CHAPTER NINE

FREEDOM OF RELIGION AND SECULARISM

Freedom of Religion constitutes the basis of Indian Secularism. Therefore, the place and role of religion in the Indian Society and the Constitutional Law of India deserve a detail consideration.

Historically, India has been a land of many religions and religious sects. In this country, people cling to their religious faith at all costs. To them, religion is the dearest object. They live for religion and die for it. It is revealed at the time of partition of the country and then after in many communal riots in independent India. The influence of religion on the mind of the people in India is so great that, it is rarely absent in the thinking of large number of people. Therefore, every problem more or less is mixed with the Religion.

Constitutional Provisions :-

The framers of the Constitution of India have
recognised the relevance of religion in the life. They have made Constitutional Provisions guaranteeing the right to freedom of religion in the Articles 25 to 28 of the Indian Constitution. These Articles of the Constitution form the basis of Indian Secularism. These provisions also explain one of the objectives of the Constitution declared in the Preamble, "To secure to all its citizens liberty of faith, belief and worship".

The right to freedom of religion is explained in the Articles 25 to 28 of the Indian Constitution. With reference to these rights, it can be noted that they are available not only to the citizens of India but to all persons including aliens. Similarly, like other fundamental rights, the rights to freedom of religion are not absolute, and subject to the limitations prescribed in the Constitution itself. It may also be noted that the Articles relating to the rights to freedom of religion start with limitations and rights are explained subsequently. The Articles relating to the other Fundamental Rights explain the rights first and the limitations subsequently.
Religious Freedom of Individual :-

The Constitution of India has guaranteed the Freedom of Religion to an individual. The Article 25 of the Indian Constitution says :-

"(1) Subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to freedom of conscience, and right freely to profess, practice and propogate.

(2) Nothing in this Article shall affect the operation of any existing law or prevent the State from making any law. (a) regulating or restricting any economic, financial, political or other Secular activity which may be associated with the religious practice. (b) providing for social welfare and reform or the throwing open of Hindu Religious Institutions of a public character to classes and sections of Hindus.

Explanation :-

I) The wearing and carrying of Kripans shall be deemed to be included in the profession of the Sikh Religion.
II) In sub-clause (b) of clause (2), the reference to Hindus shall construed as including a reference to persons professing the Sikh, Jaina and Buddhist religion and reference to Hindu religious institutions shall be construed accordingly.

Thus, Article 25 (1) of the Indian Constitution, guarantees the freedom of conscience, the right to freely profess, the right to practice and the right to propagate one's own religion. It may here be noted that the Indian Constitution also provides the limitations on the freedom of religion. The limitations include public order, morality and health and the other provisions of Part-III of the Constitution. Similarly, the Freedom of Religion is subject to the control by the State while regulating Secular of non-religious activities which may be associated with the religious practices. Like-wise, the freedom of religion is also subject to the power of the State to make Legislation for the social welfare or throwing open the Hindu Religious Institutions to all classes and sections of Hindus. If there is a conflict between the Freedom of Religion and the Constitutional limitations on it, then the religion has to yield and public
order, morality, health etc., would prevail. Thus, Indian Constitution seeks to maintain a balance between the freedom of religion and the powers of the State.

Commenting on Article 25 of the Constitution, Justice Gajendragadkar, has observed that 'while the right to freedom of religion is guaranteed in ample measures, the restrictions imposed are no less significant. Article 25, therefore, brings out clearly the intention of the Constitution to allow religion to function within its legitimate sphere and leave the State to carry on all its activities uninfluenced or unhindered by the intrusion of religion.'

Article 25 guarantees freedom of conscience as an individual. Freedom of conscience means that the individual can choose any religion he would like to believe in. In a Secular State, individual's freedom of conscience is absolute and the State has no power to restrict the

individual's freedom of conscience. But the text of Article 25 of the Constitution makes it clear that the freedom of conscience is not absolute and like other Fundamental Rights, it is subject to public order, morality and health and clause 2 of the Article 25, and other provisions of Part-III of the Indian Constitution, even though, India is a Secular State. 'This, however, is simply a case of inaccurate drafting and the courts have made it clear that the State can have no power over the conscience of the individual. This right is absolute' 2.

Luthera has also observed that 'this limitation of the freedom of conscience of the individual is due to either bad drafting of the Article or indiscreet borrowing rather than any conscious desire on the part of the framers of the Constitution to do so' 3.

Article 25 of the Constitution also guarantees the right to profess the religion. It means that, a person is free to declare his creed in the public, subject to the honour of other person's religion. This right to profess religion is of particular importance in our country, in which we have several religions and religious sects.

The right to practice of religion is also guaranteed in the Article 25 of the Constitution. This right implies the practical expression of one's faith or belief in the form of private or public worship. What constitute an essential part of a religion or a religious practice has to be decided by the courts with reference to the doctrine of a particular religion and include practices regarded by the community as part of its religion.⁴

Article 25 of the Indian Constitution further guarantees the right to propagate religion. The right to

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⁴ Seshamnal V. State of T.N., (1972),2, S.C.C.11,

propogate religion, means spreading of one's religion by
by advocacy or preaching. It does not mean conversion
by force or fraud or inducement etc. It is to be noted
that the right to propogate the religion is given to
all, and not to a particular religion or community.

This right was much discussed and debated in the
Constituent Assembly of India. Some members of the Consti-
tuent Assembly opposed the inclusion of this right
separately, as they thought it that the right to prop-
ogate was contained in the right to practice religion.
They also thought that it might freely be used for the
purpose of whole sale conversion. But the overwhelming
majority of the members in the Constituent Assembly did
not agree with this view and finally the word 'propogate'
was included in the Article 25(1) of the Constitution.
It should be noted in this context that such provision
does not find place in any other Constitution where it
deals with the freedom of religion.

Though the right to profess and propogate is con-
ferred on all persons, and not merely on citizens, a
question would arise whether a corporate body which is
only a juristic person can claim such a right as the Fundamental Right. The trend of Judicial decision so far has been that the word 'person' in the Constitution does not contemplate such artificial entities. In this connection, Shelat has remarked that 'To deprive, however, a religious body such as a missionary or a religious society of such a right of action on the ground that the Constitution envisages only human person and not artificial legal entities is to deny the freedom much of its content.'

Definition of 'Religion':

While discussing the freedom of religion, the point, what is religion? needs to be considered in detail. The Constitution of India guarantees Freedom of Religion but the term 'Religion' has not been defined in the Constitution. Therefore, the definition of 'Religion' becomes the crucial point in the application of

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the Articles dealing with the right to freedom of religion. In this context, another question is, who is to give the definition of 'religion'. Certainly, the individual, the religious body, or the State would not be the proper authority to define it. Therefore, naturally, the responsibility has been shouldered on the courts which also found it, difficult to define the term 'religion'.

It is really, difficult to give a definition of 'Religion' which would satisfy the adherents of all religions in the world. However, the courts have attempted to define the term 'religion' while interpreting the Constitutional provisions.

Justice Field of the Supreme Court of the U.S.A., in a case of Davis V. Benson (133 U.S. 33 at 342,1889) observed "the term religion has reference to one's views of his relations to his CREATOR, and the obligations they impose of reverence for his being and character and of obedience to his will".

This definition of the term 'Religion' is inadequate and would exclude some religions like Buddhism and Jainism which do not believe in the existence of God. Therefore, the definition of 'religion' as it is given by the Supreme Court of the U.S.A., can not be accepted in the Indian Context. However, it was accepted by the High Court of Bombay, in a case of Ratilal Panachand Gandhi V. State of Bombay\(^7\). And Narsu Appa Mali V. State of Bombay\(^8\). It was held that "Religion is a matter of man's faith and belief. It is a matter of concerning a man's contact with his creator. It has nothing to do with the manner in which a practice is accepted or adopted as forming part of a particular religion or faith".

This implies that the court made a distinction between the freedom of conscience and the freedom of religious practices. The court also viewed that the freedom

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7. A.I.R. 1954, S.C. 388. For details, see Dr. Bachal\(^{\text{Op.cit.}, \ P.65.}\)

8. A.I.R. 1952, Bombay, 84. For details, see Dr. Bachal\(^{\text{Ibid.}, \ P.65.}\)
of conscience is an absolute right and the freedom of religious practice is subject to the limitations mentioned in the Constitution.

This view was accepted by the Bombay High Court in case of Syedna Taher Sait vs. Fuddin V. Moosaji Koicha. And by Calcutta High Court in Masud Alam V. Commissioner of Police.

The Supreme Court of India did not accept the definition of the religion as it is given by the Supreme Court of the U.S.A. Similarly, the Supreme Court of India did not accept the view of the High Courts in India. The Supreme Court of India in a case of the Commissioner Hindu Religious Endowments, Madras V. Sri Lakshmindra Tirtha Swamiar of Sri Shirur Mutt. (1954, S.C.R. 1005) held that the *religion is not necessarily theistic and in fact, there are well-known religious


in India like Buddhism and Jainism which do not believe
in the existence of God or of any Intelligent first
cause. A religion undoubtedly has its basis in a sys-
tem of beliefs and doctrines which are regarded by those
who profess that religion to be conducive to their spi-
ritual well being. —— A religion is not merely an
opinion, doctrine, or belief. It has its outward ex-
pression in acts as well.\textsuperscript{11}

\textbf{Burning of Article 25:—}

Recently, in January, 1984, the Akali Dal in
Punjab, has raised a controversy on the issue of inclu-
sion of 'Sikh' in the term 'Hindu' as it is mentioned
in the explanation II of the Article 25 of the Indian
Constitution. This issue was given too much importance
to the extent that, on February 27, 1984 incidents of
burning copies of the Article 25, took place in New-
Delhi and many other cities in Punjab. To consider this
problem in detail, it may be stated that, the Akali Dal
had served one month's ultimatum on January 27, 1984

to the Union Government to accept its demand and to amend Article 25 of the Constitution. The Leaders of the Akali Dal said 'Article 25 was aimed at annihilating the Sikh Religion in the name of Secularism. What Alien Ruler had done with the sword the present Government was trying to do with the stroke of pen. The Akali objected the Article 25 of the Constitution but do not give reason for the objection.

It may, here, be noted that the provision to which the Akali objected was made for limited purpose of throwing open of Hindu Religious Institutions to all classes and sections of Hindus. The Sikhs are mentioned only because, they have a few Scheduled Castes among them. It should be noted that the Muslims are not included as they have no caste system like that of Hindus. Thus, it is clear that the intention of the Constitutional provision was not to annihilate Sikh Religion as the Akali thought of it. In fact, the explanation I of the Article 25 describes special provision for the Sikh Religion. The explanation(I) says "wearing and carrying of 'Kripans' shall be deemed to be included in the profession of the Sikh Religion. "Thus, the complete
text of the Article 25 of the Constitution makes it clear that, there should be no reason for the Akaliśs to object to the Constitutional provision.

In this context, it is observed that 'Article 25 of the Constitution is so adequate that, it actually leaves much scope for meeting many of the needs of the section of the Sikh population themselves, but it has been misunderstood and wrongly interpreted by the Akalis.'

After the incidents of burning of the Article 25 of the Constitution, many leaders and active Members of the Akali Dal were arrested, but terror and mob violence continued in the State. Then after, on March 31, 1984, the Union Government announced its willingness to amend the Article 25 of the Constitution. The Union Government offered to consult legal expert as well as the Representative of Sikh Community including Shiromani Gurdwara Prabandhak Committee on how to amend Article 25 in order to remove misgivings of the Akalis. But even then violence continued at many places, and finally to

control the dangerous situation, The Union Government in June, 1984, reluctantly resorted to military action in Golden Temple at Amritsar and other places in Punjab. Who is responsible for all this is a complex problem with many facets other than the Constitutional aspect of it. The whole issue of Punjab is more related to politics than religion, but mixed with religion.

Religious Freedom of Denomination :-

The Constitution of India has also guaranteed the right of Freedom of Religion to the religious denominations. The Article 26 of the Constitution reads as follows :-

Subject to public order, morality and health, every religious denomination or any section thereof shall have the right,

a) to establish and maintain institutions for religious charitable purpose.

b) to manage its own affairs in the matters of religion.

c) to own and acquire movable and immovable property,

and, to administer such property in accordance with law.
To consider this Article 26 in more detail it can be said that, it provides the corporate or collective freedom of religion, without which the mere freedom of religion of the individual becomes meaningless. The reason is that man does not live alone. He is a member of the various groups, institutions and society at large. Thus, Article 26 a is a corollary of Article 25 of the Constitution.

The right provided in the Article 26 falls in two parts, the one dealing with the religious institutions and their religious affairs and the other concerning the property which is not essentially religious matter of religious institutions. The right under this Article is subject to the limitations of public order, morality, and health and the law of the State. The State can enact the law for the purpose of regulating the property of religious institutions. Bombay Public Trust Act, 1950 and Madras Religious Charitable Endowment Act, 1951 can be mentioned here.

The different terms which are used in the Article need clarification. The term 'denomination' means a
religious sect or body of individuals having a common faith and organisation and designated by a distinct name. Article 26 contemplates not only a religious denominations, but also section thereof. The institutions for religious and Charitable purposes means the institution such as Temples, Mosques, Mathas, Shrines, Monasteries etc. Such institutions can be established and maintained subject to public order, morality and health.

Clause (b) of Article 26 confers on a religious denomination or a section thereof the right to manage its own affairs in 'matters of religion'. The expression 'matters of religion' has raised a controversy and it has been interpreted differently in various cases. For example in Commissioner Hindu Religious Endowment, Madras V, Lakshminda Thirtha Swamiar Case¹³ and Ratilal Gandhi V, State of Bombay¹⁴. The Supreme Court held that 'the matter of religion' would be primarily decided by


the denomination itself. The expression 'matters of religion' was considered to include doctrine, belief and practices of religion which a religious denomination regards as part of its religion and are protected by the Constitutional Provisions relating to the freedom of religion.

But in Venkataramana Devaru V. State of Mysore case (1954). The right of denominational institutions in management of 'matters of religion' seems to have been curtailed. The Supreme Court maintained that the expression 'matters of religion' embraces not merely matters of doctrine and belief pertaining to the religion but also the practice of it. It is to be noted that, in Venkataramana Devaru's case, the controversy on the relationship between the Article 25 (2) (b) and the Article 26 (b) was raised. On this issue, the court held that Article 26(b) must read subject to the Article(2) 25 (2) (b). In other words, the rights declared under Article 25 (2) (b) should prevail.

In Sarup Singh V. State of Punjab case,\textsuperscript{16} in which Sikh Gurudwara's Act of 1925 was challenged. The Supreme Court held that "under Article 26 (b) a religious denomination or organisation enjoy complete autonomy in the matter of deciding as to what rites and ceremonies are essential according to tenets of the religion they hold."\textsuperscript{17}

Thus, the court viewed the case by emphasising the point of 'essential' and 'non-essential' practices of religion. This issue later on created a controversy in many cases.

In Şardar Syedna Taher Saifuddin V. The State of Bombay\textsuperscript{18} case, in which the Constitutional validity of Bombay Prevention of Excommunication Act, 1949 was challenged. The Supreme Court stated that "what constitute:


\textsuperscript{17} For details, see Dr. Bachal, \textit{Ibid.}, P.77.

\textsuperscript{18} 1963, S.C.J. (1), 519-542. For details, see Dr. Bachal, \textit{Ibid.}, P.81.
an essential part of the religion or religious practice has to be decided by the courts with reference to the doctrine of a particular religion and includes which are regarded by the community as a part of its religion.

Clauses (c) and (d) of the Article 26 guarantee to the every religions denomination the right to acquire and own property and to administer such property in accordance with the law in India. While interpreting these clauses, the Court has taken a different view. We find a significant change in the judicial attitude about 'matters of religion'.

In Durgah Committee, Ajmer V. Syed Hussain Ali case¹⁹ in which the Durgah Khawaja Saheb Act, 1955 was challenged on the ground of the right of the management of Durgah property, the Supreme Court although approved the judgement in Swamiar and Devaru cases, put a note of caution. The Supreme Court remarked that unless such practices are found to constitute an essential and integral part of religion, their claims for

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protection under Article 26 may have to be carefully scrutinized. In other words, the protection must be confined to such religious practices as are an essential and integral part of it and no other.

Some what similar issue was raised and it was considered by the Supreme Court in the case of Tilkayat Shri Govindlalji Maharaj V. State of Rajasthan. In this case, the validity of the Nathdwara Temple Act of 1959 of the Government of Rajasthan was challenged, because the act transferred, the management of the Temple and property to the Board under the Act. In this case, the Supreme Court repealed the warning which it had given earlier in the case of Durgah Committee, Ajmer V. Syed Hussain Ali, and observed that "In cases where conflicting evidence is produced in respect of rival contentions as to competing religious practices, the Court may not be able to resolve the dispute by blind, application of the formula that the community decides which practice is an integral part of its religion,

because the community may speak with more than one voice and the formula would therefore, break down. This question will always have to be decided by the Court and in doing so, the Court may have to enquire whether the practice in question is religious in character and if its is, whether it can be regarded as an essential and integral part of the religion and finding of the Court on such an issue will always depend upon the evidence adduced before it as to the conscience of the community and the tenets of its religion\textsuperscript{21}.

In Swami Harbansa Chariji V. State of Madhya Pradesh,\textsuperscript{22} the appointment of a person to the office of Mahant of Math, is considered to be a religious matter.

The importance of this judgement is that it has made clear that the issue of 'Matters of Religion' is justiciable and consequently a subject for a close scrutiny by the Court. Thus, the Court has the ultimate authority to decide what is a 'Matter of Religion'.

\textsuperscript{21} For details, see Dr. Bachal, Op. cit., P. 79.

The religious freedom guaranteed under Article 26 is not absolute. It is subject to public order, morality, health and the Article 25 (2) of the Constitution. In a case Gulam Abbas and others v. State of U.P.\textsuperscript{23}, in which, there was a dispute between the Members of the Shia and Sunni sects of Muslims, pertaining to the performance of religious rites on a particular place, the Court held that "the direction for shifting of two graves in question for the purpose of maintaining the public order which would be in the larger interest of the society can not be said to be irreligious and it can not be regarded as destructive of any Fundamental Rights of the Sunni." 

While considering the Article 26, two points can be mentioned. The first is relating to expense to be incurred on religious observance and the second is concerning the acquisition of denominational property by the State.

On the first point, it is observed that, "the scale

of expense to be incurred in connection with the religious observance would be a matter of administration of property belonging to the religious denomination and can be controlled by a Secular authority in accordance with any law laid down by a competent Legislature, for it could not be the injunction of any religion to destroy the institution and its endowments by incurring wasteful expenditure on rites and ceremonies? On the second point, it is observed that "the religious denomination can own and acquire properties and administer them in accordance with the law, but that does not mean that the properties owned by them can not be acquired. Thereafter, their right to administer that property ceases because it is no longer their property. Article 26 does not interfere with the right of the State to acquire property." 24.

In this connection, Smith has also argued that the right of collective freedom of religion guaranteed by the Article 26 does not provide the kind of protection

from the State interference which is found in a Secular State in the West, the United States for example.\textsuperscript{25}

Similarly, the Freedom of Religion under the Article 26 is subject to the Judicial interpretation mainly because the terms and the expressions used in the Constitutional provisions are not clearly defined. Therefore, they have undergone many changes. This has limited considerably, the autonomy of religious institution and increased immensely the powers of the State over internal affairs of the religious institutions. The religious institutions in India have to yield to the authority of the State, especially because they have no well organised institutional pattern like that of Churches in the Western countries and they are not Constitutionally separated from the State.

The military action in June, 1984 in the Golden Temple at Amritsar and other sacred places in Punjab marks a new beginning in this aspect. It clearly shows

that the State can use the army force to control the non-religious activities of religious institutions, and if they become the centre of terrorists.

**Freedom as to Payment of Taxes for Religion:**

The Secular character of the Indian Constitution is also expressed in the Article 27 which says "No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion and maintenance of any particular religion or religious denomination".

This article explains that the public funds raised by taxes shall not be utilized for the benefit of any particular religion or religious denomination. This article prohibits the State from levying taxes for religion. However, it is to be noted that, it is applicable, only in levying taxes and not fees or contributions.

To explain this article in more detail, it can be said that the Article 27 defines the relationship between the State and Religion in general in matters of
financial aids by the State. The State can not compel the individuals to pay taxes for a religion or religious denominations. This Article, however, has invoked many cases in the High Courts and the Supreme Court of India, because, the various States have passed laws for the purpose of regulating the administration, and management of the properties and funds of the religious and charitable institutions.

To meet the expenses of supervisory functions, the States have also levied taxes or fees at certain percentage of the income by the religious institution. These Acts of the various States have been challenged in the Court. For example, in the case of Shri Jagnath Ramanuj Das v. State of Orisa\(^26\), The Orisa Hindu Religious Endowments Act, 1939, was challenged, because Section 49 of this Act, provided the contribution for meeting the expenses of the Commissioner and the Officer and Servants working under him. In this case, the court regarded that the contribution was as a Fee and not a Tax.


But in Commissioner, H.R.E. V. L.T. Swamiar case\textsuperscript{27}, the Supreme Court held that the contribution levied under the Madras Hindu Religious and Charitable Endowment Act, 1951 was in the nature of a tax and not Fee. The reasons stated were that the contribution was not for special purposes and the amount raised went to the consolidated fund of the State.

In \textit{Suresh Suresh Chandra V. Union of India}\textsuperscript{28}, the validity of the programme of celebration of the 2500th Anniversary of Mahavira was challenged on the ground that it is in contravention of Article 27. But the Court did not accept the contention of the Petitioners and held that, there was no infringement of Article 27.

In \textit{Bashir Ahmed V. State of W.B.}\textsuperscript{29}, case it was held that "the creation of an education fund under section 27 of the W.B. Wakaf Act, 1973, for the exclusive,

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  \item\textsuperscript{28} \textit{A.I.R.}, 1975, Delhi, 168. For details, see Shukla V.N., \textit{Ibid.}, P.153.
\end{itemize}
benefit of the Muslim boys and girls did not amount to
levy or tax for the promotion of a particular religion.
It did not also amount to the maintenance of that re-
ligion.

Thus, it is clear that whether a particular amount
charged under a particular Legislation is a 'tax' or a
'fee' is a matter of controversy and it is to be deci-
ded by the court. While explaining the Article 27,
Smith has remarked that 'the Indian Constitution for-
bids only taxation for the benefit of any particular
religion. Non-discriminatory taxes for the benefit of
all religions would be perfectly constitutional. Such
an arrangement would be in fact, be in accord with the
general tradition of Hindu State. However, it would
seriously undermine the Fundamental Principle of se-
paration of State and \textit{Religion}, as it has here been
defined'.

\textbf{Religious Instructions in Educational Institutions}:--

The Secular character of the Indian Constitution
can be traced in the Article 28 which prohibits reli-
gious instructions imparted in the Education Institutions

wholly maintained by the State. The complete text of the Article reads as follows:—

"(1) No religious instructions shall be provided in any Educational Institution wholly maintained out of the State fund.

2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instructions shall be imparted in such institutions.

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 institutions or to attend any religious worship that may be conducted in such institutions or in any premises attached thereto unless such person or 'if such persons is a minor his guardian has given his consent thereto'.

From the wording of the Article, it becomes clear that the question of religious instruction is considered
in three different types of Educational Institutions. Firstly, the educational institutions which are wholly maintained out of the State Fund, or in other words, the Government Educational Institutions. Secondly, the educational institutions which are established under endowment or trust and which require imparting of religious instructions, and thirdly, the educational institutions which are recognised by the State and which receive aid from the State.

In respect of the first type of educational institution, religious instruction is completely prohibited and as to the second type of educational institution, there is no prohibition from giving religious instruction. Here, example of Banaras Hindu University and Aligarh Muslim University can be mentioned. These Universities have been established by the respective endowments and which require that instruction be imparted in Hinduism and Islam respectively. It is to be noted that, these Universities are administered by the Central Government. In the third type of Educational Institution, the religious instructions may be imparted or religious worship may be conducted but it shall not
be made compulsory or in other words, it shall be with the consent of a person and if a person is minor, with the consent of his parents.

Smith D.E., points out that the principle involved in Article 28(3) is that the State can not become a party to the active propogation of religion in State-aided institutions, by permitting compulsory religious instructions.

However, in the opinion of Justice Jahagirdar, this is not enough. He says 'A denominational institution, if it receives aid out of State funds should not be permitted to indulge in religious instruction or religious propoganda even though, such instruction or propoganda is not compulsory for all the students of the institution. When such religious instruction or religious propoganda is carried on by Schools which receive State assistance in funds it necessarily means that to that extent there is a dent in the Secular character of the State of India.'


Thus, the Indian Constitution does not totally forbids the State from granting aid to the Educational Institutions which require to impart religious instructions. Article 28 of the Indian Constitution seeks to maintain both, the Secular character of the State and religious character of the Indian Society. The first is demonstrated by the Government Educational Institutions prohibiting religious instruction and the other is shown by the denominational institutions permitting them to impart religious instructions, even though, they receive aid from the State. It is as Panikkar describes 'the Indian State by becoming Secular has not become irreligious'.

To conclude the discussion on the Constitutional Provisions relating to the freedom of religion it may be observed that, these provisions reveal the fact that, Secularism and religion can co-exist, and Indian Secularism is not anti-religion. On the contrary, it respects all religions. This is described as the doctrine

of 'Sarvadharma Sambhav'. It must, however, be noted that this doctrine is very vague and it strengthens the religious belief of the different communities. Its result is that each religious community becomes self-conscious of its distinctive identity. This doctrine of 'Sarvadharma Sambhav' is also contrary to the Western Concept of Secularism in which, the political system is considered to be independent of religion.