

SUPREME COURT OF INDIA

T.M.A.Pai Foundation

Vs.

State of Karnataka

(B.N.Kirpal, G.B.Pattanaik, V.N.Khare and S.R.Babu JJ.)

10.04.2002

ORDER

1. In modification of our dated 3-4-2002, we reframe the following questions which arise for consideration in these cases:

1. What is the meaning and content of the expression “minorities” in Article 30 of the Constitution of India?
2. What is meant by the expression “religion” in Article 30(1)? Can the followers of a sect or denomination of a particular religion claim protection under Article 30(1) on the basis that they constitute a minority in the State even though the followers of that religion are in majority in that State?
3. (a) What are the indicia for treating an educational institution as minority educational institution as minority educational institution? Would an institution be regarded as a minority educational institution because it was established by a person(s) belonging to a religious or linguistic minority or its being administered by a person(s) belonging to a religious or linguistic minority?
3. (b) To what extent can professional education be created as a matter coming under minorities’ rights under Article 30?
4. Whether the admission of students to minority educational institution, whether aided or unaided, can be regulated by the State government or by the university to which the institution is affiliated?
5. (a) Whether the minorities’ rights to establish and administer educational institutions of their choice will include the procedure and method of admission and selection of students?
5. (b) Whether the minority institution’s right of admission of students and to lay down procedure and method of admission, if any, would be affected in any way by the receipt of State aid?

5. (c) Whether the statutory provisions which regulate the facets of administration like control over educational agencies, control over governing bodies, conditions of affiliation including recognition/withdrawal thereof, and appointment of staff, employees, teachers and principals including their service conditions and regulation of fees, etc. would interfere with the right of administration of minorities?

6 (a) Where can a minority institution be operationally located?

Where a religious or linguistic minority in State 'A' establishes an educational institution in the said State, can such educational institution grant preferential admission/reservations and other benefits to members of the religious/linguistic group from other states where they are non-minorities?

6 (b) Whether it would be correct to say that only the members of that minority residing in State 'A' will be treated as the members of the minority vis-à-vis such institution?

7. Whether the member of a linguistic non-minority in one State can establish a trust/society in another State and claim minority status in that State?

8. Whether the ratio laid down by this court in St. Stephen's case (St.Stephen's College v. University of Delhi) is correct? If no, what order?

9. Whether the decision of this Court in Unni Krishnan, J.P. v. State of A.P.(except where it holds that primary education is a fundamental right) and the scheme framed thereunder require reconsideration/modification and if yes, what?

10. Whether the non-minorities have the right to establish and administer educational institution under Article 21 and 29(1) read with Articles 14 and 15(1), in the same manner and to the same extent as minority institutions?