**LIST OF CASES DECIDED BY SUPREME COURT/HIGH COURTS/NCMEI ON RIGHTS OF MINORITIES EDUCATIONAL INSTITIONS**

<http://nlapune.org/wp-content/uploads/2019/03/Booklet-on-Minority-Rights.pdf>

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| **Sr.No** | **NAME OF THE CASE** | **DECISION IN BRIEF** | **Court** |
| 1. | State of Bombay v. Bombay Educational Society ( AIR 1954 SC 561) | Minorities have right to impart instructions to the children of such community in their own language. | Hon’ble Supreme Court |
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| 2. | Kerala Education Bill case (AIR 1958 SC 956) | Minority for the purpose of Articles 29 and 30 of the constitution of India would be determined by reference to the entire population of the state. | Hon’ble Supreme Court |
| 3. | Sidhrajbhai v. State of Gujarat (AIR 1963 SC 540) | The Government order ‘that the grant in aid and recognition to the minority colleges will be withheld if 80% of the seats to the nominees of the government are not provided in their institutions’ is violative of Article 30(1) of the constitution. | Hon’ble Supreme Court |
| 4. | S.Azeez Basha v. Union of India (AIR 1968 SC 662) | The Minority Institution/ University established by central law/statute of the Parliament can not be considered as institute established by Minority community and therefore not entitled to claim benefits of Article 30. | Hon’ble Supreme Court |
| 5. | Bishop S.K. Patro v. State of Bihar (1969)1 SCC 863 | Minority claiming protection under Article 30(1) must be a minority of persons residing in India. | Hon’ble Supreme Court |
| 6. | D. A. V. College v. State Of Punjab (AIR 1971 SC 1731) | The right provided under Article 30(1) to establish and administer educational institution of its choice includes the right to have a choice of medium of instruction also. | SC |
| 7. | Ahmedabad St. Xavier’s College Society v. State of Gujarat, (AIR 1974 SC 1389) | The Constitution of Selection Committee for appointment of academic staff of a Minority college must remain in the hands of the administration of the minority educational institution. The University to which college is affiliated can only prescribe qualification for the academic staff | Hon’ble Supreme Court |
| 8. | Lily Kurian vs. st. Levoine (AIR 1979 SC 52) | The state may regulate the exercise of the right to administration of minority educational institutions but it has no power to impose restrictions which is destructive of the right. | Hon’ble Supreme Court |
| 9. | S. P. Mittal v. Union of India (AIR 1983 SC 1) | The benefit of Art. 30(1) can be claimed by the community only on providing that it is a religious of linguistic minority and that institution was established by it. | Hon’ble Supreme Court |
| 10. | Managing Board, M.T.M. v. State of Bihar (1984)4 SCC 500 | The state can lay down reasonable conditions for maintaining the standard of education before they could be considered for affiliation but refusal of affiliation on terms and conditions which practically denies the progress and autonomy of the institution is violative of Article 30. | Hon’ble Supreme Court |
| 11. | Frank Anthony Pubic School Employees’ Association v Union of India 1986 (Vo.IV)SCC 707 | Statutory measures regulating terms and conditions of service teachers and other employees of minority educational instructions for maintaining educational standards and excellence are not violative of Article 30(1). | Hon’ble Supreme Court |
| 12. | St. Stephen’s college vs. University of Delhi (AIR 1992 SC 1630) | Minority aided educational institutions may preserve 50 per cent seats for their community candidates and are entitled to give them preference in admission as it is necessary to maintain the minority character of institutions. | Hon’ble Supreme Court |
| 13. | Unni Krishnan vs. State of A.P. (1993) 1 SCC 645 | Minority Educational institutions may charge such fee which is required for the betterment and growth of the institution but they should not be an element of profiteering in fixing the fee | Hon’ble Supreme Court |
| 14. | State of Bihar v. Syed AsadRaza (AIR 1997 SC 2425) | State shall not in granting aid to educational institution, discriminate against any educational institution on the ground it is under the management of minority. | Hon’ble Supreme Court |
| 15. | Yunus Ali Sha v. Mohamed Abdul Kalam (1999) 3SCC 676 | Management and Administration of the school should be under the control of the managing committee of the minority institution and not State authorities. | Hon’ble Supreme Court |
| 16. | Manager, St. Thomas U.P. School ,Kerala v. Commr. and Secy. to G. Ed. Dept.,(AIR 2002(2)1226) | Even a single philanthropic individual from the concerned minority community can establish a minority institution with his own means | Hon’ble Supreme Court |
| 17. | T.M.A. Pai Foundation vs. State of Karnataka, (AIR 2003 SC 355) | An aided minority educational institution would be entitled to have the right of admission of students belonging to the minority group | Hon’ble Supreme Court |
| 18. | Islamic Academy of education vs. state of Karnataka (AIR 2003 SC 3724) | The Supreme Court has directed to constitute a separate committee in each state to be headed by a retired judge of the high court, to approve the fee structure of the minority institutions. | Hon’ble Supreme Court |
| 19. | Brahmo Samaj Education Society v. State of West Bengal 2004(6) SCC | Appointment of Staff is the exclusive right of minority educational institutions. | Hon’ble Supreme Court |
| 20. | P.A Inamdar and others vs. State of Maharashtra and others (AIR 2005 SC 3236) | State can’t impose its reservation policy on minority and non-minority unaided private colleges, including professional colleges. | Hon’ble Supreme Court |
| 21. | St. Stephen’s college vs. University of Delhi and others. (WP(C)5226/2008 Decided on 21-8-2008 by Delhi H.C. - Decision of H.C. Confirmed by S.C. on 13-10-2008 | The right of Minority educational institutions to appoint the head of the institutions can not be taken away by any rule or regulation or by any enactment made by the state even if the institution is receiving 100% aid. A law which interferes with the minority choice of Principal would be violative of Article 30(1). Minority institutions are entitled to appoint a person, who according to it, is the most suited for the head of the institution. | Hon’ble Delhi H.C. (Decision of H.C. Confirmed by Hon’ble Supreme Court on 13-10- 2008) |
| 22. | Cochin University of science and Technology and Another vs. Thomas p. Joan and others (2008)8SCC82 | Minority educational institution must be left to its own devices in the matter of fixation of fees. Profiteering or capitation fee is not permissible but some amount of surplus funds is permissible. If the institution follows broad principles, it is not required to explain minutely the details of its receipt and expenses. | Hon’ble Supreme Court |
| 23. | Modern Dental College and research centre and others vs. state of Madhya Pradesh and others (2009)7SCC751 | Private unaided minority institution have right to devise rational manner of selecting and admitting students. However certain degree of state control is required since State has duty to see that high standards of education are maintained in all professional institutions. | Hon’ble Supreme Court |
| 24. | Sindhi Education Society and another vs. Chief Secretary , Government of NCT of Delhi and others(2010) 8SCC49 | Reservation for SC/ ST in minority schools as a precondition for government aid is impermissible. Minority schools have a right to appoint persons compatible with their institution and culture so that their right to conserve their socio- economic cultural character is not violated. | Hon’ble Supreme Court |
| 25. | Kolawana Gram Vikas Kendra vs. State of Gujarat(2010)1 SCC 133 | Certain extent of government control is permissible in case of minority educational institution receiving 100% government grant. The government can verify whether there was vacancy as per work load and whether the candidate possessed minimum prescribed qualification. | Hon’ble Supreme Court |
| 26. | Mrs. Satimbla Sharma & Others vs. St. Paul’s Senior Secondary School and others AIR2011SC2926, (2011)13SCC760 | Teachers of private unaided minority schools had no right to claim salary equal to that of their counter parts working in Government schools and Government aided schools. Teachers of private unaided minority schools are paid out of fees and other resources of private schools. Moreover, unaided private minority schools over which Government has no administrative control because of their autonomy under Article 30(1) are not State within the meaning of Article 12 read with Article 36. Hence, right to equality under Article 14 could not be claimed against unaided private minority schools — Obligation to ensure equal pay for equal work in Article 39(d) is on State — Private unaided minority school is not under any duty to ensure equal pay for equal work. | Hon’ble Supreme Court |
| 27. | The Forum of Minority Institutions and Associations vs. The State of Tamil Nadu (2011)2MLJ641 | Minority Educational Institutions’ right to administer includes right to appoint teachers of their choice among NET/SLET qualified candidates. UGC regulation 2000 interfering with right of administration would not be applicable to minority institutions, being violative of Article 30(1) of the Constitution | Hon’ble HC of Chennai |
| 28. | P.A. Inamdar & Other vs. UGC & others (Date of Order 13/06/2012). | Clause 5.1.4 and 5.1.5 of UGC Regulation 2010 is not applicable to Minority Educational Institutions in the Appointment of Teaching Staff | NCMEI Case No. 331 of 2012 |
| 29. | Society for Un-aided Private Schools of Rajasthan vs. Union of India and another (2012) 6SCC 1 | Right of Children to Free and Compulsory Education Act, 2009 is not applicable to unaided minority schools. The said 2009 Act and in particular Sections 12(1)(c) and 18(3) infringes the fundamental freedom guaranteed to unaided minority schools under Article 30(1) and, consequently, the said 2009 Act shall not apply to such schools. | Hon’ble Supreme Court |
| 30. | Dayanand Anglo Vedic (DAV) College Trust and Management Society v. State of Maharashtra (AIR 2013,SC 1420) | Language is the basis for establishment of different states, a “linguistic minority “has to be determined in relation to the State in which the educational institution is sought to be established. The position with regard to the religious minorities is the similar as both are at par in Article 30. Article 30 cannot be interpreted in such a way as the persons who established the institution in the State for the benefit of the persons who are in minority, any person, be it non-minority in other place, can administer and run such institution. | Hon’ble Supreme Court |
| 31. | Pramati Educational and Cultural Trust v. Union of India (AIR 2014SC 2114) | The Right of Children to Free and Compulsory Education Act, 2009 is not ultra vires to Article 19(1)(g) but so far as it applies to minority schools aided or unaided, covered under clause(1) of Article 30 of the Constitution, is ultra-vires the Constitution. | Hon’ble Supreme Court |
| 32. | Chandanda Das v. State of W.B. (2015) 12 SCC 140 | Though grant in aid is not included in constitutional guarantee to linguistic and religious minorities to establish and run their educational institutions, but such right cannot be denied only because institutions are established by linguistic or religious minorities. Grant of aid cannot be made sub-servient to conditions which deprives institutions of their substantive right of administering such institutions. Minority institution is entitle to protection of Article 26 & 30, Right to appoint teachers of its choice who satisfy eligibility conditions is implicit in their Right to administer such institutions and such right cannot be diluted by state or its functionaries. | Hon’ble Supreme Court |
| 33. | Modern Dental College & Research Centre v. State of M.P. (2016) 4 SCC 346 | Private unaided minority & Non-Minority institutions have Right to Occupation under Article 19(1), said Right is not absolute and is subject to re4asonable restrictions thus in larger public interest of student community, to promote merit, to achieve excellence and curb malpractices, admission by holding of state-held common entrance test and fee structure can certainly be regulated by such institutions. | Hon’ble Supreme Court |

**Government strictly complies with the rules of CEI Act, 2006 which provides reservation for SC, ST & OBC students**

<https://pib.gov.in/Pressreleaseshare.aspx?PRID=1541364>

The Central Educational Institutions(CEIs) (Reservation in Admission) Act, 2006 provides for the reservation of students belonging to the Scheduled Castes (SCs)/ Scheduled Tribes (STs) and Other Backward Classes (OBCs) of citizens to the extent of 15%, 7.5% and 27%, respectively, in Central Educational Institutions (CEIs) established, maintained or aided by the Central Government subject to exceptions provided under Section 4 of the Act and subject to special provisions for regions specified in the amendment to the Act in 2012. The implementation of the provisions of the CEI Act, 2006 in Central Educational Institutions is being followed in letter and spirit.

As per All India Survey of Higher Education reports, enrolment of students in  Masters and M.Phil./Ph.D. programmes has been showing constant increase every year. The increase noticed after the implementation of UGC M.Phil/Ph.D regulations, 2016 was particularly high in comparison to previous years.

GOVERNMENT OF INDIA NATIONAL COMMISSION FOR MINORITY EDUCATIONAL INSTITUTIONS

Guidelines for determination of Minority Status, Recognition, Affiliation and related matters in respect of Minority Educational Institutions under the Constitution of India.

<http://ncmei.gov.in/WriteReadData/LINKS/e1bd5603d1-cd8b-4a4b-8969-f3597beb34fa99c0e645-cbca-4250-a6a8-f2df33e0cf21.pdf>

Govt can regulate appointment of teachers in aided minority  ..

<https://timesofindia.indiatimes.com/india/govt-can-regulate-appointment-of-teachers-in-aided-minority-institutions-not-violation-of-article-30-sc/articleshow/73125947.cms>

<http://nlapune.org/wp-content/uploads/2019/03/Booklet-on-Minority-Rights.pdf>

**Parliament enacted National Commission for Minority Educational Institutions Act, 2004** According to Section 2 (da) of the National Commission for Minority Educational Institutions Act, 2004, Educational rights of Minorities means the rights of minorities to establish and administer educational institutions of their choice. Under this Act, National Commission for Minority Educational Institutions constituted for matters connected therewith or incidental thereto. Now let us look into judicial approach on the educational rights of minorities institution with reference to Pramati Educational & Cultural vs Union of India &Ors on 6 May, 2014 Bench: R.M. Lodha, A.K. Patnaik, SudhansuJyotiMukhopadhaya, DipakMisra, Fakkir Mohamed Kalifulla When we look at the 2009 Act, we find that Section 12(1)(b) read with Section 2(n)(iii) provides that an aided school receiving aid and grants, whole or part, of its expenses from the 6 appropriate Government or the local authority has to provide free and compulsory education to such proportion of children admitted therein as its annual recurring aid or grants so received bears to its annual recurring expenses, subject to a minimum of twenty-five per cent. Thus, a minority aided school is put under a legal obligation to provide free and compulsory elementary education to children who need not be children of members of the minority community which has established the school. We also find that under Section 12(1)(c) read with Section 2(n)(iv), an unaided school has to admit into twenty-five per cent of the strength of class I children belonging to weaker sections and disadvantaged groups in the neighbourhood. Hence, unaided minority schools will have a legal obligation to admit children belonging to weaker sections and disadvantaged groups in the neighbourhood who need not be children of the members of the minority communitywhich has established the school. While discussing the validity of clause (5) of Article 15 of the Constitution, we have held that members of communities other than the minority community which has established the school cannot be forced upon a minority institution because that may destroy the minority character of the school. In our view, if the 2009 Act is made applicable to minority schools, aided or unaided, the right of the minorities under Article 30 (1) of the Constitution will be abrogated. Therefore, the 2009 Act insofar it is made applicable to minority schools referred in clause (1) of Article 30 of the Constitution is ultra vires the Constitution. We are thus of the view that the majority judgment of this Court in Society for Unaided private Schools of Rajasthan V. UOI &Anrs. (supra) insofar as it holds that the 2009 Act is applicable to aided minority schools is not correct.

**Kerala Education Bill Case (AIR 1958 SC 956)** In this case issue arose whether Minority for the purpose of Articles 29 and 30 of the constitution of India would be determined by reference to the entire population of the State? Bench: S Das, B S Kapur, Bhagwati, S Das, J Imam, V Aiyar The right to administer cannot obviously include the right to maladminister: Article 30(1) gives two rights to the minorities, (1) to establish and (2) to administer, educational institutions of their choice. The right to administer cannot obviously include the right to maladminister. 7 In the light of the above landmark case, let us examine a very important aspect of right to administer: The minority cannot surely ask for aid or recognition for an educational institution run by them in unhealthy surroundings, without any competent teachers, possessing any semblance of qualification, and which does not maintain even a fair standard of teaching or which teaches matters subversive of the welfare of the scholars. It stands to reason, then, that the constitutional right to administer an educational institution of their choice does not necessarily militate against the claim of the State to insist that in order to grant aid the State may prescribe reasonable regulations to ensure the excellence of the institutions to be aided. The State must not grant aid in such manner as will take away the fundamental right of the minority community under Article 30(1).

**T.M.A. Pai Foundation vs. State of Karnataka, (AIR 2003 SC 355)** Now let us verify that whether an aided minority educational institution would be entitled to have the right of admission of students belonging to the minority group? An aided minority educational institution would be entitled to have the right of admission of students belonging to the minority group. • The essence of secularism in India is the recognition and preservation of the different types of people, with diverse languages and different beliefs, and placing them together so as to form a whole and united India. Articles 29 and 30 do not more than seek to preserve the differences that exist, and at the same time, unite the people to form one strong nation.

<https://indiankanoon.org/doc/1892430/>

**Bombay High Court**

**Shri P.A. Inamdar And Ors. vs State Of Maharashtra And Ors. on 13 July, 2005**

**Equivalent citations: 2005 (5) BomCR 52, 2005 (3) MhLj 1067**

Author: D Chandrachud

**Bench: A Shah, D Chandrachud**

JUDGMENT D.Y. Chandrachud, J.

1. Rule, by consent returnable forthwith. Counsel appearing on behalf of the Respondents waives service. By consent of Counsel and at their request taken up for hearing and final disposal.

2. In this batch of petitions, a decision arrived at by the Pravesh Niyantran Samiti on 10th June 2005 of declining to enhance the management quota for admissions at professional institutions established and administered by minorities, from 50% to 100% of the total intake has been called into question. The Samiti was set up by the Government of Maharashtra in pursuance of the decision of the Supreme Court in [Islamic Academy of Education v. State of Karnataka](https://indiankanoon.org/doc/1978528/), (2003) 6 SCC 697. The three institutions in question in the three petitions before the Court, provide instruction in Architecture, Pharmacy and Management Sciences. None of the institutions is in receipt of grant-in-aid from the State Government or the Central Government. There is no dispute before the Court about the position that these three institutions have been established and are being administered by a religious minority consisting of persons who practice and profess Islam.