

News

Opposed to equitable society: the Supreme Court challenges its 2014 decision to exempt minority schools from the RTE Act



According to the Court, the risk of such a broad exemption is that Article 30(1) could be used as a means of circumventing important and child-centered regulatory requirements.

In **Anjuman Ishaat-e-Taleem** Trust v. The State of Maharashtra & Ors, the Supreme Court ruled on Monday that the exemption given to minority schools from the Right to Education (RTE) Act was causing an increase in institutions requesting minority status in order to get around the law.

In **Pramati Educational and Cultural Trust v. Union of India**, the Constitution Bench's ruling that the RTE Act did not apply to minority schools was questioned by the bench of Justices Dipankar Datta and Manmohan.

According to the Court, the ruling in **Pramati Educational and Cultural Trust** may have unintentionally threatened the fundamental basis of universal basic education and contributed to the widening of social divisions.

"The idea of inclusivity and universality envisioned by Article 21A is weakened and the common schooling vision is fragmented when minority institutions are exempt from the RTE Act. We fear that it "divides" and "dilutes" the transformative potential of common learning spaces rather than bringing children from different castes, classes, creeds, and communities together. Such exemptions lead us in the wrong direction if the objective is to create a society that is cohesive and equal. It noted that what started out as an effort to safeguard religious and cultural freedoms has unintentionally opened a regulatory gap, which has caused a rise in organizations vying for minority status in an effort to go around the RTE Act's mandate.

The issue before the Court was whether the RTE Act required all schools, including minority schools, to take the Teachers Eligibility Test (TET).

The Court referred the case for a determination by a larger bench because it had concerns about the Constitution Bench's ruling. Nonetheless, it decided that in-service teachers would have to pass the TET in order to stay employed at non-minority schools.

The Court stated that the decision in **Pramati Educational and Cultural Trust** "strikes at the heart" of high-quality universal basic education with relation to minority schools, and that its ramifications are extensive.

According to the Court, the goal of Article 30(1) of the Constitution, which grants minorities the freedom to create and run the educational institutions of their choosing, is to preserve minority communities' linguistic and cultural identities via education, not to establish alternative systems that are exempt from generally accepted standards.

"A school's minority identity is unaffected by fundamental standards pertaining to infrastructure, teacher credentials, and equitable access, particularly at the primary level under Article 21A. Conversely, these standards make sure that the authority to administer does not turn into a permit to exclude or act in an unaccountable manner.

According to the Court, "interpreting Article 30(1) as a broad shield undermines the constitutional vision of inclusive, equitable education for all and erodes the balance between autonomy and public interest."

It further stated that in order to guarantee that the constitutional promise envisioned by Article 21A is not rendered meaningless, the RTE Act establishes the bare minimum basic requirements and standards that all schools must adhere to, without placing an undue or burdensome regulatory burden on them.

According to the Court, requirements like qualified teachers, sufficient facilities, and a ban on physical punishment are necessary for education and not ideological mandates.

The Court added that while minority institutions' autonomy must be preserved, appropriate control is nonetheless permissible in order to uphold academic standards and accomplish constitutional objectives.

"Minority institutions do not function in a vacuum, even while they maintain their autonomy in areas crucial to their cultural and linguistic identity. They participate in the larger constitutional endeavor of creating an inclusive and educated society once they reach the world of formal education and gain acknowledgment, affiliation, or assistance from the State. Therefore, it would be unconstitutional to claim that frameworks like the RTE Act, which the State uses to fulfill its duties, have no impact on such institutions. It further said that reasonable involvement in this goal does not and cannot weaken its institutional nature.

The Court further stated that the Constitution Bench's judgment appears to be predicated only on the RTE Act's provision reserving 25% of seats at the entrance stage for students from underprivileged and weaker classes.

Based on this, it was determined that minorities' rights under Article 30(1) of the Constitution would be nullified if the RTE Act were applied to minority schools, whether they were aided or not. The one aspect that eludes us is the complete lack of discussion or analysis of any provision of the RTE Act vis-à-vis Article 30(1) of the Constitution other than Section 12 in *Pramati Educational and Cultural Trust* (above), which is conspicuously silent on any examination or assessment of the other provisions of the RTE Act, such as those relating to teacher qualifications, infrastructure norms, or child safety measures, and how, if at all, they conflict with Article 30(1)," the statement continued.

According to the Court, Section 12(1)(c) does not require that a quarter of the children admitted under the quota be members of a distinct linguistic or religious group. It further stated that admitting children from the minority population itself would satisfy the need.

"Does the issue of **annihilation**" actually come up at all if the 25% quota is used to admit children from the minority group itself, even if they are socially or economically disadvantaged? This distinction is overlooked by the exception given in Pramati Educational and Cultural Trust (above) on the grounds of demographic dilution, and it is our modest opinion that it should be reconsidered," the statement stated.

The Court further stated that it has become simpler for schools to claim minority status without upholding its spirit due to the lack of explicit criteria on the minimum enrollment of minority students.

The decision noted that many of these schools are nonetheless exempt from the larger constitutional objectives of equality and inclusion because they are not required to admit underprivileged pupils.

The Court added that although the RTE Act guarantees children a number of rights, minority schools are not required to offer these amenities.

While some minority schools may meet the RTE Act's requirements for certain facilities, others may not, depriving their children of these advantages. Such benefits are affirmations of equality, acknowledgment, and belonging for a large number of these students, the statement continued.

Additionally, it stated that the RTE Act guarantees that all children get high-quality education grounded on constitutional principles by ensuring shared curriculum standards through registered academic authorities.

However, the Court noted that minority institutions lack such standardized policies, "leaving children and their parents uncertain" about what and how they are taught, and are frequently disengaged from the national framework of universal learning.

We regret to note that minority identity appears to have turned into a means of evading the RTE Act's requirements in the wake of Pramati Educational and Cultural Trust (above). We humbly believe it has created a situation in which certain institutions have attempted to obtain minority status in order to gain autonomy. Additionally, it has created the possibility of abuse.

Even aided minority institutions are exempt from the RTE Act's structure, which has further fueled the growth of minority-tagged schools—not always for the sake of preserving language, script, or culture, but rather to get around legal requirements. The Court believed that this had perverted the meaning of Article 30(1), which was never meant to establish enclaves of privilege at the expense of national developmental objectives.

Consequently, it formulated the following queries for a broader bench to review:

- a. Does the ruling in **Pramati** Educational and Cultural Trust (above), which exempts minority educational institutions—aided or unaided—from the full scope of the RTE Act under clause (1) of Article 30 of the Constitution, need to be reconsidered for the reasons we have given?
- b. Does the RTE Act violate the constitutionally protected rights of linguistic or religious minorities as stated in Article 30(1)? And if Section 12(1)(c) of the RTE Act has the vice of infringing upon the rights of minorities guaranteed by Article 30 of the Constitution, should it have been interpreted to include children of the specific minority community who also belong to the weaker section and disadvantaged group in the neighborhood in order to prevent it from being deemed to be beyond the bounds of such rights?
- c. In light of the ruling in *Pramati Educational and Cultural Trust* (above) that the RTE Act would not apply to educational institutions serving assisted minorities, what is the impact of disregarding Article 29(2) of the Constitution?
- d. Should the entire RTE Act have been deemed ultra vires minority rights protected by Article 30 of the Constitution, given that *Pramati Educational and Cultural Trust* (above) made no mention of the unconstitutionality of the other provisions of the Act, with the exception of Section 12(1)(c)?