



THE BHAWANIPUR EDUCATION SOCIETY COLLEGE

5, Lala Lajpat Rai Sarani, Kolkata - 700 020
Phone : 4019-5555 • Fax : 91 33 2281 4275
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Reservation Policy

Programmes- B.A., B.Sc., B. Com (Hons & Gen), BBA, M. Com & M.A.(English)

Session	Reservation Policy
2022-23	Gujarati- 50%, Non-Gujarati- 50%

Category wise number of reserved seats

Session	Number of seats earmarked for reserved category as per GOI/State Govt rule year wise during last five years		Number of Gujarati students admitted during last five years
	Gujarati	Non-Gujarati	
2022-23	2236	2236	171

Dr. Subhabrata Ganguly
Teacher in Charge
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TO WHOM IT MAY CONCERN

The Bhawanipur Education Society College (BESC) was founded in 1996 through the Bhawanipur Gujarati Education Society. Affiliated to the University of Calcutta, BESC was created under Article 30 (1) of the Indian Constitution, which guarantees linguistic minorities, such as Gujarati-speaking community in Kolkata. The college maintains its own reservation policy and it is not compulsory to follow reservation policy of the State Government.

The college generally de-reserves the seats for Gujarati candidates if the required number of applicants are not accomplished.

Dr. Subhabrata Ganguly
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SUPREME COURT OF INDIA ON MINORITY EDUCATION INSTITUTIONS REGARDING STUDENTS' ADMISSION AND MEDIUM OF INSTRUCTION

 [Guest Author](#)  [Excerpts From Experts](#)  July 17, 2021 |  0

Students Admissions

St. Stephen's college v. University of Delhi^[1] came up before the Supreme Court in the year 1992 for judgement wherein it was held that 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.

In *Satimbla Sharma v. St. Pauls Senior Secondary School*^[2] the Supreme Court held that unaided private minority school over which the government has no administrative control because of their autonomy under Article 30(1) of the Constitution are not "State" within the meaning of Article 12 of the Constitution. Hence, they are not subject to public law obligation of State under Article 14 and Article 39(d).

Common Admission Tests

The Supreme Court in *Modern Dental College and Research Centre v. State of Madhya Pradesh*^[3] again held that private unaided minority institutions have right to devise a rational manner of selecting and admitting students. However, certain degree of state control is required since State has the duty to ensure that high standards of education are maintained in all professional institutions.

In the famous case of *T.M.A. Pai Foundation v. State of Karnataka*^[4] the Supreme Court held that an aided minority educational institution would be entitled to have the right of admission of students belonging to the minority group. The reservation policy of the government cannot be imposed on aided or unaided minority educational institutions and also to the unaided non-minority educational institutions.

A Seven Judge Bench of the Supreme Court in the case of *P.A. Inamdar v. State of Maharashtra*^[5] discussed the entire gamut of Law in relation to minority educational institution and noticed that the right conferred by Article 30 was more in the nature of protection for minorities. It protects minority institution from regulatory legislations framed under Article 19 (6), but still they were not immune from regulatory control. The Supreme Court was basically concerned with admission of the students to different institutions wherein it observed that even within the scope of Article 30(1) there was a need for imposing reasonable restrictions even on the minority institution, and such direction would not vitiate and hurt the minority status.

The Supreme Court of India in the case of *Christian Medical College Vellore Association v. Union of India*^[6] observed that Article 30 is in consonance with other parts of the Constitution and the regulatory measures of the government agencies do not impinge the rights of the educational institutions including the institutions managed by the minority communities. Conduct of Common Admission Tests for admission to various academic programmes does not violate the rights of educational institutions including the minority educational institutions. The Supreme Court observed thus:

"The rights of religious minorities under Article 30 of the Constitution also has been clarified to be not in conflict with other parts of the Constitution as balancing the rights is constitutional intendment in the national interest.

The regulatory measures under the Act and the Regulation cannot be said to be averse to the interest of such institutions, and such reasonable measures can be carved out. Additionally, these regulatory measures do not impinge upon the rights of institutions guaranteed under Articles 14, 19(1)(g), 25 and 30 of the Constitution.

In July 2013 the case of *State of Karnataka v. Associated Management of English Medium Primary & Secondary Schools*,^[12] was referred to a larger bench of the Supreme Court. A five judge bench of the Supreme Court on 6th May 2014 held that the State Government cannot force the linguistic minorities to choose their mother tongue only as the medium of instruction. The Court made the following observation:

“We have already held that a linguistic minority under Article 30(1) of the Constitution has the right to choose the medium of instruction in which education will be imparted in the primary stages of the school which it has established. Article 350A therefore cannot be interpreted to empower the State to compel a linguistic minority to choose its mother tongue only as a medium of instruction in a primary school established by it in violation of this fundamental right under Article 30(1). We accordingly hold that State has no power under Article 350A of the Constitution to compel the linguistic minorities to choose their mother tongue only as a medium of instruction in primary schools.

In view of our answers to the questions referred to us, we dismiss Civil Appeal Nos.5166-5190 of 2013, 5191-5199 of 2013, the Civil Appeal arising out of S.L.P. (C) No.32858 of 2013 and Writ Petition (C) No.290 of 2009.”

RTE Act 2009 Not Applicable to Institutions of Minorities

The Supreme Court in *Society for Un-Aided Private Schools of Rajasthan v. Union of India*^[13] held that the Right of Children to Free and Compulsory Education Act, 2009 is not applicable to unaided minority schools. The Right of Children to Free and Compulsory Education Act, 2009 particularly Sections 12(1)(c) and 18(3) infringe the fundamental freedom guaranteed to unaided minority schools under Article 30(1).

A five judges bench of the Supreme Court in *Pramati Educational and Cultural Trust v. Union of India*^[14], considered the issue of whether the Right of Children to Free and Compulsory Education Act, 2009 is not applicable to institutions established and managed by the minority communities and held that:

*“We accordingly hold that none of the rights under Articles 14, 19(1)(g) and 21 of the Constitution have been abrogated by clause (5) of Article 15 of the Constitution and the view taken by Bhandari, J. in *Ashoka Kumar Thakur v. Union of India* (supra) that the imposition of reservation on unaided institutions by the Ninety-third Amendment has abrogated Article 19(1)(g), a basic feature of the Constitution is not correct. Instead, we hold that the (Ninety-third Amendment) Act, 2005 of the Constitution inserting clause (5) of Article 15 of the Constitution is valid.” (Para 29)*

In the result, we hold that the Constitution (Ninety-third Amendment) Act, 2005 inserting clause (5) of Article 15 of the Constitution and the Constitution (Eighty-Sixth Amendment) Act, 2002 inserting Article 21A of the Constitution do not alter the basic structure or framework of the Constitution and are constitutionally valid. We also hold that the 2009 Act is not ultra vires Article 19(1)(g) of the Constitution. We, however, hold that the 2009 Act insofar as it applies to minority schools, aided or unaided, covered under clause (1) of Article 30 of the Constitution is ultra vires the Constitution. Accordingly, Writ Petition (C) No.1081 of 2013 filed on behalf of Muslim Minority Schools Managers' Association is allowed and Writ Petition (C) Nos.416 of 2012, 152 of 2013, 60 of 2014, 95 of 2014, 106 of 2014, 128 of 2014, 144 of 2014, 145 of 2014, 160 of 2014 and 136 of 2014 filed on behalf of non-minority private unaided educational institutions are dismissed.”

Conclusion

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Civil Revisional Jurisdiction

BHAWANIPUR GUJRATI EDUCATION SOCIETY & ORS. Petitioners
v.
UNIVERSITY OF CALCUTTA & ORS. Respondents

Present : A. K. Sengupta, J.

17th June 1988

C. R. No. 6046 (W) of 1979

Constitution of India, Articles 29, 30(1) - Bhawanipore Education Society College, if a linguistic minority institution - Calcutta University (Temporary Supersession) Act, 1978, Calcutta University Act, 1979 and Statutes 93 and 100 framed thereunder if applicable to such Institution - Extent of the University's power to interfere with management and administration on the basis of the Act and statutes.

The petitioner Education Society was Registered under the Societies Registration Act on the basis of Memorandum and Articles of Association providing for management and administration. Both Memorandum and Articles signed by members of Gujarati community and - provides inter alia as follows :

"It membership of the said Society is confined to a person who has attained the age of 21 years and whose mother tongue is Gujarati or who can read, write or speak Gujarati will be eligible.

The management and control of the affairs of the Society shall vest with Central Committee. The day-to-day affairs of the institutions shall be managed by the respective Governing Bodies, the Managing Committee or any other Committee, as the case may be, shall work under control and supervision of the Central Committee."

It is the case of the petitioners that the said Society being established and managed by the members of linguistic minority, to wit, the Gujarati Community, in the State of West

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an impairment of the right to administer, the article comes into play and the interference cannot be justified by pleading the interest of the general public. The interests justifying interference can only be the interests of the minority concerned."

44. Reference has also been made to the case of Iyer Memorial Educational Society & Ors. v. The State of West Bengal & Ors., reported in (1980) 2 Calcutta High Court Notes 254. There it has been observed as follows :

" The law on the subject is therefore absolute clear. Under the article 30(1) of the Constitution of India the religious and linguistic minorities have a right not only to establish but to administer their educational institutions. That right may be subject to certain regulatory measures in the interest of public health, sanitation, maintenance of academic standard and so on. But those regulations must not amount to restriction. If it does, it will be violative of Article 30 of the Constitution of India."

45. In the light of the principles laid down in the aforesaid decisions the validity of the notifications dated 27th April, 1979 and 13th April, 1983 has to be decided. I have already set out the notifications. The notification dated 27th April, 1979 however has been superseded by the notification dated 13th April, 1983. In my view the purported notifications are beyond the powers of the University. By the said notifications rights of the linguistic minority institution guaranteed by Art. 30(1) of the Constitution have been taken away. In other words, the said notifications are inconsistent with Art. 30(1). If the said notifications containing provisions regarding the linguistic minority institutions are given effect to, the same would offend Article 29 and 30 of the Constitution. It cannot be disputed on the facts of this case that Bhowanipore Education Society College being a linguistic minority institution is protected by Art. 30(1) of the Constitution and as such no direction can be given to the College authorities to form Governing Body which is contrary to the Memorandum, Rules and Regulations of the Society.

In the view I have taken it is not necessary to decide whether the notifications dated 27th April 1979 or the notification dated 13th April 1983 is ultra vires for alleged non compliance with mandatory requirements and conditions of Section 51.

For reasons aforesaid this application succeeds.

The University Authorities are restrained from giving any effect to or in acting in furtherance of or in pursuance of the

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~~564 Sumitran Bhattacharya v. Hira Chatterjee 94 CWN~~

impugned Notices bearing No. C/3298/64 G.B. dated April 27, 1979 and C/174/G.B. dated 13/4/83 so far as the Bhawanipur Gujrati Education Society is concerned. In other words, these two notifications will not apply to the said College and those cannot be made applicable to the said College.

The Rule is, therefore, made absolute to the extent indicated above.

There will be no order as to costs.

A. K. K.

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