Preface

Education is one of the most important tools for promoting minority characteristics and distinct identity. In a multicultural society like ours, a guarantee in favour of minorities is intrinsically a part of social justice, liberty and equality. Cultural and educational rights of minorities have been accorded fundamental and justifiable status in the form of Articles 29 and 30 of the Indian Constitution.

Minorities’ right, to establish and administer autonomous educational institutions without interference from the State is indeed a guarantee unprecedented in other world Constitutions. This right of the minorities has been a subject matter of intellectual concern and debate, the right wing intellectuals have assailed the Article as fostering fissiparous tendencies and the Courts have been criticized for taking a bit too liberal attitude towards the minorities’ autonomous institution.

But, 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 national domain, while preserving their distinct identity.

The present study has analyzed the contents and contours of the educational rights of the minorities under Articles 29 and 30 of the Constitution. It has also incorporated the critical evaluation and analysis of the Supreme Court and High Court decisions on various aspects of regulatory power of the State/University and the right of minorities to establish and administer educational institutions of their choice. The issues of Political representation and communal riots are not within the scope of the present study.

In Chapter 1 the rationale for according special status to minority right to established educational institutions as well concerns of Constitution maker to preserve their distinct identity is being examined.

In Chapter 2 the constitutional evolution of minority problem has been examined in the backdrop of the constitutional developments before independence and the various proposal and suggestions given by the members of the Constituent Assembly along with its modification.

In Chapter 3 the meaning of the term Minorities has been sought to be analyzed by keeping in mind that minorities are social realities which are dynamic
rather than static. The brief analysis of International concerns for protection of Minorities and synthesis of educational rights of Minorities is under Indian Constitution is being examined. For the purpose of the study the status of backward classes/Scheduled Castes and Jains as minority is being examined.

In Chapter 4 nature and scope of Article 29(1) and Article 30(1) and the relationship between Article 29(1) and Article 29(2) is discussed to decipher the ambit of minority right to, conserve distinct language script and culture. Further, language issues in the context of Constituent Assembly debates, also subjected to critical appraisal.

In Chapter 5 the significance of education as the most powerful tool for removing large scale illiteracy in our country has been examined, along with nature and scope of Minorities’ right to run educational institutions under Article 30(1). Aligarh Muslim University claim to minority institution is also critical appraisal.

In Chapter 6 the thesis has critically evaluated and analyzed the Various facets of Administration such as 'Admission of Students', 'Medium of Instruction', 'Composition of Managing Bodies', 'Disciplinary action against the staff', and issues relating to fixation of 'Fees', Reservation for and in minority educational institutions etc.

In Chapter 7 an attempt has been made to examine as to whether the minority Institutions have Fundamental Right of recognition and affiliation? Further, an attempt has been made to examine the reasonableness of terms and condition of Affiliation and ‘Grants in Aid’.

The last chapter of the thesis has made an attempt to summarize the main conclusions of the work and to present some well meaning suggestions so as to strategize and harmonize the rights of the minorities to establish and administer the educational institutions of their choice and the legitimate power of the State to regulate.