



State can Regulate Minority Institutions: SC

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Why in News

Recently, the Supreme Court held that the **state has the rights to introduce a regulatory regime** in the national interest to provide minority educational institutions with well-qualified teachers so that they can achieve excellence in education.

Minority institutions have the fundamental right under **Article 30** of the Constitution **to establish and administer their educational institutions according to their choice**. However, they **cannot ignore the regulations recommended by the state**.

Key Points from the Judgement

- The judgment held that the **regulatory law should be a balance** of the **dual objectives** of **ensuring the standard of excellence** as well as **preserving the right of minorities to establish and administer** their educational institutions.
- For this, the **court broadly divided education into two categories**:
 - Secular education.
 - Education “directly aimed at or dealing with preservation and protection of the heritage, culture, script and special characteristics of a religious or a linguistic minority.”
- When it comes to education related to minorities, the court advocated **“maximum latitude”** to be given to the **management to appoint teachers**.
 - Teachers who believe in the religious ideology or in the special characteristics of the concerned minority would alone be able to imbibe in the students admitted in such educational institutions, what the minorities would like to preserve, profess and propagate.
 - However, secular minority institutions should focus on imparting education by availing the best possible teachers.

Background

- The judgment came after the validity of the **West Bengal Madrasah Service Commission Act of 2008** was challenged.
 - This Act **mandated that the process of appointment of teachers in aided madrasahs would be done by a Commission**, whose decision would be binding.
 - **Madrasahs are recognised as minority institutions.**
- The SC **upheld the validity of the 2008 Act** and said that the Commission is composed of people who have **profound knowledge in Islamic Culture and Islamic Theology**.
 - It added that the Act was not violative of the rights of the minority educational institutions on any count.
 - The provisions of the Act were **specially designed for madrasahs and the madrasah education system in West Bengal.**
- SC referred to the **TMA Pai Foundation case, 2002** and said that **Article 30(1) (Right of minorities to establish and administer educational institutions of their choice)** was neither absolute nor above the law. As per the laws laid in the case-
 - A regulation framed in the national interest **must necessarily apply to all institutions** regardless of whether they are run by majority or minority as the essence of Article 30(1) is to ensure equal treatment between the majority and minority institutions.
 - If an **unfavourable treatment** is given out to an educational institution established and administered by a minority, an **objection can be raised.**
 - It becomes a different matter if a regulatory regime ensures excellence in educational institutions and the teacher selection method is designed to achieve excellence in institutions.

Article 30 of the Indian Constitution: Right of minorities to establish and administer educational institutions.

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

(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

(2) The state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

Source: TH