



Mains Practice Question

Q. “Public places ought to be free of any public displays of religion.” Discuss the statement in reference to recent orders by Karnataka government regarding school uniforms. (250 Words)

15 Mar, 2022 GS Paper 2 Polity & Governance

Approach

- Start with briefly explaining the Karnataka government order regarding school uniforms and subsequent the Hijab- controversy.
- Discuss the issues associated with the government order.
- Discuss what could be the solution for this.

Introduction

Recently, the government of Karnataka passed an order stating that students of pre-university colleges will have to mandatorily wear the uniform prescribed by the college administrative board. In the absence of any prescription, “clothes which disturb equality, integrity and public law and order” couldn’t be worn. The order came in response to a set of incidents in various colleges, where women students wearing the hijab were forbidden from entering the campus.

Body

Issues associated with the Government order-

- Religious Freedom Protected under the Constitution:
 - Article 25(1) of the Constitution guarantees the “freedom of conscience and the right freely to profess, practise and propagate religion”.
 - It is a right that guarantees a negative liberty — which means that the state shall ensure that there is no interference or obstacle to exercise this freedom.
 - However, like all fundamental rights, the state can restrict the right for grounds of public order, decency, morality, health and other state interests.
- Hijab ban may create more problems for girls in getting education. Their families may ask them to not attend schools and this may go against the right to education of all.
- Muslim women are not wearing hijabs to disrupt colleges or force any other group of students to adopt or give up any dress or practice. They are wearing hijabs with uniforms the same way Sikh men wear turbans, or Hindus wear bindis/tilak/vibhuti with uniforms.

Court Judgements in related cases:

- In 2015, at least two petitions were filed before the Kerala High Court challenging the prescription of dress code for All India Pre-Medical Entrance which prescribed wearing “light clothes with half sleeves not having big buttons, brooch/badge, flower, etc. with Salwar/Trouser” and “slippers and not shoes”.

- Admitting the argument of the Central Board of School Education (CBSE) that the rule was only to ensure that candidates would not use unfair methods by concealing objects within clothes, the Kerala HC directed the CBSE to put in place additional measures for checking students who “intend to wear a dress according to their religious custom, but contrary to the dress code”.
- In *Amna Bint Basheer v Central Board of Secondary Education* (2016), the Kerala HC examined the issue more closely.
 - The Court held that the practice of wearing a hijab constitutes an essential religious practice but did not quash the CBSE rule.
 - The court once again allowed for the “additional measures” and safeguards put in place in 2015.
- However, on the issue of a uniform prescribed by a school, another Bench ruled differently in *Fathima Tasneem v State of Kerala* (2018).
 - A single Bench of the Kerala HC held that collective rights of an institution would be given primacy over individual rights of the petitioner.

Way Forward

- Religious sentiments should not prevail while taking decisions on such matters but it should be based on the combination of rationality and modern views.
- Educational institutions should avoid the violation of the rights of individual students in the name of their right to administer a school or college.
- Our daily lives require us to live together with people who look different from us, wear different clothing, and eat different food, why should those differences be shut out from educational spaces in particular.
- Our Constitution guarantees to everyone an inviolate “zone of freedom” in personal matters, as long as the effect of this freedom does not cause harm, or discrimination, at a broader social level. In the case of the hijab, there is no such harm or discrimination.
- However, an Essential Religious Practices Test is required for Hijab as it was done for keeping a beard. The Supreme court in 2006, held that keeping a beard was not an essential part of Islamic practices.

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