



## Minority Educational Institutions and Right to Education

**For Prelims:** Minority Educational Institutions (MEI), Right of Children to Free and Compulsory Education (RTE) Act 2009, Cultural and Educational Rights under Article 21A, Article 29 and 30 of Indian Constitution.

**For Mains:** Linkage between MEI and RTE, Education.

### Why in News?

Recently, the Supreme Court has refused to entertain a petition questioning the exclusion of madrasas and Vedic schools (**Minority Educational Institutions (MEI)**) from the ambit of the **Right of Children to Free and Compulsory Education (RTE) Act 2009**.

- The exclusion of these institutions was specifically inserted into the 2009 Act by an amendment of August 2012.
- Earlier, [a report by the NCPCR](#) showed the disproportionate number of minority institutions or dominance of non-minority category in Minority institutions.

### What are Legal Provisions regarding MEI and RTE?

- **Right to Education under Article 21A:** It describes modalities of the importance of free and compulsory education for **children aged between 6-14 years** in India under Article 21 (A) of the Constitution of India (86<sup>th</sup> Amendment).
  - The Act mandates **25% reservation for disadvantaged sections** of the society where disadvantaged groups include:
    - SCs and STs
    - Socially Backward Class
    - Differently abled
- **Article 29 and 30 of Indian Constitution** contain provisions securing rights of [minorities](#) and minority-run institutions.
  - Minority institutions have the fundamental right under Article 30 of the Constitution **to establish and administer their educational institutions according to their choice**.
- In this context, **RTE was amended to add in Sections 1(4) and 1(5) of the Act**.
  - **Section 1(5)** of the RTE Act states, “Nothing contained in this Act shall apply to madrasas, Vedic pathshalas and educational institutions primarily imparting religious instruction.
  - **Section 1(4)** of the RTE states that “Subject to the provisions of Articles 29 and 30 of the Constitution, the provisions of this Act shall apply to conferment of rights on children to free and compulsory education.

### What are the Arguments of Petitioners?

- **Avoiding Religious Connotation in Formative Years:** Sections 1(4) and 1(5) fail to consider that children aged between 6 and 14 years are in their formative years and such education brings about a religious connotation in the mind of children.
- **Level Playing Field:** Introduction of common syllabus and common curriculum would enable

every child to be placed on a level playing field for the challenges of the future.

- Right of a child should not be restricted only to free education, but must be extended to have equal quality education without discrimination on the ground of child's social economic and cultural background.
- **Adhering to Constitutional Values:** It would meaningfully contribute in achieving the great golden goals as set out in the preamble, particularly fraternity, unity and national integration.
- Therefore, the court may declare Sections 1(4) and 1(5) of the 2009 Act arbitrary and irrational.

## Way Forward

- There is a need to review the exemption made under RTE with respect to minority institutions.
  - Article 30 of the Indian constitution ensures the right of minorities to open their own institutions for cultural, linguistic and religious protection.
  - However, it should not contravene with Article 21(A) which protects a child's fundamental right to education.

**Source: HT**

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