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## Rights of Minority Institutes not Absolute: SC

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### Why in News

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Recently, the **Supreme Court of India** gave its judgement on the **admission criteria of minority institutions**.

It held that **National Eligibility-cum-Entrance Test (NEET)** is mandatory for admission to all the medical colleges and the **right of minority institutions is not absolute and is amenable to regulation**.

### Key Points

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- **Background:**
  - Few colleges challenged the notifications issued by the **Medical Council of India (MCI)** and the **Dental Council of India (DCI)** under **Sections 10D of the Indian Medical Council Act of 1956 and the Dentists Act of 1948** for **uniform entrance** examinations.
  - The management of such minority-run medical institutions held that **uniformly bringing them under the ambit of NEET** would be a **violation of their fundamental right to occupation, trade and business [Article 19(1)(g)]** and would **violate** their **fundamental rights of religious freedom and to manage their religious affairs (Article 25-28)** and **to administer their institutions (Article 30)**.
  - Few petitioners claimed that **rules notified by Andhra Pradesh government are violative of rights of minority educational institutions** under **Article 30(1) of the Constitution**.

- **Highlights of the Judgement:**

- The SC held that the **fundamental and religious rights of minorities** and rights available under Article 30 are **not violated by provisions** carved out in Section 10D of the MCI and Dentists Act.
- The **right to freedom of trade or business is not absolute**. It is subject to **reasonable restriction** in the interest of the students' community to **promote merit, recognition of excellence, and to curb the malpractices**. A uniform entrance test qualifies the test of proportionality and is reasonable.
- The **NEET is mandatory for admission to medical colleges run by religious and linguistic minority communities** and it would **apply for both aided and unaided** medical colleges administered by minorities.
  - NEET was started to **check several malpractices in the medical education**, to **prevent capitation fee** by admitting students which are lower in merit and to **prevent exploitation, profiteering, and commercialisation** of education.
- Uniform entrance exams will **ensure improvement in future public health** by encouraging merit which will further enhance the **Directive Principles** enshrined in the Constitution.
- The SC also upheld **rules framed by the Andhra Pradesh government** making **Secondary School Certificate (SSC)/Transfer Certificate (TC) the basis for a candidate's claim of minority status for admission to B.Ed courses**. The rules also **require minority institutions to allot vacant seats under management quota to non-minority students on merit**.
- **Major Issues:**
  - It was noted that **conversion certificates were obtained by students** from other communities for admission under the management quota.
  - According to statistical data, **minority seats are highly disproportionate and far in excess** due to the number of colleges and total seats availability.
- Upholding the Andhra Pradesh government's rules will **safeguard the interests of genuine minority students** against the false overnight conversions.
- Providing admission to non-minority students will also **not interfere with the right of a Minority Educational Institution** to manage its affairs for the benefit of the Minority Community.

## **Minority Educational Institutions**

- The term '**minority**' has **not been defined anywhere in the Constitution**.

- **Article 30** grants the following rights to minorities, whether religious or linguistic:
  - All minorities shall have the **right to establish and administer educational institutions** of their choice.
  - The **compensation** amount fixed by the State for the compulsory acquisition of any property of a minority educational institution **shall not restrict or abrogate the right guaranteed** to them. (added by the **44<sup>th</sup> Amendment Act of 1978**)
  - In granting aid, the **State shall not discriminate** against any educational institution managed by a minority.
- **Minority educational institutions are of three types:**
  - Institutions that **seek recognition as well as aid** from the State.
  - Institutions that **seek only recognition** from the State and **not aid**.
  - Institutions that **neither seek recognition nor aid** from the State.
- The institutions of **first and second type are subject to the regulatory power of the state** with regard to syllabus prescription, academic standards, discipline, sanitation, employment of teaching staff and so on. The institutions of **third type are free to administer their affairs but subject to operation of general laws** like contract law, labour law, industrial law, tax law, economic regulations, and so on.
- The SC **allowed the minority educational institutions to admit eligible students of their choice** and to **set up a reasonable fee structure** in the judgement delivered in the **Secretary of Malankara Syrian Catholic College case (2007)**.
  - However, it also held that the **right to establish and administer educational institutions is not absolute**. Nor does it include the right to maladminister.
  - There can be regulatory measures for ensuring educational character and standards and maintaining academic excellence.

**Source: TH/IE**