**ABSTRACT**

Constitution of India swears in the majesty of Rule of Law in order to establish the principle of equality before law and equal protection before law in the governance of the country. In laying down the basic and fundamental law in the country, the Constitution guarantees justice-social, economic and political to all its citizens irrespective of religion, race, language, caste etc. Every person or persons, as an individual or a group shall be protected in enjoying the respective rights guaranteed under the Constitution.

Indian society is composed of various linguistic, religious and cultural and economic groups. But Constitution is based on the faith that these diversities will not in any way imperil the unity of the country. The Indian society lacks homogeneity in so far as there exists these religious, cultural, linguistic groups. Keeping in view the existence of groups found by ties of race, religion, language and script, the architects of our Constitution
providing for a plurality of groups co-existing with each other on the basis of mutual respect and confidence, introduced certain provisions in the Constitution to protect the interest of those individual groups, based on religion, culture and language.

In protection of interest of certain groups taking into consideration the peculiarity of their individual heritage and culture, one main problem that is to be faced in the protection of Cultural and Educational rights of the independent groups which are generally termed as 'minorities'. The problem of minorities is hang-over from the long past in India remaining as complicated as ever. These 'minority' groups whether based on religion, language or culture intend to preserve and conserve their own language, script or culture through the educational institution of their own for their distinct identity.

The framers of our Constitution in their wisdom, keeping in mind the principle that in a democratic set up the minority should, in no case, be suppressed or persecuted but be allowed
to develop their peculiar characteristic features with full
freedom, provided some special safeguards along with other
guaranteed rights to the minorities for the protection of their
cultural and educational rights in the Constitution. Having
regard to such circumstances, it is felt that there is scope for
detailed study on the subject which needs restatement and fresh
evolution. The scope of this present work has been extended to
the assessment and critical analysis along with objective
examination of the relevant constitutional provisions enshrined
for the protection of the cultural and educational rights of the
minorities. An endeavour has been made in this study to
discuss the intention of the framers of the Constitution, the aim
of the Constitution and the critical but objective evaluation of
governmental policies and the role of judiciary in nourishing and
shaping such guaranteed protection to the minorities.

In this thesis analytical study has been carried out in one
of the most cherished objects of the Constitution provided under
Articles 29 and 30 that confer certain cultural and educational rights especially to the minorities.

The provisions incorporated under Articles 29 and 30 of the Constitution enshrine the right to set up and maintain cultural and educational institutions by the minorities whether based on religion or language so as to enable them all to conserve their respective languages and cultures.

There can be no manner of doubt that we, the people of India, have given unto ourselves the Constitution which is not for any particular community or section but for all as it is structured under democratic pattern. Primarily it intends to give a safeguard to the interest of individual or group having their distinct culture and heritage in his or its socio-economic status.

In the Constitution, the word ‘minority’ only occurs under Articles 29 and 30 but the Constitution nowhere defines the word ‘minority’ nor does it lay down sufficient indication to the test for determination of a group to be termed as ‘minority’.
An attempt has been in this thesis to present and perceive the exhaustive meaning of the word 'minority'. The study herein would go to show that although no definition comes out to be comprehensive enough to cover all the varied situations illustrating the difficulty experienced in assigning the limit to the concept of 'minority', for the purpose of Articles 29 and 30, it is intended to focus that the concept of 'minority' will be non-dominant collectivity distinguishable from the majority of population by objective factors or religion or language or combination of both.

This thesis registers a detail analysis of the safeguard guaranteed to the minorities by the Constitution under Articles 29 and 30 and study of the related constitutional provisions of the other countries.

The vital issue as regards rights and protection pertaining to culture and education of the minorities has come up before the Apex Court since the inception of the Constitution. All those
landmark and leading cases of the Supreme Court unfurling the judicial brainstorming debates on the topic guaranteed under Articles 29 and 30 have got in-depth scrutiny in this thesis.

The present investigation has been divided into 5 Chapters, namely, a) Introduction, b) Determination of Minority Status – A Practical Issue, c) Constitutional Safeguards, d) The Judicial Approach and e) Findings, Recommendations and Conclusion.

The Chapter under ‘Introduction’ is an introductory part of the thesis. It precisely prescribes the mandate of the Constitution providing the protection to the minorities as regards their right to set up and maintain cultural and educational institutions by them and to conserve their respective language, culture and script. It also examines and explains the term ‘minority’. The study has also focused on the three categories of minorities i.e. (i) linguistic, (ii) religious and (iii) cultural.
'Determination of Minority Status – A Practical Issue'

Chapter deals with a workable solution as regards the determination of minority status. The basic thrust has been placed on the point that the interest of minorities must be protected against majoritarian interference in this cultural and linguistic development.

Under the third Chapter 'Constitutional Safeguards', in-depth study has been made to discuss the historical development emerging from the debate in Constitutional Assembly which was confronted with minority problem as one of the prominent issues till the incorporation of Articles 29 and 30 in the body of the Constitution. The constitutional provisions of other countries have been discussed in details in this Chapter.

The Chapter under the heading of 'Judicial Approach' registers an attempt to have a threadbare analysis of the judicial activism in developing the law on the topic of Cultural and Educational rights of the minorities as guaranteed under the
Constitution. It is emphasized herein that the judiciary from the very inception of the Constitution has played a vital role in protecting the cultural and educational rights of the minorities. It is discussed how the judiciary has extended and expanded the area and scope of Articles 29 and 30 by a catena of celebrated judicial decisions.

In ‘Chapter-V’, being the concluding chapter, wherein the findings and recommendations have been recorded, it is submitted and recommended that the idea of giving the special rights to the minorities is not to have a kind of privileged or pampered section of the population but to give to the minorities a sense of security and feelings of confidence to protect and preserve their own identity. It is recommended that an effective mechanism needs be evolved out to balance the Indian pluralistic society containing sufficient checks and balance, safeguards and guarantees to protect the right of the minorities—cultural and educational rights being one of them. In our country where there are millions of people belonging to religious
and linguistic minorities, this safeguard is essential until they are brought up to the level of majority community and are ready to play their active role in the national life to build a strong India.

In the light of the critical investigation, the investigator has made certain suggestions by way of recommendations and they are as follows:

1. The idea of giving special rights to the minorities is not to have a kind of privileged or pampered section of the population, but to give the minorities a sense of security and feelings of confidence to protect and preserve their own identity. This perception needs to be transformed into reality in the actions taken by the State or any other authorities.

2. The effective mechanism needs to be evolved out to harmonize the Indian pluralistic society containing sufficient checks and balances, safeguards and guarantees to protect the
right of minorities – cultural and educational rights, being one of them.

3. Recommendation of any educational institution run by minorities whether religious or linguistic to get the benefit of the rights guaranteed under Articles 29 and 30 shall be made in the consonance with the basic principles as laid down by the Supreme Court from time to time.

4. Students from non-minority community attending and prosecuting in educational institution run by members of religious minorities shall not be compelled to attend any prayers or classes where religious instructions, if permitted, are given.

5. The minority institution shall, in exercise of its right to administer the same, be given the exclusive right to choose its managing and governing body, teachers including right to impose service conditions regarding the teachers, medium of instructions and to use its properties and assets for the benefit
of the institution. Exercise of such right shall also be extended to the admission of students.

6. The institution seeking recognition as minority institution shall be required to fulfil all the statutory requirements, enacted and framed for such purposes, concerning academic standard, financial soundness, qualification of teachers and the details of students seeking admission.

7. There is no second opinion that rights of the minorities must be given due protections and safeguards, but at the same time it will be essential and necessary to ensure that those rights are not misused. It is experienced that with the mushroom growth of the various institutions, many groups are claiming the minority status without actually representing the minority community or acting in furtherance of the interest of the community. The respective Government shall be permitted statutorily within its permissive limitation to examine, inspect
and verify the entire aspects in this regard at the time of granting recognition of the minority status to those educational institutions.

8. Protections and safeguards guaranteed under Articles 29 and 30 of the Constitution cannot be said to be either comprehensive or exhaustive enough to protect the interest of religious and linguistic minorities nor adequate enough in themselves without necessary socio-economic requisites as the protection of religious and linguistic minorities also involves social and economic issues. Suitable laws either by way of amendment of Constitution or by legislative enactment needs to be passed focusing primarily on the distribution of powers and resources between the majority and minority, inter-group relationship and attitudes, and the defining characteristics of socio-religious and socio-linguistic so that the constitutional protection so granted to the minorities can certainly alter the position and status of religious and linguistic minorities and
contribute to better relationships between the majority and minority communities.

9. Basically, it is for the State or any other authorities to decide as to whether a particular institution falls under the category of minority institutions as contemplated under Article 30(1). Onus of proof that an institution is actually a minority institution shall be placed with the institution itself.

10. The rules and reservation pertaining to Schedule Castes, Schedule Tribes and Other Backward Classes in the matter of admission of the students and appointment of teachers and other employees shall not be enforced by the State or any other authorities in the educational institutions run by the minorities.

11. The State shall be entrusted with the power and authority to frame any regulation in the national interest affecting the efficiency of instructions, discipline, health, sanitation, morality and public order. However, in framing and
implementing such regulations, neither the minority character of the institution shall be distorted nor shall the 'right to administer' be interfered with.

The aforesaid recommendations and observations are made by the investigator with a view to improve the status and position of the minorities—religious and linguistic so as to protect their Fundamental Rights guaranteed under Articles 29 and 30 of the Constitution of India.

The safeguards as recommended and suggested by the investigator would effectively protect the interest of the religious and linguistic minorities. It is essential and apt to provide for the recommendations as suggested above so that the special rights incorporated under Articles 29 and 30 can be applied, enforced and implemented in letter and spirit.