

Regulation of Minority Educational Institutions

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According to Art 30 of the constitution, all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their own choice. Further, the state shall not discriminate against any institution in granting aid to them on the ground that it's under the management of a minority. Protection of rights of the religious and ethnic minorities is the backbone of India's secular values. The Article 30 of the Indian constitution is one of the many provisions that ensure preservation of minority rights.

Benefits available to minority institutions

- Minority educational institutions are exempt from constitutional reservation for SCs, STs, and OBCs as required to be done by other educational institutions (Art 15(5)).
- In respect of control over representatives, minority educational institutions have substantially more power than other institutions.
- In case of admission of students, minority educational institutions can have reservation up to 50% for the students of their own community.

Regulation of the institutions

- The Supreme Court held that the state is well within its rights to introduce a regulatory regime in the national interest to provide minority educational institutions with well-qualified teachers in order for them to achieve excellence in education.
- The managements of minority institutions cannot ignore such a legal regime by saying that it is their

fundamental right under Article 30 of the Constitution to establish and administer their educational institutions according to their choice (Art 30(1) is neither absolute or above the law).

- Regulatory law should however balance the dual objectives of ensuring standard of excellence as well as preserving the right of the minorities to establish and administer their educational institutions.
- When it comes to the right to appoint teachers, in terms of law laid down in the TMA Pai Foundation case, a regulation framed must necessarily apply to all institutions regardless whether they are run by majority or minority.
- The court broadly divides education into two categories – secular education and education directly aimed at preservation and protection of the heritage, culture, script and special characteristics of a religious or a linguistic minority.
- When it comes to the latter, the court advocated maximum latitude to be given to the management to appoint teachers. The court reasons that only teachers who believe in the religious ideology or in the special characteristics of the concerned minority would alone be able to imbibe in the students, what the minorities would like to preserve, profess and propagate.
- However, minority institutions where the curriculum was purely secular, the intent must be to impart education availing the best possible teachers.