CHAPTER I

1.1 Introduction

“We must do more to prevent conflicts happening at all. Most conflicts happen in countries, especially those which are badly governed or where power and wealth are very unfairly distributed between ethnic or religious groups. So the best way to prevent conflict is to promote political arrangements in which all groups are fairly represented, combined with human rights, minority rights and broad based economic development.”¹

-------Kofi Annan.

India has a heterogeneous population. There is no homogeneity in Indian population. It has a form of society in which minority groups maintain independent tradition and culture. This is the result of historical and geographical phenomenon in India. Diversity in different geographical areas of the country projects the cultural, religious, linguistic, racial and ethnic differences. There are followers of Hinduism, Islam, Christianity, Parsis, Buddhists, Sikhs, Jains, etc. Each major religion comprises within itself a number of religious denominations and sects. There is a big majority Hindu community as well as minorities based on religion and language. Muslims, Christians, Sikhs, Parsis and Buddhists are recognized religious minorities in India. Division of States in the country is based on linguistic basis; there are linguistic minorities in each State as well.

India has opted for democratic form of government where decisions are made by majority opinion; therefore need to provide safeguards to minority becomes necessary. Most of the countries in the world has therefore identified minorities in their country and have tackled their problems. H. M. Seervai, an eminent Constitutional Law expert, has also expressed that special rights are conferred

¹ Statement on presenting his Millennium Report, 3 April 2000
on minorities because in a democratic country with adult universal suffrage, majorities, by virtue of their number, can protect themselves.\textsuperscript{2} India further consists of Scheduled Castes, Scheduled Tribes and other Socially, Educationally and Economically weaker Sections of the people. These groups need protection from exploitation and as well special safeguards to overcome their backwardness.

Special protection of minorities derives legitimacy from the internationally recognized vulnerability of identity-based groups caused by their non-dominance in terms of number and power, which makes it difficult for them to achieve equality in the common nation domain, while preserving their distinct identity. The idea of their guaranteed special rights is as old as the idea of nation state. It got fully reflected in the Charter of the League of Nations and the Treaties on minorities signed under it. Under the multilateral treaties in the UN system, these rights have found more comprehensive and definitive expression in the now-binding Article 27 of the International Covenant of Civil and Political Rights (ICCPR) of 1966, and subsequently in the UN Declaration on Rights of persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992) along with the official explanations by the UN Human Rights Committee in 1994 and by Asbjorn Eide in 2001,\textsuperscript{3} which put an obligation on the states parties, including India, to not only give minorities cultural freedom, but to create conditions favorable for the preservation and development of their identity.

The framers of the Constitution had a delicate job to perform. The constitution had to meet the needs and aspiration of all the section of society. Safeguard was assured for people who had distinct Culture, religion or language. Through the special provisions for minority they did their best to safeguard the interest


of the various minority groups whether based on religion, language, Culture or Socio-Economic factors so as to give them a sense of security and participation in the national growth.

It is for this reason that makers of the Constitution provided freedom to the minorities in respect to establishment and administration of their educational institutions. Originally the Draft Constitution contained it as ordinary rights with prohibition on part of the State for passing any law which could be called oppressive. But the discussions in the Assembly lead to change it as fundamental rights. The purpose for doing so was explained by Dr. B. R. Ambedkar in the following words:

“The present situation as you find is that we are converting it into a fundamental Rights, so that if a state makes any law which was inconsistent with the provisions of this Article then that much of the law would be invalid...”4 The expression “Education” in the Articles of Constitution means and includes education at all levels from primary school level to the University level including professional education. Education in Entry 25 List III of the Seventh Schedule to the Constitution means and includes technical education, medical education and Universities, vocational and technical training of labour.5

Since the right to conserve the language, Script or Culture also includes its development, one of the important methods to conserve is through Education Institutions. J. A. Laponce rightly said, “The school is to a language what a church is to a religion-the condition of survival.”6 Hence the framers of the

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4 Constituent Assembly Debates, Vol. VII, pp.919-922
5 Education has been transferred from list II to List III of VII Schedule to the Constitution by 42nd Amendment to the Constitution. 
6 Laponce J. A. The protection of minorities, University of California publication in Political Science Volume 1960 Pg 33
Constitution have taken great care in safeguarding Educational rights of the minorities.

Education has been used as a means of preserving the Culture and Language of the group. The Constitution of India provides safeguard for minorities to establish and administer educational institutions of their choice. In the past, education to ethnic and caste was imparted through Madrases, Pathsalas, Gurukuls, etc. which were set by mosques, temples, Maths, etc. Community played a major role in imparting education. In Pre -Independence Era Colleges and Universities like Benaras Hindu University, Aligarh Muslim University, etc were established by different communities. Liberal support of British Government promoted the proliferation of Christian Mission schools which catered to educational and cultural needs of the Christian Community.

After Independence India opted for democratic form of Government. Where majority by their number could safeguard their interest but minority needed special safeguard so that they could preserve their language and culture. Articles 29 and 30 of the Indian Constitution are cultural and educational safeguards provided to minorities. It provides minorities the right to establish and administer educational institutions of their choice. Education not only plays a major role in growth and development of any nation but also helps in breaking the vicious circle of poverty and backwardness. The Constitutional rights conferred on minority are not in anyway favour bestowed upon them, and are not meant to give some extraordinary rights or to treat them as privileged class of the population. It aims at providing a sense of security and belongingness among minority.

The framers of the Constitution had a difficult job to perform and were fully aware of the complex and complicated problem of minority rights especially at the backdrop of partition of India and Pakistan. They made efforts to incorporate in the Constitution guaranteed rights, safeguards and protective
rights. All this is done, with broader interest of national integration and to inculcate confidence among the minorities so that they may be put on equal footing with the majority and should enjoy all the opportunities to participate in the democratic functions of the country. The framers of Constitution of India need to be praised for the protection it affords to the minorities in the country. The framers of the Constitution were quite conscious of the importance of these provisions.

The minority rights are sought to be preserved through fundamental rights. Articles 25 to 30, safeguards religion and culture of minority group in India. Articles 14, 15, 16 and 29(2) seek to protect them from hostile and discriminatory State actions. In the vast country like India, where ‘ghettoism’ is so common, it is a tight rope walk to assimilate the minorities with rest of the people so that they may not remain separate and isolated and at the same time provide them opportunities to preserve their identity and to secure their distinctive language, script and culture.

Minority rights being fundamental rights are protected by the prohibition against their violation, and are backed by a promise of enforcement. Every legal provision or executive action must conform to mandates implied in them. The prohibition contained in Article 13 bars the State from making any law abridging or limiting any of these provisions and provides for striking down of any law found inconsistent. The promise of enforcement is contained in Article 32 which provides for the right to move the Supreme Court by appropriate proceeding for the enforcement of Fundamental Rights. This provision imposes a duty upon the Supreme Court to afford protection against any violation and vests right in religious and linguistic minorities to seek remedy in case the rights are threatened with deprivation or infringement. A similar jurisdiction has been confirmed upon the High Courts under Article 226.
The architects of the Indian Constitution in an attempt of striking a balance to assimilate minority in the mainstream and as well providing opportunity to preserve their distinct language, script and culture provided two major Articles in the form of Article 29 and 30 in the Constitution of India. These two Articles are pillars to safeguard the cultural and educational interests of minorities. These two Articles are the result of a compromise of the contending and conflicting parties, at the time of making of the Constitution.

Supreme Court through its numerous decisions has been upholding the rights of religious and linguistic minorities in respect to, i) Declaring a community as a minority community and ii) In respect to establishing and administering minority institutions. Supreme Court has not only upheld the fundamental rights of minorities in large number of cases but has honored the sacred obligation to the minority communities. In *Re: The Kerala Education Bill, 1957 case* the Chief Justice S. R. Das observed,

“We the people of India have given unto ourselves the Constitution which is not for any particular community or section but for all. Its provisions are intended to protect all, minority as well as the majority communities. There can be no manner of doubt that our Constitution has guaranteed certain cherished rights of the minorities concerning their language, culture and religion. So long as the Constitution stands as it is and is not altered, it is, we conceive, the duty of this Court to uphold the fundamental rights and thereby honor our sacred obligation to the minority communities who are of our own.”

Through its various judgments the Courts have firmly affirmed that minorities cannot be compelled to surrender their right to administer their educational

7 [1959]1SCR995
institution to unconstitutional conditions attached for granting of affiliation or recognition. The Courts held that minorities have right to choose their medium of instruction, their teachers and students. It is their privilege to appoint the governing body and take disciplinary action against erring members. The State is permitted to impose only those regulations which would promote academic excellence. Though right to administer does not include right to mal administer. The minority management does have to follow law of the land, like regular tax measures, Contract laws, welfare legislation etc. Minority Educational Institutions are required to conform to norms of natural justice and fair employment policy as there is close affinity between security of tenure of teachers and academic excellence.

1.2 Rationale

Constitution of India ensures minorities’ complete equality of citizenship including fundamental rights, a full sense of security in respect of life, culture, religion, property and honour through Constitutional guarantees. Minorities do have further fundamental rights to preserve their language and culture for the same they can establish and administer educational institutions of their choice.

Minorities have established many educational institutions for not only the growth and development of their own community but by and large have contributed to the educational growth of other communities as well. Article 30(1) of the Constitution of India guarantees minorities right to establish and administer educational institutions of their choice. But time and again it has been observed that the government has encroached upon this fundamental right of the minorities. In some cases it has imposed a selection committee for appointment of faculties, where as in some restriction for admission are imposed. In short to get the rights implemented they are compelled to approach the judiciary.
Supreme Court through its various judgments has upheld the Cultural and Educational rights of Minorities embodied in Articles 29 and 30. Various legislatures enacted encroaching the rights of minorities have been struck down by Supreme Court.

Upholding the cultural and educational rights of minority in *St. Xavier’s College v State of Gujarat*\(^8\), Reddy J. observed,

“...In spite of the consistent and categorical decisions which have been held invalid certain provisions of the University Acts of some of the States as interfering with the fundamental rights of the management of minority institutions inherent in the right to establish educational institutions of their choice under Article 30(1), the State of Gujarat has incorporated similar analogous provisions to those that have been declared invalid by this Court. No doubt education is a State subject, but in the exercise of that right any transgression of the fundamental right guaranteed to the minorities will have its impact beyond the borders of that State and the minorities in the rest of the country will feel apprehensive of their rights being invaded in similar manner by other States. A kind of instability in the body politic will be created by the action of a State which will be construed as a deliberate attempt to transgress the rights of the minorities where similar earlier attempts were successfully challenged and the offending provisions held invalid.”

Though Education is no more a State subject, now education being on concurrent list due to 42\(^{nd}\) Constitutional Amendment, 1976 the encroachment of minorities’ rights affects the entire minority community. The researcher has made an attempt to find out as to what are the rights of minority educational institutions? Whether the rights of minority educational institutions have been

\(^8\) (1975) 1 SCR173
infringed? What remedies are available to the minority educational institutions?

Researcher has conducted study of various government Acts, Circular legal provisions relating to minority educational institutions enacted for promotion of rights of minority educational institutions. Researcher has made the study of various judicial pronouncements from the State of Madras v. S. Srimati Champakam Dorairaj\(^9\) (1951) to P. A. Inamdar v State of Maharashtra\(^10\) (2005) to ascertain the judicial trend. It is a sincere attempt to assess the legal rights of minorities and to ascertain whether they are able to enjoy the same in the independent India.

1.3 Scope of Study

International law defines ‘Minority” as “A group numerically inferior to the rest of the population of the State in a non-dominant position, whose members possess ethnic, religious or linguistic characteristics differing from the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.”\(^11\) To prevent the numerical inferiority of the minorities from turning into political and societal inferiority, legal protection of the distributive characteristics of minorities’ viz. ethnic, religious or linguistic becomes imperative in a democracy. The duty of democratic State is to safeguard the rights of minorities and to protect them from all forms of discrimination.

In a country, like India, where there is a big majority community, if some safeguards or incentives are not provided, the overall development of the minority community will be at stake and stage may come when it will become

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\(^9\) AIR 1951 SC 226
\(^10\) (2005) 6 SCC 537
difficult for them even to survive. In a democratic set-up, where decisions are made by majority opinion, the need to provide safeguards to minorities becomes imperative. It is for this reason that there is no democratic country in the world which does not provide special safeguards for the minorities. Similarly, India too has provided minorities right to establish and administer educational institutions of their choice.

The researcher through this study would try to understand the problem, considering all the related aspects that affect the rights of minority educational institutions. The introspective study of past and present scenario of minorities’ educational institutions position during the various eras will be conducted to understand the problem in wider perspective. The need is felt to test the efficacy of the Fundamental rights guaranteed under the Constitution. To do so, judicial pronouncements in cases related to minority educational institutions from 1951 to 2005 will be studied. Minorities do feel that they are not being getting their due share and they are been deliberately sidelined. This belief has been strengthened by Sachar Commission report. An attempt to ascertain the truth will be made. Government circulars will be scrutinized to deduce whether there are any circulars infringing the constitutional rights of minorities. An overall effort will be made to determine whether the minorities do really have some rights or is it diluting out.

1.4 Statement of the Problem:

“Minority” is the concept not been adequately defined in the Constitution or in any other Act or Instrument. Researcher through various sources has made an attempt to understand the concept of Minority. After studying the Constitutional and legal provisions safeguarding the minorities’ educational institutions rights, judicial approach has been critically analyzed by studying almost all the cases relating to rights of minority educational institutes from
1951 to 2005. Thus researcher intended to limit her study under the following title. 

1.5. Importance of the Study

In democratic system citizens freely make political decisions by majority rule. But rule of majority is not necessarily democratic. It cannot be called fair or just if 80% of the population is not sensitive to the needs of minorities. Minority due to their less number might not be able to effectively represent themselves and their needs. Therefore in a democratic society, majority rule is coupled with guarantees of citizens’ fundamental rights, which in turn serve to protect the rights of minorities, whether ethnic, cultural, religious, linguistic or political. The rights of minority should in no way depend on the mercy or good will of the majority and these rights cannot be eliminated by majority vote. The constitutional and fundamental rights of minorities need to be protected because democratic laws and institutions need to protect the rights of all citizens. In such a situation legal protection of minorities becomes an obligation of a state.

Diane Ravitch, scholar, author, and a former assistant U.S. secretary of education, wrote in a paper for an educational seminar in Poland: "When a representative democracy operates in accordance with a constitution that limits the powers of the government and guarantees fundamental rights to all citizens, this form of government is a constitutional democracy. In such a society, the majority rules, and the rights of minorities are protected by law and through the institutionalization of law."
There is a feeling among minorities in India that they have been sidelined and their problems are neglected. Time and again they have approached the judiciary to get their fundamental rights implemented. In spite of the fact that more than sixty years have passed since India achieved its independence yet the minority rights are not yet defined, the law is not yet settled. Though fundamental rights are guaranteed to minority but the term minority is nowhere defined under the constitution. This has lead to many more claims for minority status.

The researcher intends to study and analyze the existing national and international legal provisions relating to minorities and as well critically examine the judicial trend related to minority rights especially relating to the right to establish and administer educational institutions. The study intends to make a sincere attempt, to examine as to how the conflicts can be resolved?

1.6 Objective of the Study

Article 30(1) provides minorities right to establish and administer educational institutions of their choice. Judiciary has given wide interpretation to this section. The researcher intends to conduct the research with the following objectives:

1. To evaluate the constitutional provisions relating to minority in general and minority educational institutions in particular.
2. To study the concept of minority for national and international perspective.
3. To study the various government regulations that encroach legal rights of Minority Educational Institutions.
4. To study the Impact of Rules and Regulations applicable to minority institutions
5. To analyze the rules related to affiliation, recognition and approval aspects of procedures.

6. To Study the role of Executive approaches of various bodies like State, University, etc

7. To Study the various laws related to minority Educational Institutions.

8. To Study the changing trends and interpretations by judiciary of legal rights of Minority Educational Institutions.

9. To evaluate the effectiveness of minority rights.

10. To suggest appropriate remedies.

1.7 Hypothesis of the Study

Taking into consideration the present status of minorities following hypothesis are formulated:

1. The Constitution of India consists of adequate provisions to safeguard the interest of minorities; the positive spirit is lacking in their implementation.

2. Government Rules and Regulations infringes the minority rights guaranteed under Article 30(1) to establish and administer educational institutions of their choice.

3. The Rules and Regulation of various bodies like Universities, U.G.C., State Board, etc interferes with the minority rights.

4. Acquiring affiliation, recognition or approval by minority educational institution is Herculean task.

5. There are various provisions for the benefit of the minorities but incidents of infringement by State authorities are common.
6. Judicial interpretation and trend has changed considerably with time, which at times has not been in favour of minority educational institutions.

7. At the global level the term ‘minority’ has a wider meaning whereas in India it is limited to a few sections of the society.

8. The scope of Article 30 of the Constitution guaranteeing educational autonomy to minorities has become uncertain and diluted due to the impact of inadequate legal provisions and complicated judicial interpretations.

1.8 Research Methodology

The study is purely Doctrinal in nature. Data will be collected from Primary and secondary sources. International Instruments, Constitution and various laws related to minorities will be studied to understand the existing laws relating to Minority Education Institutions. Circulars of government, educational boards and Universities will be scrutinized to assess its impact on minority educational institutions. Role of Executive will be examined to determine their attitude towards minority educational institutions. Judicial decisions will be carefully analyzed to understand the changing judicial trends.

Apex court’s decision in the Landmark cases related to minorities viz,

In *State of Bombay v Bombay Education Society’s Case,*¹² Re *Kerala Education Bill, 1957*¹³; *Sidhrajbhai v State of Gujarat*¹⁴; *Rev Father W Proost v State of Bihar*¹⁵; *Azeez Basha v Union of India*¹⁶; *D. A. V College, Jullundur v State of*

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¹² AIR 1954 SC 561
¹³ AIR 1958 SC 956
¹⁴ AIR 1963 SC 540
¹⁵ AIR 1969 SC 465
¹⁶ AIR 1968 SC 662
Punjab17; D.A.V. College, Bhatinda, etc. v State of Punjab and Ors,18 State of Kerala etc. v Very Rev. Mother Provincial19, St. Xaviers College Society v State of Gujarat20; Bihar State Madarasa Education Board, Patna v. Madarasa Hanfia Arabic College Jamalia and Ors21. St. Stephan’s College v University of Delhi 22; A.P. Christian Medical Educational Society v Government of A.P23; T.M.A. Pai Foundation v State of Karnataka24; All Bihar Christian Schools Association v State of Bihar25; Islamic Academy of Education v State of Karnataka26; P.A. Inamdar v State of Maharashtra27, etc. will be critically analyzed to ascertain the changing judicial trend towards the rights of minority educational institutions.

Books written on Constitution of India by eminent authors like H. M. Seervai, M, P, Jain, Durga Das Basu, etc were referred for understanding the Constitutional perspective of the rights of minority educational institutions. Researcher has not come across any book with in depth research on rights of minority educational institutions. Few books that the researcher was able to get on the topic had confined their study to some specific case or few cases or confining the scope of study to limited area. But few good published article dealing with rights of minority educational institutions or rights of minorities were available. Few books were available which dealt mainly with minorities’ political rights, or their Socio-Economic condition or relating to Violation of human rights during various riots.

17 AIR 1971 SC 1737
18 AIR 1971 SC 1731
19 AIR 1970 SC 2079
20 AIR 1974 SC 1389
21 AIR 1990 SC 695
22 AIR 1992 SC 1630
23 AIR 1986 SC 1490
24 (2002) 8 SCC 481
25 AIR 1988 SC 305
26 (2003) 6 SCC 697
27 (2005) 6 SCC 537
Material from various national as well as international conferences, seminars, consultations and workshops is also collected. Most current and day to day developments are collected from various websites, print and electronic media to study the importance of the topic.

Researcher has studied various international instruments to cull out minority rights as envisaged in them. Since Minority is defined nowhere i.e. neither in the Constitution nor in the Constitution Assembly Debate, researcher has made an endeavor to explain the concept based on various international instruments and judicial pronouncement. The research discusses in detail the rights of minority education institutions and provides suggestions to ensure the rights percolates for the benefit of minorities in India.

1.9 Limitation of the study

Minority rights have emerged as a clearly defined area of academic and practical work in many parts of the world. However, in India there is some difficulty as Minority is no where defined in Constitution or Constituent Assembly Debate. Concept of Minority had to be deduced through various international instruments, national legal and Constitutional provisions and through judicial pronouncements.

Researcher has confined the study to the rights minority educational institutions as envisaged through various judicial pronouncements. Researcher has not dealt with any other rights of minority except the right of minority to establish and administer educational Institutions of their choice. This right has been guaranteed under Article 30(1) of the Indian Constitution. Hence the study is focused on existing legislations and land mark judgments of Supreme Court and various High Courts of the country.
1.10 Utility of the Study

The study is specifically important for the minority educational institutions as it will provide comprehensive study dealing with their rights. Improvement in the condition of minorities Education will not only benefit minorities but will also facilitate the minorities’ integration into the society, ultimately benefiting both Minority and Majority. The study may be helpful in following ways:

1. In order to avail the rights guaranteed by Constitution and other legal provisions it is necessary for Minority Educational Institutions to be aware of the various rights available to them. This study deals not only with the legal provisions but has also critically analyzed nearly all the cases from 1951 to 2005. The study will give the Minorities Educational Institutions details of all their rights.

2. Researcher has come across few studies conducted on Minority Rights. Studies already conducted mainly dealt with political rights, Socio-Economic Condition etc. Government has set up National Minority Commission for Minority Educational Institutions, to ensure that minorities’ rights safeguarded under the Constitution are protected. The study will help the Policy maker, National Commission of Minority, State Commissions for Minority, National Commission for Minority Educational Institution, etc to review the implementation of policies and to overcome lacunae.

3. The study will provide impetus to review decision which has annihilated the rights of minorities. This will contribute to concretize the rights of minorities in the light of various judicial decisions.

4. It will provide base for further research and education.

5. The study will facilitate the researcher to provide sound legal advice to various minority educational institutions.

6. In certain section of society there is aversion to the concept of reservation and safeguards for minorities and other deprived communities. This
leads to tension between minority and majority. Certain benefits for minorities are at times considered as appeasements even by bench. The well documented research study is an endeavor towards conflict resolution.

7. Researcher has already presented a paper in national and State level seminar on the related topic. In future also researcher will be able to participate in Conferences, Seminars, Workshops, etc relating to rights of minority educational institutions.

8. Suggestions provided for minority educational institutions will make them aware of their rights and will equip them to better administer their educational institutes for the betterment of their community and society at large.

9. Nearly all the cases decided by the Supreme Court from 1951 to 2005 i.e. for the period of 54 years have been critically analyzed. Cases of various High courts have been referred at appropriate places. The study not only provides comprehensive documentation but will also help in implementations of rights of minority educational institutions.

The research will provide an insight into the minority problems. Though, may be a miniscule attempt, but it will provide an opportunity for introspection in this matter, and provide a broader perspective. It is an endeavor to bridge the gap between the communities. It is a genuine effort of conflicts resolution. Researcher has provided a road map for Minority Educational Institutions for effective functioning and serving the needs of their community.

1.11 Scheme of Study

Keeping in mind the nature and objectives of the study the researcher intends to categorize the entire study into Eight Chapters.
The **first chapter** will be an **Introductory** Chapter consists of general introduction along with objectives of study, scope of the study, Statement of the problem, importance of the study, rationale of the study, hypothesis of the study, research methodology adopted and scheme of the study.

**The Second Chapter** discusses the **Concept of Minority**. The Chapter further deals with types of minorities, definition of minorities as per international instruments and judicial pronouncements. It discusses Constitutional provisions safeguarding minorities rights. The chapter deliberates on the needs for minority rights. After pondering over judges’ opinion the researcher has consolidated the chapter with the concept of Minority for research purpose.

**The Third Chapter** consists of **Historical growth and developments of Minorities in India**. The chapter discusses the linguistic minority and deals with growth and development of religious minorities viz Muslims, Christians, Sikhs, Buddhists and Parsis in detail. Since State is taken as an unit to determine minority, population of minority in each State of India has been discussed.

**The fourth Chapter** consist of **Constitutional and legal provisions relating to Minority Rights**. The chapter discusses the legal and Constitutional provisions relating to rights of minority educational institutions. Major provisions of National Commission for Minority Act, 1992, National Commission of Minority Educational Institutions Act, 2004, etc are discussed. Rules and Regulations that governs Minority Educational Institutes are critically analyzed. Establishment and functioning of National Minorities Development and Finance Corporation towards growth of Minorities is scrutinized to evaluate its contribution to Minorities economic growth.

**Chapter fifth** discusses the **Relation between Article 29 and 30 of Constitution of India**. Articles 29 and 30 create two separate rights though it
is possible that the rights might meet in some case. Over the decades, the interplay of these two Articles has been the cause of intense debate. Firstly, touching on issues such as secularism and secondly, the degree of control over private educational institutions maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them. This chapter begins with the discussion of rights guaranteed under Article 29 and Article 30 of the Constitution of India. Further it discusses judicial approach relating to each Sub Clause of Articles 29 and 30. Subsequently, the researcher has discussed the judicial interpretation relating to the relation between Article 29 and 30.

**Chapter Six** will deal entirely with **Judicial Trend**. The changing trends and interpretation by judiciary will be discussed critically so as to deduce the present trend and judicial approach to problems related to Minority Educational Institutions. The cases on Minority Rights, from the State of Madras v Srimati Champakam Dorairaj (1951) to P. A. Inamdar v State of Maharashtra (2005) have been critically analyzed to understand the judicial approach towards rights of minority educational institutions. In most of the cases Supreme Court has upheld minorities’ right to establish and administer educational Institute of their choice.

**Seventh Chapter** discusses **Minority Right: Establishment of University**. In the case of Azeez Basha v Union of India,\(^{28}\) it was the first case where the court has held that Aligarh Muslim University is not a minority educational institution, since it is not established by Muslims. In the backdrop of controversy related to this two premier University of the country, researcher has discussed these two cases relating to Aligarh Muslim University and Jamia Milia Islamia exclusively in this chapter.

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\(^{28}\) AIR 1968 SC 662
Chapter Eight is last and concluding chapter where researcher has conclude the study and put forward her major findings and recommendations for implementations. Based on the judicial pronouncement the researcher has identified the rights of Minority Educational Institutions and has suggested the roadmap for them to follow so that they are able to enjoy the rights bestowed on them.

Cases referred are tabulated with their relevant citations so that it becomes easy to refer to any of the case and also to know the cases which are studied.

A list of abbreviations will be given after the table of cases.

The study will be concluded with a Bibliography which will show the various sources from where the material will be collected.