CHAPTER – III

ADMISSION TO PROFESSIONAL EDUCATIONAL INSTITUTIONS:
POLICY LAW AND THE CONSTITUTION

3.1 Introduction

A more pertinent question is what prevents the minority from establishing their educational institutions. The Constitution is unambiguous about it. The futility of Article 30 becomes obvious when we take into consideration Article 14, 15, 16 and Article 19. It says the state shall not deny equality before the laws or the equal protection of laws within the territory of India. Article 15 explains this fundamental guarantee and there will be no discrimination in this respect. Article 19 gives a fundamental right to establish educational institutions and unions.

Article 29 and 30 are considered to be the Magna Carta of Minority Rights in the Indian Constitution. They are placed under a common head called “Cultural and Educational Rights”.1 The fundamental postulate for recognition and protection of minorities cultural and educational rights is to preserve and promote their identify and continued existence in liberal, democratic India. These groups are accorded some differential treatment by the Constitution. Equal treatment does not prohibit ‘separate’ treatment to bring them at par with others.2

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1 Constitution of India, Article 29 reads as follows:
   “Protection of interests of minorities:
   1. Any section of the citizens residing in the territory of India or any part there of having a distinct language, script or culture of its own shall have the right to conserve the same.
   2. No citizens shall be denied admission in to 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 reads as follows:
   1. All minorities, whether based on religion or language, shall have right to establish and administer educational institution of their choice.
   2. (1A) In making any law providing for a compulsory acquisition of any property of an educational institution established and administered by a minority, referred on clause (1), the state shall ensure that the amount fixed by or determined under such law for acquisition of such property is such as would not restrict or abrogate the right guaranteed under the clause.
   (2) The state shall not, in granting aid to educational institutions on the ground that it is under the management of minority, whether based on religion or language.

The rights given to the minority groups has raised various complex and conflicting issues. Conflict started from the definition of the term ‘minority’ and this aspect has already discussed in the first chapter. Issues like whether these rights are absolute or not, whether the state could exercise some or the other control over it etc, have raised difference of opinion. This chapter is herein to undertake the scrutiny of these raised in the judiciary.

3.2 Scope of Cultural and Educational Rights under Article 30

Clause (1) of Article 30 of the Constitution confers right on religious or linguistic minorities.

(a) Establish an educational institution of their choice and
(b) To administer it

The aforesaid rights also include the right:

(c) To recognition of affiliation and

Clause (2) of Article 30 of the Constitution prevents the state from making discrimination in the matter of grant of aid to any educational institution of the minority whether based on religion or language.

3.3 Right to Establish and Administer Educational Institutions

Right guaranteed by clause (1) of Article 30 is a right to establish and administer educational institution of their choice. The extent of this right was a major issue In re Kerala Education Bill. The Court said that Article 30(1) is applicable in case of both pre- Constitution and Post- Constitution institutions. There is no reason why the benefit of Article 30(1) should be limited only to educational institutions established after the commencement of the Constitution. The language is wide enough to cover both pre-Constitution and post-Constitution institutions.

The right under Article 30(1), however is subjected to clause (2) of Article 29 which provides that no citizens shall be denied admission to any educational

3 A.I.R. 1958 S.C. 956
4 Id.at. p. 978.
institutions maintained by the state or receiving aid out of state funds on the
grounds only of religion, race, caste, language or any of them.

The right to establish and administer are correlative. Establishment of an
institution is condition precedent to get a right to administer it. The Court held in
S. Azeez Basha v. Union of India. The word ‘educational institution’ are of very
wide import and would include a University also. On the other side the
fundamental right to establish an educational institution guaranteed to religious or
linguistic minorities does not operate as an estoppel against the majority
community to establish an educational institution. In Rev. Fr. State Callian v.
Director of Public Instruction and in Rev. Fr. Joseph Callian v. State of Kerala
the Court held that the establishment of a non-denominational school by members
of majority community by resorting to Article 30(1) cannot stop the majority
community from opening another school in the same locality.

3.4 Procedure for Establishing a Minority Educational Institution

To establish an educational institution by minorities, first a society needs to
be formed under Societies Registration Act, 1860 comprising minimum of 3
members, designating within themselves posts of Chairman, Director, Treasurer
etc. They contribute their own funds or funds through ‘public money’ collected
from the public process to establish an educational institution after which comes
the process of recognition.

Conditions for recognition - No private school shall be recognized, or continue to
be recognized, by the appropriate authority unless the school fulfills the following
conditions:

1) The school is run by a society registered under the Societies Registration
   Act, 1860 or a public trust constituted under any law for the time being

5 Dr. Arunkumar, Cultural and Educational Rights of The Minorities under Indian
6 A.I.R 1968 S.C. 662
7 A.I.R 1954 Ker. 331
8 A.I.R 1962 Ker. 33
9 Ibid., p. 78
10 Act No. 21 of 1860
in force and is managed in accordance with a scheme of management made under these rules;

2) Subject to the provisions of clause (1) of Article 30 of the Constitution of India, the schools serves a real need of the locality and is not likely to affect adversely the enrolment in a nearby school which has already been recognized by the appropriate authority;

3) The school follows approved courses of instruction as provided elsewhere in these rules;

4) The school is not run for profit to any individual, group of association of individual or any other person;

5) Admission to the school is open to all without any discrimination based on religion, caste, race, place of birth or any of them;

6) The managing committee observes the provisions of the Act and the rules made there under.

3.5 **Minorities Right to Administer**

Administer means, ‘management of the affairs’ of the institution Justice Hidayatullah opined that,

“This management must be free of control so that the founders of their nominees can mound the institution according to their way of thinking and in accordance with their ideas of how the interests of the community in general and the institution in particular will be best served. No part of this management can be taken away and vested in another body without an encroachment upon the guaranteed right.”\(^\text{11}\)

Thus the fundamental right of administration guaranteed by the constitution includes the choices of personnel of management; the ensuring of orderliness; fairness soundness and efficiency and discipline in the administration. The right also includes the appointment of disciplined teachers.\(^\text{12}\) But the question arise that

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whether the right to administer is an absolute right? S.R. Das C.J. has rightly pointed out in re *Kerala Education Bill*\(^{13}\) that, “the right to administer cannot obviously include the right to maladminister.”

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. The Judiciary has recognized that the state has got a right to impose” permissible regulations” on the exercise of the right to “administer” conferred by Clause (1) of Article 30 of the constitution, on the minorities.

Then the problem arose what are those ‘permissible regulations’. This problem was addressed in *Sidhrajbhai v. State of Gujarat*\(^{14}\) the view adopted by the Supreme Court in this case was the right to establish and administer is an absolute right and there could not be any restrictions imposed on it. But in *St. Xavier’s College v. State of Gujarat*\(^{15}\) the court observed that “Constitution makers did not intend to confer absolute rights on a religious or linguistic minority to establish and administer educational institutions. The associate Article 29(2) imposes one restriction on the right in Article 30(1) and it partly curtailed by former one.” The right to administer is the right to conduct and manage the affairs of the institutions. Khanna J. put forward his principle from a different dimension in *St. Xavier’s College case*. He observed that the right of minorities to administer educational institutions does not, however, prevent the making of reasonable regulations in respect of those institutions. The regulations have necessarily to be made in the interest of the institution as a minority educational institution. They have to be so designed as to make it an effective vehicle for imparting education.

The state can prescribe regulations to ensure the excellence of the institution. Such an activity does not militate against the right of the minority to administer the institutions. Regulations made in the true spirit of the efficiency of

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\(^{13}\) AIR 1958 SC 956.


\(^{15}\) A.I.R 1974 S.C. 1389.
institutions, discipline, health, sanitation, morality, public order and the like may undoubtedly be imposed.16

The judiciary has expressly excluded the ‘standards’ of education as part of the right to establish and administer. In State of Kerala v. Mother Provincial17 the court has given the freedom to manage. Standards of education being excluded from the right, the court held it could be regulated But there seems to be no clear-cut demarcation between the regulation which are made for the benefit of the minority institution, keeping in view of the excellence in education and the regulations which are meant to encroach upon the right of the minorities directly or indirectly.

There cannot be an exhaustive enumeration of what are all things fall within the domain of standards of education. The judicial pronouncements also cannot suggest any cut and dry formula to find out whether a particular rule is only a regulation in the interest of the institution or a contravention of the right of the minorities. The test suggested by Justice Shah in Sidhrajbhai’s case18 is also worded in broad terms which leaves the possibility of many interpretations. The Judge opined that:

“Such regulations must satisfy a dual test, the test of reasonableness and the test that it is regulations of the educational character of the institution and is conducive to making the institution an effective vehicle of education”19

Following these principles the latest decisions also give emphasize to the freedom of minorities to establish and administer their institution. In N. Ammad v. Manager Emjay High School20 the simple question arose, is the management of a minority school free to choose and appoint any qualified person as Head Master of the school or whether such management is hedged by any legislative edict or executive fiat in doing so. The court held that the management has the right to appoint the Head Master. Here the court was giving approval to the old notions in this field.

16 Ibid., at p. 1410.
17 AIR 1970 SC 2079
18 AIR 1963 SC 540
19 Id. at p. 556.
The termination of two staffs without seeking the prior approval of manager was held valid by the Supreme Court in another recent case. Here also the court considered the scope of Article 30(1).

3.6 Factors of Administration

The controversy centers around the extent of the right of the religious and linguistic minorities to administer their educational institutions. The right to administer is said to be consist of four principal matters. First is the right to choose its managing or governing body. It is said that the founders of the minority institutions have faith and confidence in their own committee or body consisting of persons selected by them. Second is the right to choose its teachers. It is said that minority institutions want teachers to have compatibility with ideals, aims and aspirations of the institutions. Third is the right not to be compelled to refuse admission to students. In other words, the minority institutions want to have right to admit students of their choice, subject to reasonable regulations about academic qualifications. Fourth is the right to use its properties and assets for the benefits of its own institution.

In Gandhi Faiz-e-am college v. University of Agra the Supreme Court upheld the statutes of the Agra University Ordinance which laid down that no private college would be accorded recognition unless its governing body included the Principal and senior most teachers. The court said that, the statute was facilitative promotion and calculated to improve the one and temper of the administration of the educational institution. Justice Krishna Iyer denied any absolute right to constitute the governing body. But prior to this decision, the Supreme Court held that constitution of governing bodies is an interference in the minority’s right to administer or management. Similarly it was also held that it is not necessary and required as per Articles 30(1) that, constitution of Board of

21 Yunus Ali Sha v. Mohammed Abdul Kalan, A.I.R, 1999 S.C 1377
22 A.I.R 1978 S.C. 1821
Chapter III

Minority’s Educational Institution should consist of majority of members of minority community.24

3.7 Admission of Students

Another important face of right to administer educational institution by minority, is admission of students. In *St. Stephen College v. University of Delhi*25 five Judges Bench of the Supreme Court considered the question of student’s admission in a minority Educational Institution. The petitioner college was a religious minority college of which the admission program was challenged in the Delhi High Court. The High Court ordered the college to receive applications from all students and not to announce the results. Against this order the college filed writ petition under Art. 32 to the Supreme Court. The issue before the court was, whether a minority educational institution could lay down a criterion of admission different from the criterion prescribed by the University to which it is affiliated. Here the University rules prescribed the admissions on the basis of merit determined by the percentage of marks secured by the students in the qualifying examination. But the St. Stephen’s College affiliated to University laid the basis as marks secured in a qualifying examination plus marks obtained in the interview. So here the requirements were conflicting.

The Court held that there was no fault in the test laid down by the College. Here the Court was of the view that admission solely determined by marks obtained by students could not be considered a best available objective guide to future academic performance. On the other hand in a dissenting judgment Justice Kashiwal felt that action of the college in applying the method of interview contrary to the directions given by university was wholly arbitrary, wrong, illegal and violative of Article. 14 and opined that there could be no justification that college was a minority run college.

Subsequently the Supreme Court had expressed serious doubts on the majority view of *St. Stephens College Case*26 in *T.M.A Pai Foundation v. State of

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24 *Bihar State Madrasa Education Board Patna v Managing Committee of Madrasa Hanfia Arabic College*, A.I.R 1990 S C 695.
26 Ibid., at p. 1652
and said that so long as a minority educational institution is permitted
to draw students belonging to that minority to the extent of 50% seats even by
going down the merit list, ‘we see no reason why the state/affiliating University
cannot stipulate that the general students as well as minority community students
must also be admitted on the basis of common entrance test. Article 30 in our
opinion, does not cloth a minority educational institution with the power to adopt
its method of selections.’

3.8 Admission on the Basis of Religion

The admission procedure should not solely on the basis of religion and such
preferential treatment to minority candidates amount to discrimination only on the
ground of religion. This also amounts to contravention of Art. 29(2). Minority
institutions are not entitled to establish and administer educational institutions
solely for their benefit. The Supreme Court in this regard observed

“The access to academic institutions maintained or aided by the state
funds is the special concern of Article 29(2). It recognizes the right
of an individual not to be discriminated under the aegis of religion,
race, caste, language or any of them. This is one of the basic
principles of a secular state. The discrimination based solely on the
ground of a citizen’s particular religion, race, caste, or having any
particular language is absolutely prohibited in educational
institutions maintained by the state or receiving aid out of state
founds. It applies to minorities as well as to non-minorities.”

The majority held that the collective minority right is required to be made
functional and is not to be reduced. A meaningful right must be shaped, moulded
and created under Article 30(1). While at the same time affirming the rights of
individuals under Articles 29(2), there is need to strike a balance. The Director of
Public Instruction appointed a teacher from St. Joseph Boys High School, Calicut
as Headmaster. This was challenged by the school management on the plea that

27 (1993) 4 S.C.C. 286
29 Ibid., at p. 1405
management of the school has their exclusive right and no interference could be made. The Full Bench of Kerala High court upholding the contention observed,

“The right to choose the Head Master was perhaps the most important facet of the right to administer the school and we must hold the imposition of any trammel there on – except to the extent of prescribing the requisite qualifications and experience, cannot but be considered as violation of the right guaranteed by Article 30(1) of the Constitution. To hold otherwise will be to make the right a teasing illusion, a promise of unreality”.

But Justice Sivaraman Nair took an entirely different view in Joseph v. State of Kerala. He held that the management of educational institutions established and administered by minority communities are bounded ordinarily to promote the senior most teachers as Head Masters of the schools; and there is no unrestricted right of choice for the minority management in the matter of such appointments. He reiterated the same view again in Fr. Francis v. D.E.O., Ernakulam.

The Kerala High Court had another opportunity to consider the right of minorities to administer educational institution in Manager, Loyolla College v. University of Kerala. In this case it was held that the right of the minorities under Article 30 (1) is not absolute. It is subjected to reasonable regulations imposed by the state in the interest of education.

These decisions have placed the management of minority institution in a position where they had to appoint the senior most teacher as the “Head” whether or not they like him or whether or not he will protect the interest of the minority. But later on by the decision of the Kerala High Court in Manager Corporate Education Agency v. State of Kerala, it fell back to the original track of Patroni’s decision. The court held in this case that the right of the minority to administer an educational institution of its choice requires the presence of a person in whom they can repose confidence, who will carry out their directions and to

30 Aldo Maria Patroni v. E.C. Kesavan, AIR 1965 Ker. 75 at p. 79.
31 1985 K.L.T. 946
32 1988(2) K. L.T 403
33 A.I.R 1990 Ker. 356
34 Aldo Maria Patroni v. E.C. Kesavan, AIR 1965 Ker. 75.
whom they look forward to maintain the traditions, discipline and efficiency of teaching. Here the court held;

“When once the pivotal position of the Head Master is recognized, it must be said that the right to appoint a person of its choice as Head Master is of paramount importance to the minority, any interference with which otherwise than prescribing qualifications and experience will denude the right of administration of its content reducing it to mere husk, without grain.”35

By taking this view the Full Bench relied back to Patroni36 and Mother Provincial37 and which according to them was binding. They agreed with the learned judge that contentment in service and enhance of advancement of teachers add to the image and excellence and standards of an institution. But this result cannot be achieved by denying the right of administration itself to the minority.

Selecting the ‘Head’ is a controversial issue even in this period among the minority institution. The Supreme Court in its latest decision38 on this matter has observed that the right to establish and administer an educational institution would include the freedom to choose the head of the institution. It is not the final decision. A time may come when the court will depart from this view.

The analysis of the decided cases shows that the right of the minorities to establish and administer educational institution is not absolute in all respects. The judiciary has been trying to strike a balance between the rights of minorities and the rights of the ordinary citizens. Interest of the students must claim a dominant place in this.

It is absolutely impossible to have a peaceful co-existence of the rights of minorities and the rights of the general public without any encroachment. One is a special right and the other is a general right of the entire citizens. A perfect balance is impossible. Judiciary has a significant role in protecting the minority rights and should stand to reconcile this with the rights of other citizens. Fairness to minorities is necessary. It can be explained in the words of the court in Lilly

35 AIR 1990 Ker. p. 357.
36 Aldo Maria Patroni v. E.C. Kesavan, AIR 1965 Ker. 75.
37 AIR 1970 SC. 2079.
Kurian v. Sister Lewina. “Protection of the minorities is an article of faith in the Constitution of India.”

3.9 Recognition and Affiliation

Recognition and affiliation are two main aspects of the continued existence of the educational institutions. Recognition is a facility. This enables educational institution to send their students for examination on subject prescribed and to obtain certificates or degrees. If there is no recognition, the products of such institutions may not find any place in the public services. While recognition and affiliation create an interest in minorities, the interest of the affiliating authorities is to see that the conditions for recognition or affiliation are observed. The fusion of these two interests is very important. Here the role of the judiciary is to reconcile these two interests.

Is the right to recognition and affiliation an essential part of the right to establish and administer under Article 30(1)? Or is it a concession only? If it forms part of the right under Article 30, there cannot be any condition for granting recognition or affiliation in such way that will force minorities to give up their rights totally or partially. The judiciary has consistently taken the view that there is no fundamental right to recognition or affiliation. Yet affiliation and recognition cannot be denied or subjected to conditions that would rob the minority right under Articles 30(1) or its substances.

3.10 Minority Educational Institutions including Professional Educational Institutions

The Delhi Government has laid down the following conditions for grant of recognition to minority educational institutions:

i. The aims and objectives of the educational agency incorporated in its by laws should be clearly specified that it is meant to primarily serve the interests of the minority community to which it belongs.

39 A.I.R. 1979 S.C. 52
41 http://tte.delhigovt.nic.in/minor.html
ii. The minority educational institution shall not compel any of its religious activities.

iii. The minority educational institution shall observe general laws of the land relating to educational institutions.

iv. The minority educational institution will not use its privilege as minority institution for any pecuniary benefit.

v. The minority educational institution shall charge the fees as prescribed by competent authority.

vi. The minority educational institution shall appoint teachers as per qualifications laid down by the authority concerned but it will be advisable for them to select teachers and other employees through employment exchange or open advertisement.

vii. In all academic, administrative and financial matters rules and regulations laid down by respective statutory authorities from time to time shall be wholly applicable to these institutions.

viii. The minority educational institution shall do nothing, which may come in the way of communal and social harmony.

ix. Fifty percent of seats permitted to be filled up from minority communities shall be equally distributed between free and payment seats.

Classification of Minority Educational Institutions

- Recognised
  - Schools
    - Aided
    - Unaided
  - Colleges including Professional Colleges
    - Aided
    - Unaided
- Unrecognised
  - Madrasas
    - Aided
    - Unaided
The observation of the Judiciary, in this respect is not unambiguous because if right to recognition or affiliation is not implicit in Article 30(1) and as such is not a fundamental right, it is not clear that what kind of constitutional sanction can be there for a refusal or withdrawal by a recognizing or affiliating authority. Even though the courts did not recognize such right as fundamental right they were well aware of the possible consequences of such view and made it clear that without recognition or affiliation there can be meaningful exercise of the right to establish and administer under Article 30, and that recognition or affiliation can be given only on conditions that do not render that Article illusory.

3.11 The Issue of Grant-in-aid

It is impossible to run an educational institution imparting general, secular education without any financial aid from the state. But then comes the question whether the minority institutions have the fundamental right to get the financial aid from the state. It is true that there is no fundamental right to aid under the constitution. What Article 30(2) provides is an obligation upon the state not to discriminate against a minority institution in matters of financial aid which the state may choose to make available to educational institutions. It only provides security against differential treatment. It is not a positive right to claim aid from the state. The operation of Article 30(2) comes into pictures only when a minority institution seek aid from the state and the same is denied on the mere ground that the institution is under the management of a minority. This does not mean that there cannot be any condition for grant – in- aid but it means that there cannot be any special condition for grant- in – aid to minority in situations. In The Managing Board of Mili Talmi Mission v. State of Bihar, the court held that the right to affiliation or aid from the government is not a fundamental right. In the Kerala Education Bill the court opined that, the conditions imposed by the state should not be in effect taking away the right of the minorities under Article 30.

In the case Article 337 again came for consideration before their Lordships of the Supreme Court. The Counsel appearing for Anglo—Indian schools contended that the State of Kerala sought to expressly apply to the Anglo—Indian

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43 AIR 1958 SC 956; (1959) 1 SCR 995
Admission to Professional Educational Institutions

... educational institutions, clauses 8(3) and 9 to 13 besides other clauses, attracted by clause 3(5)\(^44\) of the Kerala Education Bill curtailing their constitutional right to manage their own institutions as a price for the grant to which they were constitutionally entitled under Article 337. It was further argued that except to the extent that they were required under Article 337, to reserve 40 per cent admissions for other communities and that Article 29(2) required them not to discriminate against any citizen in the matter of admission on grounds only of religion, race, caste, language or any of them, they were not under any other obligation for receiving special grants under Article 337.

In *State of Bombay v. Bombay Educational Society*.\(^45\) State of Bombay, by a circular, directed that no primary or secondary schools shall admit to a class where English was used as a medium of instruction any student other than a student belonging to a section of Indian and citizens of non-Asiatic descent. The Barnes High School, which was a recognised Anglo-Indian school and had been imparting education through the medium of English since its inception in 1925 took the plea that one of the consequences of the order was that the school was prevented from admitting students whose mothertongue was not English.

The Supreme Court, speaking through S.R. Das, J., held that the above clauses of the Bill sought to impose onerous conditions which violated both Article 337 and Article 30(1).

Further, the court held that the constitution had imposed upon Anglo-Indian institutions as a condition of receiving special grants, the duty that at least 40 per cent of the annual admissions therein must be made available to the member of other communities. The court observed that if the order was applied to the Barnes Schools it amounted to preventing the school from performing its constitutional obligations and thus exposed it to the risk of losing the special grant. The Supreme

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\(^{44}\) Clauses 3(5) required aided schools to furnish every year a list of properties for non-fulfilment of this condition several consequences were to follow such as withdrawal of grants. Clause 8(3) required aided institutions to make overall fees and other dues to the Government. Clause 9 made it obligatory on the Government to pay salary to teachers and nonteaching staff, and gave certain powers with regard to the latter. Clause 10 required Government to prescribe qualifications of teachers. Clause 11 prescribed the procedure for selection of teachers by the Public Service Commission for aided schools. Clause 12 provided for conditions of service of teachers in such schools.

Court held that the order amounted to imposition of conditions other than what Article 337 itself had imposed upon Anglo-Indian institutions. This was not permissible under the Constitution.46

Thus the Supreme Court in *State of Bombay v. Bombay Educational Society*47 as well as in *Re Kerala Education Bill 1957*48 cases clearly held that the imposition on the Anglo-Indian educational institutions of any condition other than those which the Articles 337 and 29(2) contemplated while protecting the financial grant to which they were entitled before 1948, would violate the provisions of the Constitution.

There is difference of opinion about giving aid to minority institution. If any minority institution is set up purely for giving religious education, there is no implied right to receive aid etc.; since the right under Article 30(1) can be effectively exercised without such aid.49

The state should make regulations in such a way that will not take away the right under Article 30 in the name of grant – in – aid.

3.12 Non-Discrimination Clause and Right to get grant-in-aid

The Constitution of India has classified the educational institution into two for the purpose of receiving grant-in-aid from the State. They are: (i) those educational institutions which are by the Constitution itself expressly made eligible for receiving grants, and (ii) those educational institutions which are not entitled to any grant by virtue of any express provision of the Constitution. Educational institution established prior to 1948 by Anglo-Indians came within the first category. Article 33750 of the Constitution conferred a positive right on them, to get grant for a period of ten years from the commencement of the Constitution.

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46 *Id.*, at p. 569.
47 AIR 1954 SC 561.
48 AIR 1958 SC 956.
50 Article 337 of the Constitution of India: “Special provision with respect to educational grants for the benefit of Anglo-Indian community - During the first three financial years after commencement of the Constitution, the same grants, if any shall be made by the Union and by each State for the benefit of the Anglo-Indian community in respect of education as were made in the financial year ending on the thirty first day of March 1948.
Article 30(2)\textsuperscript{51} imposes an obligation upon the state not to discriminate against a minority institution in matters of financial aid which the state may choose to make available to educational institutions. The said clause is moulded in negative terms. It is not a positive right to claim aid from the state. It only provides security against differential treatment in matters of distribution of financial grants. Clause (2) is an additional protection to minority educational institutions and is in no way derogatory to what otherwise is the scope of clause (1) of Article 30 as propounded by the supreme court in \textit{Sidhraj Bhai v. State of Gujarat}\textsuperscript{52}, J.C.Shah, J.

The state is competent to sanction or not to sanction any grant to educational institution, but while sanctioning grant the state is under a constitutional obligation, (i) not to discriminate against an educational institution on the ground that it is under the management of a minority, whether based on religion or language, and (ii) the state also cannot while sanctioning grant impose restrictions upon the substance of the right guaranteed by clause (1) of Article 30 of the Constitution.

The application of the non-discrimination clause incorporated under Article 30(2) is confined only to one situation where the grant is denied to a minority institution or is sanctioned on an unequal basis. But it is not applicable to the circumstances of the type which arose in \textit{Jose Callion v. Director of Public Instruction}.\textsuperscript{53} The petitioner in this case was a Roman Catholic and was running a school in a particular locality. He challenged an order of the Kerala Government, according sanction to another man to run a similar school in the same locality as being in violation of Article 30(2). The grievance of the petitioner was that as a consequence of the sanction granted to the other person and the opening of a

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\textit{During every succeeding period of three years the grants may be less by ten per cent than those for the immediately preceding period of three years. Provided that at the end of ten years from the commencement of this Constitution such grants, to the extent to which they are a special concession to the Anglo - Indian community shall cease. Provided further that no educational institution shall be entitled to receive any grant under this Article unless forty per cent of the admissions therein are made available to members of communities other than the Anglo -Indian community.}
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\textsuperscript{51} Article 30(2): - “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.

\textsuperscript{52} A.I.R. 1963, S.C. 540.

\textsuperscript{53} A.I.R. 1955 Ker. 331.
similar school in the locality, he was unable to get for his school enough pupils to earn a grant from the government. The Kerala High Court rejecting the plea held:

“We are completely at a loss to see how the establishment of another school in the same locality interferes with the petitioner’s right to run his school and if the result thereof is that the petitioner cannot get enough pupils to earn grant, surely it cannot be said that the state is discriminating against him on the ground of his community”.54

It has been recognised by Their Lordships of the Supreme Court in Re Kerala Education Bill 1957,55 Sidhraj Bhai v. State of Gujarat,56 St. Xaviers College v. State of Gujarat57 and All Saints High School v. Government of Andhra Pradesh58 that in modern times the educational institution to be properly and efficiently run require considerable expenses which cannot be met fully by fees collected from the scholars and private endowments which are not adequate and therefore no educational institution can be maintained in a state of efficiency and usefulness without substantial aid from the state. Though theoretically it is true that the Court may not insist upon sanction of any educational institutions which the state may not have the resources at its disposal to assist, the fact remains that, in the present educational set up, the state does and must, as a matter of policy, make available financial assistance to privately run educational institutions. The constitution itself under Articles 28(3)59, 29(2) and 30(2) visualises educational institutions receiving aid out of state funds.

The state can impose reasonable regulation while granting aid to educational institutions. In Re Kerala Education Bill 195760, one of the questions before the Supreme Court was whether the State could constitutionally impose

54 Id. at p. 337.
59 Article 28(3):- “No person attending any educational institution recognised by the State or receiving aid out of State fund, shall be required to take part in any religious instruction that may be imparted in such institution or in any premises attached thereto unless such person, or, if such person is a minor his guardian has given his consent thereto.
60 AIR 1958 SC 956
restrictions contained in clauses 5, 6, 7, 8, 9, 10, 11, 12, 14, 15 and 20 of Kerala Education Bill 1957 while granting aid to educational institutions. Clause 5 required aided schools to submit annual statements of accounts. By clause 6, the assets of the aided institutions were frozen and could not be dealt with except with prior permission of the Government. Under clause 7 the Managers were to be appointed by the authorised officer of the State. The managers were under complete control of the officer and were under an obligation to submit accounts etc., in the manner they were told. Under clause 8 all fees, etc., were required to be made over to the Government. Under clause 9 the Government took over the responsibility of the payment of salaries to teaching and non-teaching staff. Under clause 11 the academic qualification of a teacher could be prescribed. Under clause 11 the aided educational institutions could appoint teachers out of the panel settled by the Public Service Commission. According to clause 12, the aided institutions could not take disciplinary action against the staff except with the previous sanction of the authorised officer. Clauses 14 and 15 authorised the Government to take over the management in certain cases. Clause 20 prevented aided schools from charging any fee for tuition in the primary classes.

It was contended by the counsels representing the minority institutions that not only Articles 28(3), 29(2) and 30(2) contemplate the granting of aid to educational institutions but Articles 41 and 46 make it the duty of the state to aid educational institutions and to promote educational institutions of minorities and other weaker sections of society. It was further argued on behalf of minority institutions that the impugned clauses of Kerala Education Bill, 1957 compelled the minority institutions to surrender the fundamental rights guaranteed by clause (1) of Article 30 of the Constitution in consideration of the aid doled out by the state. S.R. Das, C.J., speaking for the majority of the Court did not accept the extreme contention of the minority educational institutions that while granting aid the state could not impose any conditions. At the same time he rejected the extreme contention of the State that any conditions could be imposed for state grants, for minority institution were free to forego grants and exercise their rights under

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Article 30(1) unrestrictedly. Dealing with this controversy, the court admitted that a Government may not at all make any grants either out of its own free will or because of compulsion of financial circumstances, but insisted that once the government decides to make grant, it cannot attach such conditions to those grants as would destroy the right under Article 30(1). The court felt that as the right to administer under Article 30(1) could not include the right to maladminister, a minority could not ask for aid for an educational institution in unhealthy surroundings without competent teachers and which did not maintain fair standards of teaching; speaking through S.R. Das, C.J., the court maintained:

“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 institution to be aided”.62

The court further pointed out:

“The conditions imposed by the ... Bill on aided institutions established and administered by minority communities ... will lead to the closing down of all these aided schools unless they are agreeable to surrender the fundamental right of management”.63

But in sharp contrast with what the above observations convey, the court quite surprisingly, accepted clauses 7, 10, 11(1), 12(1), (2), (3) and (5) as “reasonable regulations or conditions for the grant of aid”.64

Under clause 17 of the Kerala Education Bill the managers were to be appointed by the authorised officer of the State. The managers were under complete control of the officer, and were under an obligation to submit accounts etc. in the manner they were told. Under clause 10, the academic qualifications of a teacher could be prescribed. Under clause 11, the aided educational institutions could appoint teachers out of the panel settled by the Public Service Commission.

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63 Id. at 983.
64 Ibid., at 984
According to clause 12, the aided institutions could not take disciplinary action against the staff except with the previous sanction of the authorised officer.

_Sidhraj Bhai v. State of Gujarat_65 arose in circumstances quite different from that of the Kerala opinion. The petitioners were the members of the Gujarat and Kathiawar Presbyterian Joint Board. This Board managed 42 primary schools and a training college for teachers known as the Mary Brown Memorial Training College in Kaira District, Gujarat. The college received Rs. 8,000/- annually from the Education Department of the Government of Bombay. The principal of the training college expressed his inability to comply with the order. Thereupon, the education inspector informed the management of the college that no grant would be paid to the college unless 80 per cent seats were reserved for the students nominated by the Government. Thus the Government imposed a regulation on a minority institution which object could in no way be said to serve the minority institution itself. The petitioners contended that no regulatory measures were permissible unless they were in the interest of the institution itself. The state’s contention was that it was competent to impose regulation in the national or public interest, the only condition being that such a regulation did not destroy the character of the institution as a minority institution. The state further contended that it was not bound to make a grant; and in case it chose to make a grant it was entitled to impose conditions and in the event of the institution failing to carry out the condition it was entitled to withhold the grant. Rejecting the arguments of the state, Shah, J. spoke on behalf of the Supreme Court:

“The right established by Article 30(1) is a fundamental right declared in terms absolute unlike the fundamental freedoms guaranteed by Article 19, it is not subject to reasonable restrictions...The right is intended to be effective and is not to be whittled down by so called regulatory measures conceived in the interest not of the minority educational institutions, but of the public or the nation as a whole”.66

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65 AIR 1963 SC 540
66 Id. at 956.
Shah, J. suggested the test for permissible regulation thus:

“Regulation which may lawfully be imposed either by a legislative or executive action as a condition for receiving grant...must be directed to making the institution while retaining its character as a minority institution effective as an educational institutions.

In *All Saints High School v. Government of A.P.*67 T.S. Kailasam, J. observed:

It is open to the state to prescribe relevant condition and insist on their being fulfilled before any institution becomes entitled to aid. No institution which fails to conform to the requirements thus validity prescribed would be entitled to any aid.”68

Some of the provisions analogous to clauses 11, 12(1), (2), (3) and (5)69 upheld by the Supreme Court in the Kerala opinion have been held invalid by the Supreme Court in later cases. In *State of Kerala v. Mother Provincial*,70 subsections (1), (2) and (9)71 of section 53 of the Kerala University Act, 1969 were held as violative of the right under Article 30(1). These were in fact similar in terms and effect as clause (11) of the Kerala Education Bill 1957.72 In *D.A.V. College v. State of Punjab*73, clause 17 of the Gurunanak University Act74 which incorporated a provision similar to sub-clauses (1), (2) and (3) of clause 12 was declared as invalid.

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68  Id. at 1075.
69  Under clause 11 of the Kerala Education Bill, the aided institutions were under obligation to appoint teachers out of a panel settled by the Public Service Commission. Under clause 12, time aided institutions could not take disciplinary action against staff except with previous sanction of the authorised officer.
71  Sub-sections (1) and (2) of Section 53 of the Kerala University Act confers on the Syndicate of the University the power to veto even the action of the governing body or the managing council in the selection of the Principal. Sub-section (9) gives a right of appeal to the Syndicate to any person aggrieved by the action of governing body or the management council thus making the syndicate the final and absolute authority in these matters.
72  AIR 1958 SC 956
74  Clause 17 of the Statute provided that the staff initially appointed shall be approved by the Vice-Chancellor. All subsequent changes shall be reported to the University for the approval of the Vice-Chancellor.
In *Lilly Kurian v. Sr. Lewina*\(^{75}\), referring to the case laid down in *Sidhraj Bhai* case, Sen, J. speaking for the Supreme Court observed:

“Article 30(1) is not a charter of maladministration regulation so that the right to administer may be better exercised, for the benefit of the institution is permissible, but the moment one goes beyond that and imposes, what is in truth, not a mere regulation but an impairment of the right to administer, the Article comes into play and the interference cannot be justified by pleading the interests of the general public, the interests justifying interference can only be the interests of the minority concerned”\(^{76}\).

The conclusion which can be drawn from the above referred cases is that the court accepted the position that the right under Article 30(1) is a right not to obtain aid on conditions which are not destructive of it.

In *All Bihar Christian Schools Association v. State of Bihar*\(^{77}\) clause (h) of section 18(3) of Bihar Non-Government Secondary Schools (Taking Over of Management and Control) Act 1981 was challenged inter alia, on the ground that the provision for the inspection of minority school by the authorised inspecting officer was violative of Article 30 of the Constitution. The court held that the object was to ensure that the money from the public funds given to a minority school as grant-in-aid, was utilised for the purpose for which it was given and that did not trespass on the minority right under Article 30(1).

It is a matter of paramount importance that grants-in-aid should not be reduced or stopped unless there are valid reasons for it. In *Monfe de Guirim Educational Society v. Union of India*,\(^{78}\) Rule 94 of the Goa, Damen and Diu Grant-in-Aid Code for Secondary Schools and Colleges and Other Educational Institutions Except the Primary Schools (1963), authorised the Director to reduce the grants after due warning given to the management if it was found that the provisions of the rules laid down in the Code were not duly observed and the

\(^{75}\) A.I.R. 1979 S.C. 52.  
\(^{76}\) Id. at 61.  
\(^{78}\) A.I.R. 1980 Goa 1.
school had deteriorated in general efficiency. The court held that before grant-in-aid was stopped both conditions must exist - failure to maintain Rules under the Code and deterioration of general efficiency. In the instant case it was not alleged that general efficiency of the school had deteriorated and hence Rule 91 did not apply and it was held that stopping of grant was unconstitutional.

3.13 Choice of Medium

Medium of education has got a direct bearing upon the standard of education. There is no express provision in the constitution, which guarantees the minorities right to impart education in a language of their choice. Establishment of education institution is one of the most effective ways of conserving the language and script. The judiciary has recognized this right in various cases. The interest of the minorities to conserve their language an script can find its success only when they have the freedom to choose their own language as the medium of education.

The State of Bombay v. Bombay Education Society is a land mark decision in this respect. The issue in this case was that the Government of Bombay issued a circular stating its policy to discontinue the use of English as medium of instruction at the primary and secondary stage of education in the state. Another circular was issued to the effect that no primary or secondary school receiving aid from government should admit for instruction to the class where English was used as a medium of instruction any student other than a student belonging to a section of the citizens, the language of which was English, namely, Anglo – Indians and citizens of non- Asiatic descent. The Bombay Education Society which was a minority body challenged the order as volatile of their rights under Article 30(1). They contended that the order has a direct effect of taking away their right to establish and administer educational institutions of their choice.

The Supreme Court, giving a liberal meaning to Article 29(1) and 30(1), held that the language of Article 29 and 30 was broad enough to include within its ambit the right to determine a medium of instruction for its institutions. The court held that.

“Such being the fundamental right, the police power of the state to determine the medium of instruction must yield to this fundamental right to the extent it is necessary to give effect to it and cannot be permitted to run counter to it”. 81

Another important case in this arena is *D.A.V College Jalandhar v State of Punjab.* 82 The University of Punjab imposed Punjab: as the exclusive medium of education in all affiliated colleges. The College authorities challenged that this was violation of the right under Article 29(1) and 30(1). The University contended that no minority had the right to tell the university to conduct examination in the language or script which the minority had adopted for its own institution.

The court observed: “In such case the University must not force those institutions to compulsorily affiliate themselves and impose on them a medium, of instruction and script not their own.” 83

3.14 Managing Bodies

Managing body is the backbone of an educational institution. It has been accepted by the court that the right to administer means the right to manage the affairs of the institution. It has been further accepted that this power of management should be free control. The founders of the institution must be free to determine the future of the institution. So there should be a managing body, which can live up to the expectations of the founders of a minority institution. They should be free to mould the structure of the institution to vest suit to the need of their community as they think it should.

The regulations in this area can be of different types. It can be a regulations which enjoins the managing body to include any person or persons whom they do not want to include in the management body. It can be regulations which mandate the managing body to constitute in a particular manner or regulate its activities in a particular manner.

81 Id.at.p.569
82 A.I.R. 1971 S.C. 1737
83 Ibid., at p. 1762
Chapter III

The minorities have always challenged the interferences with their right to manage the affairs of their institutions; courts too have shown strong inclination to preserve this right of the minorities without interference.

In *State of Kerala v Very Rev. Mother Provincial* 84 sections 48, 49 and 63 (1) of the Kerala University Act, 1969 were challenged, inter alia, as violative of the right of the minorities under Article 30(1). According to Sections 48 and 49 the corporate management had to administer the colleges in accordance with the provisions of the Act, statutes, ordinance, regulation, by laws and orders there under. The Supreme Court held that these provisions amounted to vesting the management and administration of the institution in the hands of bodies with mandate from the University and so violative of the right under Article 30(1).

Section 63(1) of the above Act conferred power on the Government to take over the management of a minority institution on its default in carrying out the directions of the State Government. The Supreme Court has declared this provisions as ultra vires of the Constitution on the ground that this provision interfered with the constitutional right of the minorities.

In *D.A.V College Jallandhar v. State of Punjab*, 85 sections 48 and 49 of the Guru Nanak University Amritsar Act 1969 was challenged before the Supreme Court on similar grounds. Clause 2 (1) (a) of chapter V of the Act, imposed a condition upon private colleges applying to the University that for affiliation to satisfy the University that the college would have regularly constituted governing body consisting of not more than 20 persons approved by the senate and including, among others, two representatives of the university and the principal of the college ex-officio. The clause, thus not only required the inclusion of two outsiders in the governing body but also contained a condition precedent for grant of affiliation. The court had no hesitation to strike down the provision as violative of the right of the minorities.

In *S.K. Patro v. State of Bihar* 86 and order of the Education Department of the state of Bihar setting aside the election of the president and secretary of the

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84 AIR 1970 SC 2079  
85 AIR 1971 SC 1731  
86 A.I.R. 1970 S.C. 259
church missionary society school and the direction to the school was challenged as violative of Article 30(1). The contention was approved by the Supreme Court.

The Supreme Court held in different cases that the right to establish and administer is not absolute. For instance the claim of a professional college to get protection under Article 30 was denied by the Court. In another instance the plea of an institution to invalidate the Bihar Non Government Secondary Schools’ Act was rejected by the Supreme Court.

In *All Bihar Christian Schools Association v. State of Bihar* the Supreme Court was called upon to decide the validity of the sections 3 and 7 (2) (4) of the Bihar State Madrasa Education Board Act, 1982 Sections 1(2) and (4) empowers the state to dissolve the managing committee of a Madrasa. This provisions was held to be violative of the rights of the minorities. The Court said that the state has no power to completely take over the management of a minority institution.

“Article 30(1) protects the minorities right to manage and administer institutions established by them according to their choice, but while seeking aid and recognition for their institutions there is no constitutional obligation that the Board granting aid or recognition or regulating efficiency in minority institution should consist of members exclusively belonging to minority communities.”

### 3.15 Disciplinary Power

Right of the minorities to appoint staff in their institution has been accepted as an essential component of the right to administer educational institutions. Whenever the legislatures have tried to impose restrictions, which may directly or indirectly affect the enjoyment of this right, the judiciary have shown enthusiasm to strike them down except in few occasions. Regulations in the nature of prescribing qualification and service conditions have been accepted as reasonable regulations in the interest of standard of education in the interest of the institution.

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87 *A.P.C.M.E Society v Govt. of Andhra Pradesh*, A.I.R 1986 S.C. 1490
88 A.I.R, 1988 S.C. 305
89 Id.at.p. 398
Since the minorities are left with the wide power of appointment the corresponding power of taking disciplinary action also are in their hands. Here a problem arises, if the minorities are left with the unbridled power of taking disciplinary action, there is chance of using it as a scourge to meet the end of the service of poor staff, which may at times against the interests of the institutions as a whole and the interests of the students community.

The Supreme Court was called upon to express its opinion on the constitutional validity of clause 12(4) of the Kerala Education Bill, 1957 which provided that no teacher in aided school be dismissed, removed, reduced in rank or suspended by the manager without the previous sanction of the authorized officer, Chief Justice Das, speaking for the court gave the seal of approval to the provision as a permissible regulation.  

The Supreme Court had its seconds opportunity to deal with a similar provision, in the Mother provincial’s case. The provisions under attack were section 56(2) and (4) of the Kerala University Act 1969. Section 56(2) provided that no teacher of a private college would be dismissed, removed or reduced in rank by the governing body or managing council without the previous sanction of the Vice-Chancellor. It further provided that no such teacher would be placed under suspension for a continuous period exceeding fifteen days without such previous sanctions.

Section 56(4) provided that a teacher whom disciplinary action was taken would have a right of appeal to the syndicate and the syndicate would have power to order reinstatement of the teacher in case of wrongful removal or dismissal and other such remedial measures as deemed fit. Chief Justice Hidayathullah, speaking for the court, held that these provisions are unconstitutional as they take away the power of disciplinary action and as such not permitted by Article 30(1).

Some of the provisions of the Gujarat University Act 1949, were attacked by the minority institutions in the St. Xavier’s College case. Clause (b) provided that no such penalty should be inflicted unless it is approved by the Vice-
Chancellor or any other officer appointed by him. Section 52 of the Act contemplated references of any dispute between the governing body and any member of the teaching, other academic and non-teaching staff of an affiliated college which consists of one member nominated by the governing body of the college, one member nominated by the member concerned and an umpire appointed by the Vice-Chancellor.

The Supreme Court has held that part of the provisions which enjoins the management to afford the concerned teacher the opportunity of being heard and follow certain procedures are valid, but the provision which required the approval of the Vice-Chancellor of disciplinary action was bad. That power was bad because it was undefined, arbitrary and unguided, the nature of which was to veto power over disciplinary control by the educational institution.

The same principles applied in Proost’s case93 and Lilly Kurian v. Sr. Lewina94 But in Frank Antony School Employees Association v. Union of India95 Some of the provision of the Delhi school Education Act 1978 were challenged as violative of Article 30(1). The Supreme Court held most of the principles valid and reasonable. Sections 10 of the Delhi Education Act requires parity of treatments in case of pay and allowances, medical facilities, pension gratuity, provident fund and other prescribed benefits, between the employees of a recognized private school and the Government school. It was held by the court that the mere prescription of scales of pay and other conditions of service would not jeopardize the right of the management of minority institution to appoint teachers of their choice. It was further held that the excellence of the instruction provided by an institution would depend directly on the excellence of the teaching staff, and in turn that would depend on the quality and contentment of teachers. The Delhi High Court in Abhibhavak Mahasangh v. Union of India96 held that Article 30(1) does not permit minorities to indulge in commercialization of education in grab of Constitutional protection.

94 AIR 1979 SC 52
95 A.I.R 1987 S.C. 311
96 A.I.R 1999 Del.126
In Shaninda Hasan v. State of U.P.,\(^{97}\) the Supreme Court rejected the contention challenging the validity of appointment of a principal in a minority institution.

In Governing Body St. Antony’s College, Shillong v. Rev. Fr. Paul Petta\(^{98}\) an order of transfer was challenged because the petitioner was not afforded a opportunity of being heard. It was held by the court that it was necessary for the governing body to show cause before passing the order of transfer. The Supreme Court had yet another chance to examine the validity of regulatory measures in the Christian Medical College Hospital Union Case.\(^{99}\) It was held in this case that the Industrial Dispute Act which is a general law for prevention and settlement of industrial disputes cannot be said to be interfered with the rights of minorities to establish and administer educational institutions. The court further held that the provisions of the Industrial Disputes Act have been conceived and enacted with the principles accepted by the International Labour Organization and the UNESCO.

The latest case in this regard is Yumus Alisha v Mohammed Abdul Kalam.\(^{100}\) Here the Supreme Court by looking into the minority status of educational institution held that the services of staff without obtaining the prior approval of the Director. The Court in Yogendranath Singh v State of U.P.,\(^{101}\) held that students, ex-students as well as teachers have locus standi to challenge the declaration of an educational institution, as the minority institution. In The Managing Board of Mili Talmi Mission v State of Bihar,\(^{102}\) the Supreme Court upheld the validity of selecting a person as Head Master of a minority institution.

A close look at these cases will show that the judiciary has not developed a strict principle against the validity of a regulation. The judiciary has taken a reconciliation of the rights of minorities and the interests of teachers and other members of the staff. By analyzing these cases one can say that the judiciary has

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97 A.I.R 1990 S.C. 1381
100 A.I.R. 1978 SC
101 A.I.R 1999 All 356
102 1985 I (1) SCR p. 410.
succeeded in striking a balance between the interest of minorities and staffs. Thus Article 30(1) comes as a rescue to minorities than any other rights accorded to them.

Although the right to state aid is not expressly recognised by Article 30(1), the demands and necessities of modern educational institutions to be properly and effectively run require considerable, expense which cannot be met fully by fees collected from the students and private endowments which are inadequate and therefore, no educational institution can be maintained efficiently without substantial aid from the state funds. Even though the Constitution itself under Articles 28(3), 29(2) and 30(2)\textsuperscript{103} visualises educational institutions receiving aid out of state funds, minority institutions are not given any right fundamental or otherwise to receive any grant from the state, other than the right not to be discriminated against in matters of financial grants. The right under Article 30(1) implied within itself a right to obtain aid on conditions which are not destructive of the right. No educational institution can in actual practice be carried on without aid from the state.

The state can lay down certain conditions for the minority institutions seeking aid. Obviously there cannot be any fixed standards for judging the validity of a pre condition for aid, and every case must be decided on its own merit; subject to the condition that it must be a reasonable regulation and must be regulative of the educational character of the institution.

\textsuperscript{103} Art 28 (3) – No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.
Art 29 (2) – 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.
Art 30 (2) – 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.