



## Public Order

**For Prelims:** Public Order, Hijab, Fundamental Rights, Cases Related to Freedom of Religion.

**For Mains:** Fundamental Rights, Judiciary, Government Policies & Interventions, Women's Issues, Cases Related to Freedom of Religion.

### Why in News?

Recently, the **Karnataka High Court** is hearing a challenge to the constitutionality of the state government's ban on students wearing a [hijab in educational institutions](#).

- The case was regarding the arguments on whether the state can justify the ban on the ground that it **violates 'public order'**.

### What is Public Order?

- Public order is normally **equated with public peace and safety**.
- Public order is one of the three grounds on which the **state can restrict freedom of religion**.
  - **Article 25** of the Constitution guarantees to all persons the right to freedom and conscience and the right freely to profess, practise and propagate religion **subject to public order, morality and health**.
- Public order is also one of the grounds to restrict **free speech and other [fundamental rights](#)**.
- According to [State List](#) (List 2) of the [Seventh Schedule of the Constitution](#), the power to legislate on aspects of public order rests with the states.

### How has Public order been Interpreted by Courts?

- What affects public order **is contextual and is determined by the state**.
- However, the courts have broadly interpreted it to mean something that **affects the community at large and not a few individuals**.
- In *Ram Manohar Lohia vs State of Bihar (1965)*, the [Supreme Court](#) held that in the case of 'public order', **the community or the public at large have to be affected by a particular action**.
- The **contravention of law** ( to do something that is forbidden by the law or rule ) always affects order but before it can be said to affect public order, it must affect the community or the public at large.
  - One has to imagine **three concentric circles**, the **largest representing 'law and order'**, the next representing **'public order'** and the **smallest representing 'security of State'**.

### How Does it relate to the Hijab Ban?

- According to the government order issued on February 5 under the **Karnataka Education Act, 1983**, **"public order"** is one of the reasons for not allowing students to wear a headscarf in

educational institutions **along with “unity” and “integrity.”**

◦ Previously, several courts have [given orders on prescription of dress code for minorities](#) in public institutions.

- **Petitioners Arguments:** The petitioners have argued that public order is not every breach of law and order.
  - Public order is an aggravated form of disturbance that is much higher than a law and order issue.
  - The petitioners have asked the state to show how the mere wearing of a hijab by students could constitute a public order issue.
- **Karnataka Government’ Stand: Karnataka’s Advocate General** has argued that the government order makes no mention of “public order” and that the petitioner’s reading of the order could be an error in translation.
  - The order, in Kannada, uses the words **“sarvajanika suvyavasthe”**.

**[Source: IE](#)**

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