



Identification of Minorities

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Why in News

Recently, the **Supreme Court** has sought the Central government's response on a **Public Interest Litigation (PIL)** challenging provisions of the **National Commission for Minority Education Institution (NCMEI) Act, 2004**.

Key Points

- **Petitioner's Argument:**

- The NCMEI Act **identifies minorities at the national level** and not at the State level, thereby **depriving deserving minorities** in the states of **their Constitutional rights**.
- The Centre's notification (under section 2(f) of NCMEI Act) which identifies Muslims, Christians, Sikhs, Buddhists, Parsis and Jains as minorities at the national level is against the judgement of ***TMA Pai Foundation case, 2002***.
 - These minorities at national level have a significant population in many states. E.g.
 - **Muslims are in majority** in Lakshadweep (96.58%) & Kashmir (96%).
 - **Christians are in majority** in Nagaland (88.10%), Mizoram (87.16%) and Meghalaya (74.59%).
 - The Supreme Court in the **TMA Pai Foundation case** dispelled doubts about the definition of minorities and recognised the right of non-minorities to establish educational institutions, without impairing the fundamental rights of neither.
- Rational basis of declaring certain religions as minority by the Central government as they have less population in the States is contravened when benefits of schemes for minorities are acquired by those religious minorities in states where they are in majority and those religious communities who are actually minorities are not given equal status.
 - Those who follow **Hinduism, Judaism and Bahaism** are minorities in regions like Ladakh, Mizoram, Lakshadweep, Kashmir, Nagaland, Meghalaya, Arunachal Pradesh, Punjab and Manipur.
 - However, they cannot establish & administer educational institutions of their choice because of non-identification of 'minority' at the State level, thus jeopardising their basic rights guaranteed under **Article 29 and 30**.

- **Changes Demanded:**

- Direct and declare that Section 2(f) of the NCMEI Act 2004 is arbitrary, irrational and violative of the Constitution and hence void.
- Direct the Centre to lay down guidelines for identification of minority at State level.

Constitutional and Legal Provisions Related to Minorities

- The term "**Minority**" is **not defined in the Indian Constitution**. However, the Constitution recognises **religious and linguistic minorities**.

- **Article 29:** It provides that any section of the citizens residing in any part of India having a distinct language, script or culture of its own, shall have the right to conserve the same.
 - It grants protection to **both religious minorities as well as linguistic minorities.**
 - However, the Supreme Court held that the scope of this article is not necessarily restricted to minorities only, as use of the word ‘**section of citizens**’ in the Article includes **minorities as well as the majority.**
- **Article 30:** All minorities shall have the right to establish and administer educational institutions of their choice.

The protection under **Article 30 is confined only to minorities** (religious or linguistic) and does not extend to any section of citizens (as under Article 29).
- **Article 350-B:** Originally, the Constitution of India did not make any provision with respect to the **Special Officer for Linguistic Minorities.** However, the 7th **Constitutional Amendment Act, 1956** inserted Article 350-B in the Constitution.
 - It provides for a Special Officer for Linguistic Minorities appointed by the President of India.
 - It would be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under the Constitution.
- **National Commission for Minority Education Institution (NCMEI) Act, 2004:**

It gives the **minority status to the educational institutions on the basis of six religious communities notified** by the government under the NCMEI Act, 2004-- Muslims, Christians, Sikhs, Buddhists, Zoroastrians (Parsis) and Jains.

Source: IE