

Pramati Educational & Cultural Trust v. Union of India, (2014) 8 SCC 1

Constitution of India

Arts. 15(5) and 368 - Constitutionality of Art. 15(5) - Object of Art. 15(5) - Held, Art. 15(5) is also constitutional in relation to admission in private unaided educational institutions - Art. 15(5) already held constitutional in Ashoka Kumar Thakur, (2008) 6 SCC 1, in relation to State-maintained institutions and aided educational institutions - None of the rights under Arts. 14, 19(1)(g) and 21 are abrogated by cl. (5) of Art. 15 - Cl. (5) of Art. 15 is not an exception or proviso overriding Art. 15 - It is an enabling provision to effectuate equality of opportunity - Constitution (Ninety-third Amendment) Act, 2005, thus held, does not alter the basic structure or framework of the Constitution and is therefore constitutional, (2014) 8 SCC 1-A

Constitution of India

Arts. 19(1)(g), 15(5) and 368 - Whether Art. 19(1)(g), a basic feature of the Constitution destroyed by Constitution (Ninety-third Amendment) Act, 2005 by which cl. (5) inserted in Art. 15 insofar as it impinges upon the right to choose students for admission to private aided/unaided educational institutions - Thereby whether Art. 15(5) detracts private educational institutions from being institutions of excellence - Measures under Art. 15(5), if covered by Art. 19(6) - Held, that only a small percentage of seats would be reserved under Art. 15(5) saves it from being unconstitutional - Opinion of Bhandari, J. in Ashoka Kumar Thakur, (2008) 6 SCC 1, overruled on this point, (2014) 8 SCC 1-B

Constitution of India

Arts. 15(5), 19(1)(g) and 368 - Whether Art. 15(5) satisfies the identity test and width test in that it does not destroy the judicially determined identity of the fundamental right under Art. 19(1)(g) by the width of power introduced by the amendment - Whether element of voluntariness in Art. 19(1)(g) affected - Thus, whether basic structure affected - Held, power under Art. 15(5) is a guided power and its use in furtherance of its object and purpose is subject to judicial review - Hence, Art. 19(1)(g) not affected, (2014) 8 SCC 1-C

Constitution of India

Art. 368 & Pt. III and Arts. 15(5) and 19(1)(g) - Stealthy encroachment into fundamental rights by constitutional amendment meant for beneficent purposes - Duty of court to protect fundamental right of private educational institutions under Art. 19(1)(g) from the insertion of Art. 15(5) if meant to appease SEBCs/SCs/STs for political gains, (2014) 8 SCC 1-D

Constitution of India

Arts. 15(5) and 14 - Duty to maintain distinction between aided and unaided private educational institutions in matters of admission of SEBCs/SCs/STs - Held, law made to effectuate Art. 15(5) must provide for compensation to the unaided institutions so as not to violate Art. 14, (2014) 8 SCC 1-E

Constitution of India

Arts. 15(5) & 14, Preamble and 30(1) - Exclusion of minority aided and unaided educational institutions referred to in Art. 30(1) from the purview of Art. 15(5), held, not discriminatory - Nor does Art. 15(5) destroy the secular character of India, (2014) 8 SCC 1-F

Constitution of India

Arts. 15(5) and 51-A(j) r/w Art. 21 and Preamble - Duty of every citizen to strive for excellence and live with dignity if affected by Art. 15(5) denying to some the opportunity to study in educational institutions of excellence - Held, is not borne out by the experience of institutions which similarly have reserved seats - Besides, Art. 15(5) promotes fraternity and unity and integrity of the nation ordained by the Preamble, (2014) 8 SCC 1-G

Constitution of India

Art. 15(5) & Pts. IV and III and Art. 368 - Whether balance between Pt. IV and Pt. III destroyed by Art. 15(5) which affects the basic structure - Issue raised but not decided, (2014) 8 SCC 1-H

Constitution of India

Arts. 19(1)(a) to (g) & (2) to (6) - Voluntary element though present in all the freedoms enumerated in Art. 19(1), held, is subject to reasonable restrictions under Arts. 19(2) to (6), (2014) 8 SCC 1-I

Constitution of India

Arts. 21-A, 12 & 368 and Art. 19(1)(g) and Art. 30(1) - Held, insertion of Art. 21-A constitutional - Basic structure or framework of the Constitution not altered by Constitution (Eighty-sixth Amendment) Act, 2002 - Whether State in Art. 21-A includes private unaided educational institutions and private individuals - Thereby whether right under Art. 19(1)(g) of private unaided educational institutions abrogated - Applicability of functional test - Held, Art. 21-A casts an obligation only on the State and its instrumentalities and not on private unaided educational institutions - A new power, other than under Art. 19(6), has been vested in the State to enable it to discharge its obligation by making a law under Art. 21-A - However, Art. 21-A has to be harmoniously construed with Art. 19(1)(g) and Art. 30(1) - Thus, there is nothing in Art. 21-A which conflicts with either the right of private unaided schools under Art. 19(1)(g) or the right of minority schools under Art. 30(1) of the Constitution, but law made under Art. 21-A may affect these rights under Arts. 19(1)(g) and 30(1) - Admission of a small percentage of students may be permissible and would not infringe rights under Art. 19(1)(g) of such institutions - Element of voluntariness in Art. 19(1)(g) can be subjected to law in consonance with Art. 19(6) - However, the power under Art. 21-A of the Constitution vesting in the State cannot extend to making any law which will abrogate the right of the minorities to establish and administer schools of their choice, (2014) 8 SCC 1-J

Education and Universities

Right of Children to Free and Compulsory Education Act, 2009

Ss. 1(4), 2(n)(ii) & (iv), 12(1)(c) and 18(3) (as amended by Act 30 of 2012) - Constitutionality of - Held, are consistent with the fundamental right under Art. 19(1)(g) of private unaided educational institutions - But insofar as the RTE Act applies to minority schools, aided or unaided, it offends Art. 30(1) and is ultra vires the Constitution Society for Unaided Private Schools of Rajasthan v. Union of India, (2012) 6 SCC 1, overruled on this point, but affirmed on all other points, (2014) 8 SCC 1-K