

1. Revisiting RTE Exemption – Polity

The Supreme Court is re-examining its 2014 *Pramati* judgment, which granted minority schools a blanket exemption from the Right to Education (RTE) Act. The review aims to balance the constitutional rights of minorities (Article 30(1)) with the universal right to education (Article 21A).

Supreme Court to Revisit Exemption of Minority Schools from RTE Act

A two-judge bench of the Supreme Court of India has called for a reconsideration of the landmark 2014 *Pramati Educational and Cultural Trust* judgment. This earlier ruling had granted a blanket exemption to minority educational institutions from the provisions of the Right of Children to Free and Compulsory Education (RTE) Act, 2009. The current bench has raised significant constitutional questions about this exemption, referring the matter to the Chief Justice of India to be heard by a larger bench.

Background – The Pramati Judgment and Constitutional Rights

The Pramati Educational and Cultural Trust v. Union of India (2014)

The Verdict – A five-judge Constitution Bench had unanimously ruled that applying the RTE Act to minority educational institutions, whether aided or unaided, was ultra vires the Constitution (beyond the powers of the law).

Core Rationale – The Court held that forcing minority institutions to comply with the RTE Act, particularly its reservation and administrative mandates, would infringe upon their fundamental right to establish and administer educational institutions of their choice, as guaranteed under Article 30(1) of the Constitution. This was seen as a violation of their autonomy and special minority character.

Key Constitutional Provisions at Play

Article 30(1) – Right of Minorities – This article grants all religious and linguistic minorities the fundamental right "to establish and administer educational institutions of their choice." The primary objective is to empower minorities to conserve their distinct language, script, and culture, and to prevent majoritarian interference in their educational affairs.

Article 21A – Right to Education – Inserted by the 86th Amendment Act of 2002, this article makes free and compulsory education a fundamental right for all children between the ages of 6 and 14.

The 86th Amendment Act, 2002 –

This crucial amendment not only introduced Article 21A but also –

1. Added a new Fundamental Duty under Article 51A(k), which makes it a duty of every parent or guardian to provide opportunities for education to their child or ward between the ages of 6 and 14.
2. This increased the total number of Fundamental Duties to eleven.

The Right to Education (RTE) Act, 2009

The RTE Act was enacted to enforce the mandate of Article 21A. The key provisions central to the current debate are –

1. Section 12(1)(c) – This provision mandates that all private unaided schools reserve 25% of their entry-level seats for children belonging to economically weaker sections (EWS) and disadvantaged groups. The state is required to reimburse these schools for the expenditure incurred.
2. Section 23 – This section deals with the qualifications and terms of service for teachers. It empowers a central academic authority to lay down minimum qualifications, which includes passing the Teacher Eligibility Test (TET).

Observations of the Current Supreme Court Bench

The two-judge bench expressed serious doubts about the correctness of the *Pramati* ruling, highlighting several key concerns –

Fragmentation of a Common Schooling Vision – The judges argued that exempting a whole class of

institutions (minority schools) from a universal law like the RTE Act undermines the constitutional vision of an inclusive and egalitarian schooling system envisioned under Article 21A.

Harmonious Co-existence of Rights – The bench opined that there is no inherent conflict between the right of minorities under Article 30(1) and the right to education under Article 21A. They can and should be interpreted harmoniously. The regulations under the RTE Act, they argued, do not "annihilate" the minority character of an institution.

Social Inclusion and Equity – The Court viewed Section 12(1)(c) not as an infringement on autonomy but as a crucial tool for furthering social inclusion and the universalisation of elementary education.

Ensuring Quality through Teacher Standards – The bench asserted that the requirement for teachers to pass the TET under Section 23 is a minimum standard to ensure quality teaching and accountability, and minority institutions should not be exempt from this basic requirement.

Interim Order

Pending the larger bench's decision, the Supreme Court has ordered that all non-minority schools must strictly comply with RTE provisions. It also provided some relief to in-service teachers regarding TET requirements based on their remaining years of service.

Four Constitutional Questions for the Larger Bench

The matter has been referred to the Chief Justice of India with four specific constitutional questions to be decided –

1. **Revisiting the *Pramati* Ruling** – Should the 2014 judgment, which provides a blanket exemption to minority institutions, be reconsidered in light of the state's duty to provide universal education.
2. **Section 12(1)(c) vs. Article 30(1)** – Does the 25% reservation for disadvantaged children under Section 12(1)(c) of the RTE Act violate the autonomy of minority institutions guaranteed by Article 30(1).
3. **Ignoring Article 29(2)** – Did the *Pramati* judgment err by not adequately considering Article 29(2), which prohibits denial of admission into any state-aided educational institution on grounds of religion, race, caste, or language.
4. **Partial vs. Whole Invalidation** – Should the entire RTE Act have been declared inapplicable to minority institutions, or should the court have examined whether only specific provisions were problematic while upholding others.

Implications and Challenges of the Review

A reversal or modification of the 2014 judgment would have far-reaching consequences.

Potential Implications

For Minority Institutions – They may be required to admit 25% of students from disadvantaged backgrounds and adhere to national standards for teacher recruitment (TET), balancing their autonomy with greater public accountability.

1. **Data Point** – According to DISE (2021–22), over 3.6 million children have already been admitted under Section 12(1)(c) in non-minority private schools.

For Education Policy – The move would strengthen the national goal of inclusive and universal education, aligning India's policy more closely with Sustainable Development Goal 4 (Quality Education).

For Education Quality – Mandating TET compliance could enhance teaching standards across the board.

1. **Data Point** – An NCERT study (2023) and ASER reports have indicated that states with a higher percentage of TET-qualified teachers demonstrate better student learning outcomes.

For Jurisprudence – A larger bench has the opportunity to redefine the delicate balance between the fundamental right to education and the collective rights of minorities.

Challenges Ahead

Autonomy Concerns – Minority communities argue that state-mandated reservations and

administrative controls could erode the cultural, linguistic, and religious identity that Article 30(1) is meant to protect.

Implementation Hurdles - The financial mechanism of reimbursement under Section 12(1)(c) is already fraught with challenges. States like Rajasthan and Uttar Pradesh have seen significant delays in payments, which places a heavy burden on schools.

Balancing Rights - The core challenge is to find a legal framework that reconciles the individual child's right to education (Article 21A) with the collective community right of minorities to cultural preservation (Article 30(1)).

The Way Forward - Towards a Balanced Approach

Instead of a binary choice between full exemption and full application, a more nuanced approach could be adopted, drawing inspiration from international models -

Context-Specific Application - Rather than a blanket exemption, apply regulations based on a fact-specific analysis of whether a provision genuinely infringes upon the minority character of an institution.

Example (Canada) - In Ontario, Catholic schools receive public funding and follow the public curriculum while retaining the right to provide religious instruction.

Financial Safeguards - The central and state governments must create a robust and efficient system to ensure timely and adequate reimbursement of costs to schools under RTE mandates.

Balancing Core Standards with Cultural Freedom - Mandate compliance with core standards (curriculum, teacher quality, safety, inclusivity) while allowing institutions the freedom to maintain their unique cultural, linguistic, or religious ethos and pedagogy.

Example (Singapore) - Minority-run Madrasahs operate under state supervision and students must take national exams, but they retain control over religious and cultural education.

Strengthening Monitoring Frameworks - Establish independent regulatory bodies to oversee compliance in a manner that respects institutional autonomy.

Example (UK) - Faith-based schools receive public funding but are subject to inspections by the national regulator (Ofsted) and must teach core secular subjects.

Conclusion

The Supreme Court's decision to review the Pramati judgment marks a critical juncture in Indian education policy and constitutional law. The outcome will depend on the ability of a larger bench to forge a harmonious interpretation that upholds the universal right to quality education under Article 21A without undermining the constitutionally protected autonomy of minority institutions under Article 30(1). The goal is to create an educational landscape that is equitable, inclusive, and excellent, while simultaneously safeguarding India's rich cultural diversity.

Source - <https://indianexpress.com/article/explained/sc-revisit-right-to-education-minority-schools-10226037/>