

Right to Religion Vs Right to Life : Kanwaris, Bakrid and Kumbh Mela

July 22, 2021

The basic right to life and health of a citizen would prevail over the right to religion during a pandemic, the Supreme Court has said and asked the Uttar Pradesh government to rethink its stand to allow a limited Kanwar Yatra. SC laid down the salutary principle that the right to life must override religious sentiments.

In news: Health above faith: On cancellation of Kanwar Yatra

Placing it in syllabus: Law & Policy

Dimensions

- SC ruling in detail
- Importance of the ruling
- Constitutional Position

Content:

Explanation of the issue and the Ruling:

- Supreme Court was perturbed by reports of the plan to conduct the Kanwar yatra, resulting in the initiation of *suo motu* proceedings
- The Supreme Court on **disagreed with the Uttar Pradesh government's proposal to conduct a "symbolic" Kanwar Yatra amid the pandemic** for "compelling religious reasons"
- It said that the **fundamental rights of citizens across faiths and their right to life (under Art. 21) trumped religious sentiments.**
- In a similar observation, The Bombay High Court

disposed of pleas seeking relief related to increase the number of water buffaloes to be sacrificed at the Deonar abattoir for three days of Bakrid

- The bench also noted, “**Public health is above religion** and it will be difficult for the administration to manage in case of relaxations.”

Importance of the ruling:

- The organisation of the Kumbh Mela earlier this year was seen as responsible for a surge in infections in the run-up to the disastrous second wave.
- The second wave of COVID overpowered the country's health system for weeks.
- In such a scenario, there is no case for choosing religious rights over the right to life and safety.
- **Any relaxation after a long spell of severe curbs will have to be based on a scientific assessment** of the number of daily infections, the rate of positivity and signs of abatement.

Constitutional Position:

Article 25 to 28:

Articles 25 to 28 detail the religious freedoms and imply that the State will not discriminate, patronise or meddle in the profession of any religion.

Article 25 gives **Freedom of conscience and free profession, practice and propagation of religion**

It says “all persons are equally entitled to freedom of conscience and the right to freely profess, practice, and propagate religion subject to public order, morality and health.”

Article 26 gives the **freedom to manage religious affairs** and says that all denominations can manage their own affairs in

matters of religion.

It states that Subject to public order, morality and health, every religious denomination or any section thereof shall have the right

- (a) to establish and maintain institutions for religious and charitable purposes;
- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law

Article 27 gives **freedom related to payment of taxes for promotion of any particular religion.**

It says “No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religions denomination”

Article 28 details the **freedom related to attendance at religious instruction or religious worship in certain educational institutions**

As per this article:

- No religion instruction shall be provided in any educational institution wholly maintained out of State funds
- No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction / worship without his/her consent.

However, All these rights are subject to be regulated by the State

Article 21:

- According to Article 21: “**Protection of Life and Personal Liberty**: No person shall be deprived of his life or personal liberty except according to procedure established by law.”
- This fundamental right is **available to every person, citizens and foreigners alike**.
- Article 21 **provides two rights**: Right to life and Right to personal liberty
- The fundamental right provided by Article 21 is one of the most important rights that the Constitution guarantees.
- The Supreme Court of India has **described this right as the ‘heart of fundamental rights’**.
- The right to life **is not just about the right to survive**. It also entails being **able to live a complete life of dignity and meaning**.

Reasonable Restrictions on 25 to 28 in consonance with Article 21:

However, Rights to Freedom of Religion (Art 25-28) are subject to public order, morality, health and other provisions relating to fundamental rights (Art 21)

Further, the State is permitted to:

- **regulate or restrict any economic, financial, political or other secular activity** associated with religious practice; and
- **provide for social welfare and reform or throw open Hindu religious institutions** of a public character to all classes and sections of Hindus.

Mould your thought: Does Right to life trump over Right to Religion as per the Indian Constitution? Give reasons for your answer.

Approach to the answer:

- Introduction
- Discuss the crux of Article 21
- Discuss the provisions Article 25-28
- Discuss the Reasonable restrictions that can be placed on Religious Rights in consonance with Art 21
- Discuss the Supreme Court Observations on the matter (Related to Kanwar Yatra & Bakrid)
- Conclusion