertain suits, applications, or proceedings against orders issued by the Commission. The Act also provides immunity to the Central Government, the Commission, its Chairperson, Members, Secretary, and officers for actions undertaken in good faith under its mandate. Importantly, the provisions of the NCMEI Act, 2004, override any inconsistent law or instrument in force, thereby reinforcing its paramount authority in safeguarding minority educational rights.¹⁷

¹⁶ St. Joseph of Cluny v. State of West Bengal and Others – <https://indiankanoon.org>

¹⁷ National commission – <https://ncmei.gov.in>

11. RIGHT OF MINORITIES TO ESTABLISH AND MANAGE EDUCATIONAL INSTITUTION

Article 30 (1) guarantees to all linguistic and religious minorities the right to establish and the right to administer educational institutions of their own choice. The right is The right conferred upon the above minorities is to establish and administer educational conferred by this clause on two types of minorities-religious and linguistic minorities. institutions of their choice. The word "establish indicates the right to bring into existence, while the right to administer an institution means the right to effectively manage and conduct the affairs of the institution. The administration connotes management of the affairs of the institution. The management must be free of control so that the founders of their community can could the institution as they think fit in accordance with their ideas of how the interest of the community in general and the Institution in particular will be served It leaves it to the choice of the minority to establish such educational institutions as will serve both purposes, namely, the purpose of conserving their religion, language or culture, and also the purpose of giving general education to their children in their own language 2

In D.A.V. College, Bhatinda v State of Punjab, the University declared that Punjabi would be the sole medium of instruction and examination in the affiliated colleges The Court held- The right of the minority to establish and administer educational institution of their choice includes the right to have a choice of medium of instruction also and the University Circular was directly infringing upon the rights of minorities to have instructions in Hindi as their own language and, therefore, was violative of Articles 29(1) and 30(1). The right under Article 30(1) is available to both the pre-Constitution and post-Constitution institutions. Clause (2) of Article 30 prohibits the State from making discrimination in the mater of grant of aid to any educational institution on the ground that it is managed by a religious minority or linguistic minority.

In **Bramchari Sidheswar v. State of West Bengal**, popularly known as the Ram Krishna Mission case, the Supreme Court held-Ram Krishna Mission established by Swami Vivekananda to propagate Vedanta values as expounded by Ramkrishna is not a minority, 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 Art. 30 (1) of the Constitution of establishing and administering educational institutions of their choice. Sri Ram Krishna could be regarded as a religious teacher who expounded, practised and preached the

principles of Vedanta on which Hindu religion is founded A three judge bench comprising Justice Kuldip Singh, Justice N. Venkatachara and Justice S. Saghir Ahmad set aside a judgment of the Calcutta High Court which had held that Ramkrishna Mission being a religion distinct and separate from Hindu religion was a minority in West Bengal based on religion¹⁸

12. ADMISSION FEES

There is also the question of fees chargeable by the unaided minority institution from its students. It is clear that an unaided minority institution cannot be made to charge the same fees as aided institution. The reason is that unaided institution have to meet the cost of imparting education from their own resources and the main source can only be the fees collected from the students but these institutions cannot be permitted to indulge in commercialisation of education Commercialisation education cannot be permitted. This protection given to such institutions by Article 30(1) is not intended to shield commercialisation activities by such institution which are intended to reap rich dividends by holding education as a facade.

The Delhi High Court has ruled that under Article 30(1) the right to freely administered educational institutions does not permit the minorities to indulge in commercialisation of education in the grab of the constitutional protection. No such institution has the Rights to mal-administer the institution. The court has thus ruled that on the aspect of commercialisation and exploitation, minority institution would be similarly placed as other institution. Therefore it would not be unconstitutional for the government to issue an order which places a restriction on the amount of fee chargeable by an institution.

The unanimous view of all the Judges in the case of TMA Pai was the unaided professional educational institution (both minority and nonminority) cannot be regulated but no institution should charge capitation fees. Reasonable surplus to meet cost of expansion and augmentation of facilities does not, however, amount to profiteering. A committee has been directed by Islamic Academy of education to be set up to decide whether the fees proposed by an institute are justified and to approve the fees structure which can be charged by the institute. The fees fixed by the committee shall be binding for a period of three years, at the end of which period the institute would be at liberty to apply for revision. The decision of the committee is subject to judicial review.¹⁹

¹⁸ Right to manage educational institution- the constitution of India – EBC (publication; 42nd edition

¹⁹ Admission fees – Indian constitutional law: M.P.Jain; 8th editio

13. ADMISSION OF STUDENTS

The admission of students to educational institutions is also an aspect of administration. The Gujarat Government ordered that 80% of the seats in the teachers training colleges be reserved for candidates deputed by the government. On refusal to comply with this direction, the The Gujarat Government ordered that 80% of the seats in the teachers' training colleges be re recognition and grants-in-aid of a Christian institution were threatened to be withdrawn. The Supreme Court declared that the regulation under which the order in question was made violated Article 30(1) as it made a serious inroad into the right of the minority to administer the college established by it. The regulation was imposed with a view not to make the institution as a more effective educational institution but rather in the general public interest and could not thus be regarded as reasonable. The **Punjab and Haryana High Court** has ruled that the students have no right under Article Only on the four grounds mentioned in Article 29(2), admission cannot be denied.

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 re-fused on the ground that a girls school already existed nearby. The Supreme Court held in *Mark Netto v State of Kerala*, that because of the play of Article 30, education authorities could not refuse permission to 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.²⁰

14. MEDIUM OF INSTITUTION

The right of a minority to establish and administer educational institutions of its choice also car-result of reading Articles 29(1) and 30(1) together is that the minority has the choice of medium

²⁰ Admission for students; the constitution of India: EBC(publication);42nd edition:

of instruction and the power of the state to determine the medium of instruction has, therefore, to yield ground, to the extent it is necessary to give effect to this minority right. A rule prohibiting a minority to use the medium of instruction of its choice constitutes a restriction of the minority's right to administer its own institutions. To hold otherwise will be to denude Articles 29(1) and 30(1) of much of their content and the state should, therefore, use its power rule made by the Gujarat University prescribing Gujarati or Hindi as the sole medium of instruction to effectuate minority and examination in its affiliated colleges was held to infringe the right of the Anglo-Indians under Article 30(1) and 30(2) insofar as their mother tongue was English and they would be prevented thereby from teaching through the English medium in their own institutions.

The most significant case on this point is the Punjabi University case. By a notification, the Punjab Government compulsorily affiliated certain colleges to the Punjabi University which prescribed Punjabi in the Gurmukhi script as the sole and exclusive medium of instruction and examination for certain courses. The Supreme Court declared that it violated the right of the Arya Samajists to use their own script in the colleges run by them and compulsorily affiliated to the university.

The Karnataka High Court ruled in *General Secretary, Linguistic Minorities Protection Committee v State of Karnataka*, by a majority of 2: 1, that the Government Order was violative of Articles 14, 29(1) and 30(1). This view was reiterated by the Karnataka High Court 205 which relied on the provisions of Article 350-A of the Constitution to hold that in fact an obligation was cast upon every State and every local authority within the State to provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups.²¹

15. MINORITY EDUCATION ON JUDICIAL ASPECTS

Minority Educational Institutions hold a pivotal position in India's constitutional jurisprudence. Article 30(1) of the Constitution guarantees minorities the right to establish and administer educational institutions of their choice. The judiciary has consistently upheld this provision as a vital safeguard, ensuring the preservation of minority communities' cultural, linguistic, and religious identities through educational autonomy.

²¹ Medium for institution- constitutional law of Indian- Dr.J.N.Pandey

Islamic Academy of Education Vs State of Karnataka (2003) stands as a landmark judgment reaffirming the constitutional principle of minority autonomy in the sphere of education. The Court emphasized the protection of minority rights to establish and manage institutions of their choice, free from undue state interference. At the same time, it underscored the necessity of striking a balance between institutional autonomy and the government's regulatory role, ensuring that education is delivered in a manner that upholds equality and prevents discrimination.²²

In **T.M.A. Pai Foundation v. State of Karnataka (2002)**, the Supreme Court's 11- Judge Constitution Bench addressed the extent to which minority rights under Articles 30 and 19(1)(g) could be subject to state regulation. The Court held that the establishment of educational institutions constitutes an "occupation" under Article 19(1)(g), thereby granting unassisted minority institutions autonomy in framing their admission policies. At the same time, it affirmed the authority of the state to impose regulatory measures aimed at preserving academic standards, including requirements relating to infrastructure and faculty. The judgment, however, led to varied interpretations by different state governments and institutions, resulting in divergent regulatory frameworks for self-financed private institutions.²³

P.A. Inamdar v. State of Maharashtra addressed the autonomy of unaided private educational institutions in matters of admissions and fee regulation. The case arose from an appeal challenging state policies that mandated common entrance examinations and imposed reservation quotas for professional courses., the Supreme Court reaffirmed that unaided institutions possess the right to design their own admission procedures and fee structures. However, it emphasized that such autonomy must be exercised with fairness and transparency.

D.A.V VS. State of Punjab the case arose from a challenge by the D.A.V.College trust and society against the Punjab Government decision to affiliate its colleges with Guru Nanak University which established to promote Sikh education and culture petitioners argued that this compulsory affiliation violated their right as a religious minority under Articles 29(1) and 30(1) of the Constitution, which protect the right of minorities to establish and administer educational institution of their choice.²⁴

²² Minority institution on judiciary aspects- <https://www.scobserver.in>

²³ Minority institution on judiciary aspects- <https://www.kseliteattorneys.com>

²⁴ D.A vs state of punjab- <https://www.scobserver.in>

In **State of Madras v. Srimathi Champakam Dorairajan**, the central issue concerned the constitutional validity of a Communal Government Order in Madras, which introduced caste-based quotas for admission to educational institutions. Despite her merit, Champakam Dorairajan, a Brahmin candidate, was denied entry into a medical college under this scheme, prompting the legal challenge. The Madras High Court struck down the order as unconstitutional, affirming the primacy of Fundamental Rights over Directive Principles of State Policy. While acknowledging the significance of Directive Principles, the Court clarified that they cannot supersede the enforceable guarantees of Fundamental Rights. This landmark ruling reinforced the principles of equality and non-discrimination in education, insisting that legislative and executive measures must align with constitutional mandates. Consequently, the Communal Government Order was invalidated under Article 13, establishing a crucial precedent in Indian constitutional jurisprudence.²⁵

16. ACQUISITION OF PROPERTY OF A MINORITY EDUCATIONAL INSTITUTION

The Constitution Forty-fourth Amendment enacted in 1978 added Article 30(1A) to the Constitution which runs as follows: 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. Article 30(1A) became necessary because Article 31 was being abrogated from the Constitution. The above clause previously existed as a proviso to Article 31(2) The State has a right to acquire protect minority rights somewhat in this regard but the actual implications of Article The State has a right to acquire property belonging to a minority institution. This provision 30(1A) are not clear. Does it mean that the State is to give adequate compensation for the property acquired?

The Supreme Court has now commented on the scope of Article 30(1A) in **Society of St Joseph's College Vs UOI**. The Court has pointed out that Article 30(1A) has been introduced in the Constitution because Parliament in its constituent capacity apprehended that minority educational institutions could be compelled to close down or curtail their activities by the expedient of acquiring their property and paying them inadequate amounts as compensation. The Court has emphasized that Article 30(1A) requires that Parliament or a State Legislature,

²⁵ State of Madras v. Srimathi Champakam Dorairajan,

as the case may be, ought to make a specific law to provide for the compulsory acquisition of the property belonging to minority educational institutions. The provisions of this law should be such as would ensure that the amount payable to the educational institution for the acquisition of its property will not in any manner impair the functioning of the educational institution.

The general law viz the Land Acquisition Act is not adequate for the purpose of acquiring the property of minority educational institutions. Because the question of determining compensation for acquiring such property will have to take into account several factors which do not come into play while determining amounts payable for acquisition of other property.²⁶

17. POWER OF GOVERNMENT TO REGULATE MINORITY RUN EDUCATION INSTITUTIONS

The right conferred on the religious and linguistic minorities to administer educational institutions of their choice is not an absolute right. This right is not free from regulation just as regulatory measures are necessary for maintaining educational character and content of minority institutions similarly regulatory measures are necessary for ensuring orderly efficient and sound administration. The right of administer is not the right to maladministration. The right to administer implies a correlative duty to good administration.

In **State of Kerala v. Very Rev. Mother Provincial**, Section 63(1) of the Kerala University Act, 1969 which conferred power on the government to take over the management of a minority institution on its default in carrying out the directions of the State Government was declared ultra vires on the ground that the provisions interfered with the constitutional right of a minority to administer its institutions.²⁷

18. RIGHT OF A RECOGNITION OR AFFILIATION NOT A FUNDAMENTAL RIGHT

A minority institution is bound by the general law relating to affiliation as any other minority or majority institution based on language or religion. The provisions are not destructive of any

²⁶ ACQUISITION OF PROPERTY OF A MINORITY EDUCATIONAL INSTITUTION – Indian constitutional law; M.P.Jain

²⁷ POWER OF GOVERNMENT TO REGULATE MINORITY RUN EDUCATION INSTITUTIONS – Indian constitutional law; M.P.Jain

fundamental right of the petitioners. They are regulatory in nature and impose only such restrictions as indicated above. They are valid. No fundamental right is absolute and claims based on any one right may be subject to qualification in accordance with claims based on other rights. The right to administer a minority educational institution was not concerned to be unfettered and absolute. Administration can be carried on in accordance with the general law of the land. The object of administration of a minority education institution is two fold: The conservation of culture including religion, language and to ensure that their children receive general education also so that they could go into the world well and sufficiency equipped with qualification necessary for a useful career.

In **Mark Netto v. State of Kerala**, the manager of a Roman Catholic Mission Boys' School sought permission to admit girls, but authorities refused under Rule 12 of the Kerala Education Rules, 1959, citing that it was a boys' school and a nearby Muslim Girls' School already existed. The appellant argued this violated Article 30(1), as the Christian community wanted their girls educated in their own institution. The Supreme Court quashed the order, holding that a self-imposed restriction on boys-only admission could not legally bar entry of girls. It ruled that Rule 12, if broadly applied to prohibit minority schools from admitting girls for the benefit of another institution, would interfere with the minority's right to administer schools of their choice. Thus, the rule must be interpreted narrowly and not applied in such cases.²⁸

19. AID TO MINORITY AND NON-MINORITY INSTITUTION

Right to get an aid is not a fundamental right of an institution. The decision to implement can be challenged only on restricted grounds. Even if the policy decision is made to withdraw the aid, an institution cannot question it as a matter of right. The challenge to the decision is available to an institution when a grant is given to one institution as against the other institution which is similarly placed. With the grant of aid, the conditions come. An institution which does not want to accept and comply with the conditions accompanying such aid may decline the grant and move in its way. The grant of aid cannot be on the terms of the institution. There can be no difference between minority and non-minority institution in getting right to aid. No better protection can be expanded to the minority institution than one which non-minority institution enjoys. An executive power is residue of legislative one and exercise of said power by amendment of regulation, cannot be challenged on basis of mere presumption. A rule

²⁸ RIGHT OF A RECOGNITION OR AFFILIATION NOT A FUNDAMENTAL RIGHT – The constitutional of India; Durga Das Basu; 22nd edition.

introduced by way of policy decision be challenged on the ground of manifest, excessive and extreme arbitrariness.²⁹

20. MEMBERS OF COMMUNITIES OTHER THAN MINORITY COMMUNITY CANNOT BE FORCED UPON A MINORITY SCHOOL

In **Pramati Educational and Cultural Trust v. Union of India**, the Supreme Court held-The members of the communities other than the minority community which has established the school, cannot be forced upon a minority institution because that will destroy the basic character of the Constitution. The Right of Children to Free and Compulsory Education Act, 2009 made applicable to minority schools referred to in clause (1) of Article 30 of the Constitution is ultra vires of the Constitution and on this point the majority judgment in *Society for Unaided Private Schools of Rajasthan v. Union of India*, is not correct. Clause (5) of Article 15 and Article 21-A of the Constitution do not alter basic structure or frame-work of the Constitution and are constitutionally valid. The 2009 Act is not ultra vires Article 19(1)(g) but so far as it applies to minority schools aided or unaided, covered under clause (1) of Article 30 of the Constitution, is ultra vires the Constitution.³⁰

21. JAIN COMMUNITY NOT A MINORITY COMMUNITY

In **Bal Patil v. Union of India**, an organization representing the Jain community sought a Supreme Court direction to notify Jains as a minority under Section 2(e) of the National Commission for Minorities Act, 1992. During the appeal, the T.M.A. Pai judgment was delivered, after which a three-judge bench (C.R.C. Lahoti, D.M. Dharmadhikari, and P.K. Balasubramanyan, JJ) held that minority status must be determined state-wise, not nationally. The Court noted that “minority” is undefined in Articles 29 and 30, but from the Preamble and Articles 25–30, it refers to identifiable groups needing protection from deprivation of religious, cultural, and educational rights by dominant communities. Numerical strength alone cannot decide minority status; social, cultural, and economic conditions must also be considered. Since many Jains in Maharashtra were affluent, they did not qualify as a minority there. The Court emphasized that Articles 29 and 30 were framed post-partition to safeguard vulnerable communities like Muslims, not to encourage endless claims. It warned that granting minority

²⁹ Aid to minority and non minority institution – Indian constitutional law; M.P.Jain; 8th edition

³⁰ MEMBERS OF COMMUNITIES OTHER THAN MINORITY COMMUNITY CANNOT BE FORCED UPON A MINORITY SCHOOL – constitutional law of india; Dr.J.N.Pandey

status based on mere differences or numbers could foster division and “multi-nationalism.” The Commission, instead of expanding the list, should work toward reducing and eventually eliminating notified minorities by promoting inclusive social conditions.³¹

22. RIGHT TO ESTABLISHE EDUCATIONAL INSTITUTION

In **Azzez Basha v. Union of India (1963)**, the Supreme Court observed that the term “establish” carries multiple meanings and cannot be confined solely to the founding of an educational institution. Its interpretation must be understood in the constitutional context. The Court referred to the Oxford English Dictionary, which defines establish as “to found, create, ratify, confirm, or settle.” Since Aligarh Muslim University was created through legislation rather than directly by the Muslim community, the Court held that they could not claim the right to continue it under Article 30.

In **Dipendra Nath Parker v. State of Bihar (Patna High Court)**, it was held that a minority institution’s financial contribution is irrelevant to its minority status. The Bankipore Brahmo Samaj, a religious minority group, had founded and administered Balika Vidyalaya since 1930. When the Bihar Board disbanded its managing committee, the Samaj petitioned the Court. Although respondents argued that most funds came from local residents rather than the Samaj itself, Justice Chaudhary ruled that lack of financial contribution did not negate the institution’s minority character.³²

23. CHALLENGES FACED WHILE IMPLEMENTING MINORITY EDUCATION

Minority students face a variety of challenges in education that can significantly impact their learning experiences and long-term opportunities. One of the primary challenges is limited access to quality schools and resources. Many minority communities are economically disadvantaged or live in areas with underfunded schools, which often lack modern facilities, updated textbooks, technology, and extracurricular programs.

This creates an uneven starting point compared to students in more affluent areas, making it harder for minority students to compete academically.

³¹ JAIN COMMUNITY NOT A MINORITY COMMUNITY – Indian Constitutional law; M.P.Jain

³² RIGHT TO ESTABLISHE EDUCATIONAL INSTITUTION – The Constitutional of India; P.M.Bakshi; 13th edition;2015

LANGUAGE BARRIERS

Its another significant obstacle, particularly for students whose first language is different from the primary language of instruction. These students may struggle to understand lessons, complete assignments, or participate fully in class, which can slow their academic progress. Without adequate language support programs, these students risk falling behind their peers.

DISCRIMINATION AND BIAS

both overt and subtle can also affect minority students. Teachers and school staff may have lower expectations for minority students, consciously or unconsciously, which can influence grading, encouragement, and opportunities for advanced coursework. Experiences of bullying or prejudice from peers can further harm self-esteem and motivation, making school a stressful environment rather than a supportive one.

LACK OF REPRESENTATION

Minority students often see few teachers, administrators, or curriculum materials that reflect their cultural backgrounds. This can make students feel disconnected from the education system and less motivated to engage fully.

SOCIOECONOMIC FACTORS:

This socioeconomic factors often intersect with educational challenges. Many minority students face pressures outside of school, such as the need to work part-time, care for family members, or navigate unsafe neighborhoods, which can limit the time and energy they have for studies. Together, these challenges contribute to achievement gaps, lower graduation rates, and reduced opportunities for higher education and career advancement. Addressing these issues requires targeted policies, inclusive curricula, culturally responsive teaching, and increased support for minority communities to ensure equal educational opportunities for all students.³³

24. CONCLUSION

The constitutional safeguards enshrined in Articles 29 and 30 of the Indian Constitution, reinforced by sustained judicial scrutiny, have shaped a balanced and evolving trajectory of minority educational rights in India. These provisions were designed to preserve the cultural, linguistic, and religious identity of minorities by granting them the autonomy to establish and

³³ CHALLENGES FACED WHILE IMPLEMENTING MINORITY EDUCATION -<https://www.scobservers.in>

administer educational institutions of their choice. Over the decades, the judiciary has played a pivotal role in interpreting these rights, ensuring their vitality while harmonizing them with broader constitutional principles such as equality, secularism, and social justice.

Landmark rulings from Re Kerala Education Bill to T.M.A. Pai Foundation, Islamic Academy, and P.A. Inamdar demonstrate a consistent judicial effort to reconcile minority autonomy with legitimate state regulation. Courts have upheld institutional independence in matters of administration and admissions, while simultaneously permitting regulatory measures to prevent maladministration, exploitation, and commercialization of education. Judicial oversight has thus operated as a constitutional safeguard against both excessive state interference and misuse of minority rights. Ultimately, the trajectory of minority education rights in India reflect a dynamic constitutional vision one that nurtures diversity and pluralism while promoting educational excellence, accountability, and public interest. This equilibrium underscores the judiciary's indispensable role in transforming constitutional guarantees into living, functional rights within a democratic framework.

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