

Identification of Minorities in India

March 29, 2022

In news—Supreme Court has granted four weeks to the Centre to respond to a plea, which has sought directions for framing of guidelines for identification of minorities at the state level, contending that Hindus are in minority in 10 states.

More information on the issue-

- The petition by Advocate Ashwini Upadhyay has contended that the 2011 census showed that Hindus have become a minority in Lakshadweep (2.5%), Mizoram (2.75%), Nagaland (8.75%), Meghalaya (11.53%), J&K (28.44%), Arunachal Pradesh (29%), Manipur (31.39%), and Punjab (38.40%), but were being denied minority benefits that are currently being enjoyed by the respective majority communities in these places.
- The plea relied on the Supreme Court's 2002 ruling in the **TMA Pai Foundation case (TMA Pai Foundation & Ors vs State Of Karnataka & Ors)** and the 2005 decision in the **Bal Patil case (Bal Patil & Anr vs Union Of India & Ors)**.
- **In the TMA Pai case, the SC had said that for the purposes of Article 30 that deals with the rights of minorities to establish and administer educational institutions, religious and linguistic minorities have to be considered state-wise.**
- In its reply to the affidavit, the **Union government has permitted state governments to declare a religious or linguistic community as a 'minority community' within the state.**
- The Centre also said that the petitioners' argument that the followers of Judaism, Bahaism, and Hinduism, who are

“real minorities” in Ladakh, Mizoram, Lakshadweep, Kashmir, Nagaland, Meghalaya, Arunachal Pradesh, Punjab and Manipur cannot establish and administer educational institutions of their choice “is not correct” since states can also “certify institutions as being minority institutions as per the rules of the said state”.

- **The Centre pointed out that Maharashtra had notified Jews as a minority community in 2016 and Karnataka had notified Urdu, Telugu, Tamil, Malayalam, Marathi, Tulu, Lamani, Hindi, Konkani and Gujarati as minority languages.**
- Therefore, the government said, **“matters such as declaring (that) the followers of Judaism, Bahaism, and Hinduism who are minorities in above mentioned states/UTs can establish and administer educational institutions of their choice** and laying down guideline(s) for identification of minority at state level may be considered by the concerned state governments”.

Minorities in India-

- **Currently, only those communities notified** under section 2(c) of the National Minorities Commission Act, 1992, **by the central government are regarded as minority.**
- In the exercise of its powers under the Section 2(c) of the NCM Act, the Centre on October 23, 1993, notified five groups – **Muslims, Christians, Sikhs, Buddhists and Parsis** – as ‘minority’ communities. **Jains were added to the list in January 2014.**

Constitutional provision related to minorities in India-

- **The expression “minorities” appears in some Articles of the Constitution, but is not defined anywhere.**
- **Article 29, which deals with the “Protection of interests of minorities”,** says that “any section of the citizens residing in the territory of India or any part

thereof having a distinct language, script or culture of its own shall have the right to conserve the same”, and that “no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them”.

- **Article 30 deals with the “right of minorities to establish and administer educational institutions”.**
 - It says that all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.
 - It says that “in making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority..., the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause”, and that “the state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language”.
- **Article 350(A) says there shall be a Special Officer for linguistic minorities to be appointed by the President.** “It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under this Constitution and report to the President upon those matters at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Governments of the States concerned”.