

EDUCATIONAL STATUS OF LINGUISTIC MINORITIES IN INDIA

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ABSTRACT

India is a country of numerous clans with numerous languages having total 22 official languages recognised by the Constitution of India, however, India has not declared any national language. For the purpose of official communication such as judicial proceedings, parliamentary proceedings etc., Hindi and English languages are primarily used. English, however, is not listed as official languages of the Constitution of India but it is recognised as an official language. The Supreme Court of India has defined the minority a community which is numerically less than fifty percent of the total population. As regard to the linguistic minority those Indians whose mother tongue is different from minority shall be deemed as linguistic minority in India. The researcher is aimed at finding the educational status of the linguistic minorities in India.

RESEARCH OBJECTIVE

The researcher is aimed at finding “despite many of the provisions and constitutional guarantee why the educational status linguistic minority could not improve.”

HYPOTHESIS

If the linguistic minorities are unaware of provisions available to them than how they can exercise their educational rights to the fullest.

INTRODUCTION

The word minority comes from minor which means anything less in number. India has witnessed long debate of defining minority and is still continuing with the debate. Many a times the legislation has interpreted the definition of minority and many times the Hon’ble Supreme Court of India and the High Courts have defined the term “who is minority?”. There were lot of discussions and debates has happened and various decisions has came by the courts on this issue, but despite being long debate and

discussion there has always been a controversy in the status of minority and which are still going on.

A class of people with distinct culture, distinct custom, distinct language, distinct script of its own may be termed as the minority. At the first instance the term minority may be defined as the section smaller in number in any particular area primarily based on language, religion, caste etc. the researcher is focussed on minority based on religion i.e. the linguistic minority. The linguistic minority cannot be taken into account with regard to nation but with regard to the particular area or to the state. While talking about the linguistic minority, it is the language spoken by the class of people other than the language spoken by the majority. The Hon'ble Supreme Court of India has defined who are minority as well the linguistic minority.

When it comes to the discussion of minority the two aspects are chiefly covered viz the protection and promotion of the minorities. The Constitution of India has provided the protection and promotion of minority groups which has been ratified by the Supreme Court as well as High Courts in various judgments. The constitution talks about the positive discrimination for the development of the minorities and the Hon'ble Supreme Court and High Courts have ratified the same on the other hand the legislation has formulated the reservation policies for the upliftment of the minorities groups, and the Supreme Court has assented in many cases with the policies of the legislature.

This is very much true that the education is a basic source of upliftment for the human being. This is one of the reason education is a fundamental right under article 21A of the constitution of India. And, this is also true that the education sector where India is still struggling hard and of course the condition of minority is pathetic. The need of hour is upliftment of the minorities so that the basic provision of the Constitution is not defeated.

DEFINITION OF MINORITY

In, **In re Kerala Education Bill**³⁸⁵ the Hon'ble Supreme Court of India defined the minority as under: "the term minority must imply to refer to a community as being numerically less than fifty percent of the total population."

The definition of linguistic minority according to the Hon'ble Supreme Court of India in **DAV College v. State of Punjab & Ors**³⁸⁶ is as under: A linguistic minority for the

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³⁸⁵ (1959) 1 SCR 995

purpose of Article 30(1) is one which must at least have a separate spoken language. It is not necessary that that language should also have a distinct script for those who speak it to be a linguistic minority. There are in this country some languages which have no script of their own, but nonetheless those sections of the people who speak that language will be a linguistic minority entitled to the protection of Article 30(1).”

In TMA Pai Foundation v. State of Karnataka³⁸⁷ case the Hon’ble Supreme Court of India laid down the definition of minority as under: “Linguistic and religious minorities are covered by the expression ‘minority’ under Article 30 of the Constitution. Since reorganization of the states in India has been on the linguistic lines, therefore, for the purpose of determining the minority, the unit will be the state and not the whole of India. Thus, religious and linguistic minorities, who have been put at par in Article 30, have to be considered State-wise.”

The National Commission for Minorities Act, 1992 under Section 2(c), defines minority as: “a community notified as such by the Central government”.

WHO ARE LINGUISTIC MINORITIES?

According to the report of National Commission for linguistic Minority: “Within a State, there may be minorities who speak a language or languages other than the language spoken by the majority in that State.”³⁸⁸

The Hon’ble Supreme Court in **D.A.V. College v. State of Punjab**’ (supra) defined the linguistic minority as under: "A linguistic minority for the purpose of Article 30(1) is one which must at least have a separate spoken language. It is not necessary that the language should also have distinct script for those who speak it to be a linguistic minority. There are in the country some languages, which have no script of their own, but nonetheless those sections of the people who speak that language will be a linguistic minority entitled to the protection of Article 30(1)".

The Supreme Court while interpreting the article 30 of the Constitution of India, reiterated and reaffirmed in plethora of judgements that the minorities may be considered on the basis of particular state as well as particular area. Linguistic minority, therefore,

³⁸⁶ 1971 SCR 688

³⁸⁷ AIR 2003 SC 355

³⁸⁸ Report of the National Commission for Religious and Linguistic Minorities, (2007) Chapter II, Page 10 <http://www.minorityaffairs.gov.in/reports/national-commission-religious-and-linguistic-minorities>

are class of people whose mother tongue is different from majority of a particular area or particular state. According to Justice Rangnath Misra, with regard to the linguistic minorities, there can be no majority at the national level and the minority status is to be essentially decided at the state or the union territory level. While interpreting the definition, if the country is to be taken as units, anyone who speak other than Hindi language may be treated as linguistic minority and when the state is taken as a unit the minorities are those who speak the language other than the language spoken by the majority of that state. For instance, in Punjab the majority of the people speak Punjabi language and if somebody is speaking Urdu, Kannad, Odia, Telugu or any other language shall be treated as linguistic minority.

The Supreme Court in **TMA Pai Foundation & Ors. v. State of Karnataka and Ors.** (supra) has held that for the purpose of Article 30 a minority, whether linguistic or religious, is determinable with reference to a State and not by taking into consideration the population of the country as a whole.

Article 350-A states that it shall be the endeavour of every State and of every local authority within the State to provide adequate facilities for instruction in the mother-tongue at the primary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.

In **General Secretary, Linguistic Minorities Protection Committee v. State of Karnataka**³⁸⁹, the High Court of Karnataka while answering the question, Whether making Kannada a compulsory language to the linguistic minorities students in addition with their mother tongue in the very beginning of their primary schools is Constitutionally valid or not, in reply the Honorable Court was of the opinion that: “the Government Order dated 20th July 1982 in so far it relates to the making of study of Kannada as a compulsory subject to children belonging to linguistic minority groups from the first year of the primary school and compelling the primary schools established by linguistic minorities to introduce it as a compulsory subject from the first year of the primary school and also in so far it compels the students joining high-schools to take Kannada as the sole first language and compelling the high schools established by linguistic minorities to introduce Kannada as the sole first language in the secondary

³⁸⁹AIR 1989 Kant 226

schools, is violative of Arts. 29(1) and 30(1) of the Constitution.” “the Government Order dated 20-7-1982 in so far it relates to the making of study of Kannada as a compulsory subject to children belonging to linguistic minority groups from the first year of the primary school and compelling the primary schools established by linguistic minorities to introduce it as a compulsory subject from the first year of the primary school and also in so far it compels the students joining high schools to take Kannada as the sole first language and compelling the high schools established by linguistic minorities to introduce Kannada as the sole first language in the secondary schools, is violative of the pledge of equality guaranteed under Art. 14 of the Constitution”

Article 347 provides for the use of majority language in the administration. If a demand is made in this behalf and the president is satisfied that a substantial proportion of the population of a state desire the use any language spoken by them to be recognized by the state, the president may direct that such language shall also be officially recognized throughout the state or any part of the state for such purposes as he may specify.

Article 350 gives right to every person to submit a representation for the redress of any grievance to any officer or authority of the union or a state in any of the language used in the union or a state, as the case may be.

Article 350-B empowers the president to appoint a special officer for linguistic minorities. It is the duty of the special officer to investigate all matters relating to the safeguards provided for linguistic minorities under this constitution and report to the president upon those matters at such intervals as the president may direct. The president shall cause reports to be laid before each house of parliament and send to the government of the state concerned.

NATIONAL COMMISSION FOR RELIGIOUS & LINGUISTIC MINORITIES

The National Commission for Religious and Linguistic Minorities, also known as Ranganath Misra Commission, was constituted on 29th day of October 2004 by the Government of India to look after issues related to Linguistic and Religious minorities in India. The commission was chaired by former Chief Justice of India Mr. Justice Ranganath Misra. The commission submitted its report on 21 May 2007 to the Government of India.

Justice Rangnath Misra in his report analysed as following³⁹⁰:

(para 29): Part XVII of the Constitution is devoted to 'official language'. Chapter I of Part XVII, comprising articles 343 and 344 deal with the official language of the Union. Chapter II thereof deals with regional languages. Article 345 of the Constitution provides that subject to the provisions of articles 346 and 347 the Legislature of a State may by law adopt any one or more of the languages in the State or Hindi as language or languages to be used for all or any of official purposes. Article 347 provides that on a demand being made in that behalf, the President may, if he is satisfied that a substantial proportion of the population of a State desire the use of any language spoken by them to be recognised by that State, direct that such language shall also be officially recognised throughout that State or any part thereof for such purpose as he may specify. Article 347 can, thus, be treated as a specific measure directed towards linguistic minorities inhabiting a State facilitating preservation, and even propagation, of such a language. Read in conjunction with article 347, article 350 also affords protection to the language spoken by linguistic minorities. It provides that every person shall be entitled to submit a representation for the redress of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be.

(para 30): Article 350-A, thus, is an amplification of the cultural and educational rights guaranteed under article 29(1) and article 30(1). Under article 29(1), a linguistic minority has the fundamental right to conserve its own language.

(Para 31): Article 350-B provides for appointment of a Special Officer for linguistic minorities by the President. It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for linguistic minorities under the Constitution and report to the President upon those matters at such intervals as the President may direct. All such reports are required to be laid before each house of Parliament, and also sent to the Governments of States concerned.

The Supreme Court of India in "**State of Bombay v. Bombay Education Society and Others**" quashed the order of state government pertaining to the direction only Anglo-Indian Students and other students outside of Asia only can get admissions in English medium schools. The Hon'ble Supreme Court also ruled that being a linguistic minority

³⁹⁰ Report of the National Commission for Religious and Linguistic Minorities, (2007) Chapter II, Page 10 <http://www.minorityaffairs.gov.in/reports/national-commission-religious-and-linguistic-minorities>

the Anglo Indians have right to establish and administer educational institutions of their choice under Article 30 (1). It opened up the scope of choosing the students to take admission of their choice and determine the medium of their instructions.

EDUCATIONAL RIGHTS OF THE LINGUISTIC MINORITIES

The constitution of India under article 29 and article 30 especially talks about the minority. These articles talk about the protection and promotion of the rights of the minorities. Article 29 talks about the admission of minorities students in any institution of their choice, however, the Article 30 talks about the establishment of the minority institutions. While discussing these Articles the Constitution also imposes the duty upon state to confirm the rights guaranteed by the Constitution is not violated. It is the constitutional duty of the state that the state shall endeavour makes the policies for the upliftment of the minority groups.

Article 29(1) reads as under:

Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same

Article 29(2) reads as under:

No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, **language** or any of them.

Article 30(1) reads as under:

All minorities, whether based on religion or **language**, shall have the right to establish and administer educational institutions of their choice

Article 30(1A) reads as under:

In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a **minority, referred to in clause (1)**, the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

Article 30(2) reads as under:

The state shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or **language**.

The minority Institutions are those which are established and administered by the religious and linguistic minorities, their establishment and administration is ratified under the article 30 of the Constitution of India.

The National Commission for Minority Educational Institutions Act, 2004

Section 10 (1) provides that any person who wants to establish a minority institution can do so as according to the procedure established.

Basic features of the minority institutions:

- The minority institutions are established in accordance with the provisions of the Constitution of India.
- It is the fundamental right of the minority groups to establish and administer the institution of their choice
- It is the right of the minority institutions to reserve some percentage of seats in the institutions for the minority groups.
- The minority institutions have right to hire any employee.
- The minority institutions since established as a matter of fundamental rights guaranteed under Article 30 of the Constitution of India, can approach directly to the Supreme Court of India in case the government is hampering its status declared under Article 30.

The Hon'ble Supreme Court in its judgment of **St. Stephens College v. University of Delhi**, while dealing with the rights of minorities in establishing and administering the educational institutions, held as under: The minorities whether based on religion or language have the right to establish and administer educational institutions of their choice. The administration of educational institutions of their choice under Article 30(1) means management of the affairs' of the institution. This management must be free from control so that the founder or their nominees can mould the institution they think fit, and in accordance with their ideas of how the interests of the community in general and the institution in particular will be best served. But the standards of education are not a part

of the management as such. The state therefore has the right to regulate the standard of education and allied matters"

The Eleven Judges Bench of the Supreme Court in **T.M.A. Pai Foundation vs. State of Karnataka**³⁹¹ that a minority, whether linguistic or religious, is determinable only by reference to demography of the State and not by taking into consideration the population of the country as a whole. The application of numerical test with reference to religion in states like Punjab, Jammu & Kashmir and Nagaland makes Sikhism, Islam and Christianity, the majority religions in those states respectively.

The Hon'ble Supreme Court of India while deciding the case of **D.A.V. College vs. State of Punjab**³⁹² "The purpose and object of these linguistic states is to provide with greater facility the development of the people of that area educationally, socially and culturally, in the language of that region but while the State or the University has every right to provide for the education of the majority in the regional medium, it is subject to the restrictions contained in Article 25 to 30. Neither the University nor the State can provide for imparting education in a medium of instruction in a language and script which stifles the language and script of any Section of the citizens. Such a course will trespass on the rights of those Sections of the citizens which have a distinct language or script and which they have a right to conserve through educational institutions of their own."

Whether Minority Institutions are primarily meant for the Minority groups only?

The Supreme Court has observed in **In re Kerala education bill** (supra)" the real import of the Article 29(2) and 30(1) seems to be that they clearly contemplate a minority institution with the sprinkling of outsiders admitted into it."

The idea has been reinforced in the St. Stephens college case (supra), Article 30(1) does not mean that the minority can establish an educational institution solely for the benefit of its own community people. The minority are not entitled to establish such institution for their exclusive benefit. The Court reiterated every education institution irrespective of community to which it belongs is a melting pot in our national life and that it is essential that there should be a proper mix of the students of different communities in all

³⁹¹ (2002) 8 SCC 481

³⁹² AIR 1971 SC 1731

education institutions. This means that a minority institution cannot refuse admission students of other minority and majority communities.

From the above findings of the Hon'ble Courts it is crystal clear that the minority institutions are not exclusively for the minority groups only and the students from all the community in any institution shall lead the institution to the highest because of the merger of ideas.

SUGGESTIONS

- There must be some effective mechanism framed to harmonize the nation having sufficient checks and balances to protect the interest of minorities.
- There must be proper safeguard for protection and promotion of educational rights of the minorities.
- There must be confirmation of the Supreme Court while recommending any policy for the benefits to the minorities guaranteed under Articles 29 and 30 of the Indian Constitution.
- The minority Institutions shall be given exclusive rights in order to formulate the policies in establishing and administering the institutions Such as appointment of the Managing committee, the appointment of teachers, admission of students, Medium of instruction etc.
- It must be ensured that the rights of the minorities are not violated and misused. As it is fact that many institutions have opened in the name of minority and they are claiming the minority status irrespective of the fact that they are not representing the minority.
- The state shall formulate policy to decide who may be treated as minority and who shall be given the advantage of being minority.
- There must be awareness program in the remote areas so that the underprivileged people may also avail the facilities.
- It is the moral duty of all those who are directly or indirectly associated with the academics, they must raise their voices against the discrimination and also work for the betterment of the minorities.
- The government as well the majority must make aware the minority that there have been many resources available to them to get education.

- It is the authority and the society who shall make aware that education is a fundamental right available to the entire citizen, and encourage them to avail this right.

HYPOTHESIS TESTING

The researcher has come to the result that the hypothesis is partially proved.

- The lack of awareness about their rights is definitely a problem amongst linguistic minorities to attain the good education.
(However, Lack of awareness is not the only problem)
- The authorities and society consisting of majority are also equally responsible for not educating the rights and the facilities available to the minorities.

CONCLUSION

The development of nation is in the development of the individual for instance if a building is constructed having 20 pillars in it, let us assume a situation wherein the strength of 2 pillars are not sufficient enough to burden the weight of building, in this circumstance there is higher probability that the entire building will collapse, similarly the minorities are also amongst the various pillars of nation and therefore, if not strengthen, it may lead to the collapse of the entire nation.

The constitution has guaranteed the protection and promotion of the minorities which has been ratified by the Indian courts, the legislature has also worked hard to promote and uplift the status of minorities, but still the minorities are in pathetic conditions just because the schemes provided to them have either not reached or the minority groups are unaware of the schemes available to them.

The idea of providing special rights to the minorities is not to remove the inequality but to create the quality by ensuring the protection of their rights in every sphere.

Justice K. K. Mathew while delivering the judgment in **St. Xavier College Ahmedabad v the State of Gujarat**³⁹³, held that “Protection of minorities is the protection of non-dominant groups, which, while wishing in general for equality of treatment with the majority, wish for a measure of differential treatment in order to preserve basic characteristic which they possess and which distinguish them from the majority of the population”.

³⁹³ 1975 SCR (1) 173