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RIGHT TO EDUCATION – A TOOL FOR THE EMANCIPATION OF MINORITY SECTIONS IN INDIA

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ABSTRACT

“Education is a human right with immense power to transform – Kofi Annan”

A nation like India should need to have efficient and effective mechanism in order to ponder and give proper education to all the citizens of the nation. Even though the educational system is well known to the whole world and is existed from time immemorial antiquity, the educational system in the nation did not meet the proposed criteria's for attaining maximum effective output from the whole citizens. A nation with good and literate citizens will be a cornerstone of the nation for its whole development. Thus, the government should need to give proper and adequate education to all the citizens of the nation. After the implementation and enactment of Right to Education as a fundamental right as enshrined in the Constitution of India under Article 21A through the eighty eighth amendment in the year 2002, the government taken a new milestone in order to promote the educational standards of the whole nation. Through the implementation of the mid-day meal schemes, in one way the government was able to attract the students to come and join schooling while on a broader aspect, it provides an opportunity for the students to get adequate nutritious food for their overall growth and holistic development. Thus, in order to attain a good civil society, proper education must need to be given

for all.⁵²⁰ By these ways, India can attain over development in a very wider perspective.

KEYWORDS: *Right to Education, Development of the Nation, Fundamental Rights, Educational Institutions, Standard of Living, Democracy*

I - INTRODUCTION

The world's largest democracy is found in India. It has long been renowned for its diversity. In India, there exist minority groups that practice several religions under the secular government of the country. Secularism has been emphasized from the start, ever since the Indian Constitution was written. The values of freedom, liberty, integrity, equality, and social justice are ingrained in the Preamble of the Indian Constitution to help India become the secular democratic republic nation that it is today. The Indian democracy is well-known for its religious harmony as well as the unity of the people. But even if we are considered to be the second largest country in the world in terms of population, we are not able to achieve the status of a developed nation till now because of the unavailability of proper education and academic support to the different sections of the society.

There are various provisions under the Indian Constitution as well as various legislations in order to protect and safeguard the various minority groups that are still existed in India. Thus, Indian Constitution can be considered as one of the legal documents which provides various clear-cut guidelines and instructions in order to how effectively implement the educational schemes and access for the same even by the children of these minority communities as well and through the same how the overall economic welfare of the society can be achieved. The Indian Constitution safeguards and guarantees the

⁵²⁰ Kishore Singh, Right to Education, India International Centre Quarterly, WINTER 2015-SPRING 2016, Vol. 42, No.3/4, Education at the Crossroads (WINTER 2015-SPRING 2016), pp. 119-130, India International Centre, <https://www.jstor.org/stable/26316578>

rights of every person, and specific provisions have been made throughout the Indian Constitution and numerous other laws to protect the rights of minorities, members of impoverished classes, etc. Minorities in India are granted unique rights under Articles 29 and 30 of the Indian Constitution.⁵²¹ It guarantees minorities in India their basic rights in terms of cultural and educational rights. Certain rights are unalienable and were established with the goal of protecting the freedom and right to life of these minorities.

II - RIGHT TO EDUCATION - THE INDIAN SCENARIO

Article 30 guarantees the Right to Education to Indian minority people by giving them the freedom to create educational institutions for their communities and run them with the internal administration of their choosing. The right of minorities to form and run educational institutions is covered in Article 30. Minorities are granted the freedom to create and run their own educational institutions. The Charter of Education Rights is another name for it. Article 30(1) states that every linguistic and religious minority has the freedom to create and run educational institutions of their choosing. Article 30(2) prohibits the State from discriminating against any educational institution on the grounds that it is run by a minority, regardless of religion or language, while providing funding to educational institutions.

Article 30 permits minority populations in India to establish and manage educational institutions based on the way it is written. They will be given the same access to government funding as other educational institutions, thanks to this policy. According to Article 30, they have the right to equality and freedom from discrimination. As required by Article 30, the price of any compulsory acquisition of land for

a minority educational institution must be chosen in a way that does not limit the minority community's access to education.⁵²²

Article 30 of the Indian Constitution promotes minorities' access to education by reiterating the importance of the Right to Equality that is guaranteed to everyone under Article 14. Article 30's privilege is only guaranteed to minorities in India, not to all citizens. To protect the interests of India's minorities is the purpose of this. In accordance with Article 30, they also have the right to teaching in their native tongue in these institutes of higher learning.

III - MINORITY EDUCATIONAL INSTITUTIONS - AN AID TO THE UNDERPRIVILEGED SECTIONS OF THE SOCIETY

The following categories of educational institutions serve minorities in India:⁵²³

- Educational institutions that ask the state government where they hold their institution's headquarters for approval, recognition, and financial assistance
- Institutions of higher learning that solely ask the state government for approval and recognition as well as institutions that don't ask for either assistance or recognition from the government

The following groups are permanently designated as minority in India under Section 2(c) of the National Commission for Minorities Act (1992)

- Muslims
- Christians
- Sikhs
- Buddhists
- Jains
- Parsis

⁵²¹ TMA Pai Foundation & Ors vs State Of Karnataka & Ors (1994 AIR 2372)

⁵²² In Re: The Kerala Education Bill (1959 1 SCR 995)

⁵²³ Guidelines for determination of Minority Status, Recognition, Affiliation and related matters in respect of Minority Educational Institutions under the Constitution of India - Government of India National Commission for Minority Educational Institutions

As the biggest democracy in the world and a location where many different people can call home, one of the key duties of the Indian government is to protect the Constitution's tenets. This relates to protecting the country's minority communities. Since the majority community enjoys prominence and privilege, minorities' interests frequently face discrimination. Therefore, in order to secure the rights of minorities on an equal footing with those of the majority, laws must be created. The government must need to take additional care in order to emancipate the downtrodden sections of the society, especially the minority communications through proper education and financial support because through the overall upliftment of the society including these minority groups, we can achieve the overall welfare of the nation which may leads to the economic development of a country as well. Thus, in order to protect these minority groups, specific legislations should need to be made and it should need to be enacted with the full effect because only if it is implemented properly, we can enforce the same and challenge the same if such a situation arises in the mere future.⁵²⁴ Thus proper and adequate involvement of State is needed in order to promote the growth of overall economic development as well. Through the said proceedings, we will be able to establish a new society with certain forms of innovative ideas and provides deep roots for the economic and social development of the nation through proper planning and implementation of the affairs relating to the educational sector.

IV - STATE INVOLVEMENT

States have a responsibility to ensure that the organizations and institutions inside their borders are managed fairly, in line with state-made laws, national laws, public policies, public order, health, safety, morality, security, sovereignty, and foreign policy of the nation. By

doing this, the states keep a close check on and oversee how these institutions are operating. This general rule also applies to minority-established and -run educational institutions, which are consequently bound by state-made laws.⁵²⁵ Government intervention always exists, even though the extent varies depending on the institution. The state government intervenes and offers direction regarding how institutions that get support, approval, or both from the state government should operate. On the other hand, organizations that have complete autonomy are not obligated to comply with governmental legislative directives. However, they are required to follow the general moral, security, and public policy standards.

The government can intervene in the following ways:

- Routine management audits of the institutions
- Check the reputation and academic standards of these universities
- The state government has the capacity to take action against any abuse of power by the senior management of these institutions
- The behaviour of the institution's teaching and support staff can be observed by the state government
- The state government also ensures that the staff members of these institutions follow the administrative guidelines set forth by the institutions
- To enhance the welfare and conditions of institutions, the state government might enact directive policies and take measures

In order to ensure that the institutions are working in accordance with the law, the state government is therefore empowered to periodically adopt acts that are properly circumscribed. To avoid interfering with the administration's autonomy and freedom of

⁵²⁴ Promoting and Protecting Minority Rights – United Nations Declaration on Minority Rights

⁵²⁵ Appearance vs Delhi Administration Case

choice in these minority educational institutions, these directives and actions are carried out in a limited way.

In India, minorities are guaranteed the right to an education and special provisions are made. This right is not unassailable by definition.⁵²⁶ Thus, the right protected by Article 30 is constrained within justifiable bounds. As stated in Article 19(6) of the Constitution, the state has the authority to establish reasonable limitations. The introduction of appropriate limits on the educational institutions serving minorities is covered by Article 19(6). The United States Supreme Court In one case, it was stated that "the right of minority institutions is not absolute and is subject to regulation." "The protection afforded to minority educational institutions to admit students of their choice is subject to reasonable restrictions," a bench of Justices Indu Malhotra and Amitava Roy said.

The Supreme Court considered student admission to minority institutions in *T.M.A. Pai Foundation v. State of Karnataka Case*,⁵²⁷ the court ruled that a minority educational institution could fill up to 50% of its seats with students from the minority community, and that those students must be from the minority community. Admitted on the basis of merit, as determined by the common/joint entrance test that is used for selecting students from general categories. The court also ruled that student admission So long as minority educational institutions are unaided, neither the university nor the state can regulate them.

V - CONCLUSION

Indian minorities have faced a number of challenges, including violence, discrimination, hatred, and underrepresentation. The Union Government, lawmakers, and policymakers have created laws, legislation, rules, and specific privileges for the minority communities to stop these atrocities. They are given one such

privilege by Article 30. The establishment and management of educational institutions of the minority populations' choice is made easier by this article. They are given administrative freedom with little government influence. This is being done in order to guarantee equity and equal opportunity for the nation's linguistic and religious minorities in terms of education. Despite numerous government initiatives throughout the years, it is thought that violence, bigotry, and hatred still exist today. We'll have to wait and see what happens to Indian minority and how much the government is able to do to stop the horrors they commit.

The world's largest democracy is found in India. It has long been renowned for its diversity. In India, there exist minority groups that practice several religions under the secular government of the country. Secularism has been emphasized from the start, ever since the Indian Constitution was written. The values of freedom, liberty, integrity, equality, and social justice are ingrained in the Preamble of the Indian Constitution to help India become the secular democratic republic nation that it is. Article 30 does not preclude the state from imposing reasonable regulations to ensure the transparency of minority institution administration.

A bench of Justices Arun Mishra, Vineet Saran, and M R ruled that the rights to administer an institution granted by Article 30 of the Constitution are not above the law as well as other constitutional provisions, Private and minority institutions have access to fundamental rights are subject to regulatory control state regulations that do not infringe on fundamental rights minority-serving institutions They are intended to protect minorities rather than to meet state social needs. However, a citizen's fundamental right to establish an educational institution is not absolute. Such rights are always subject to reasonable restrictions under the law. Such restrictions are in the public interest and do not violate any

⁵²⁶ Article 30 of the Indian Constitution

⁵²⁷ 1994 SCC (2) 734

guaranteed rights. The right subject to the state's regulatory power for preserving and facilitating its standards Articles 29 and 30 are not related but must be read together. Thus, Right to Education must need to be seen of utmost importance and due care is needed to establish the same for further future development of the nation.

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