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Hindus as minorities

Tagging Hindus as minorities.

Prelims: Indian Polity and Governance-Constitution of India, Political System, Panchayati Raj, Public Policy, Rights Issues, etc.

Mains GS paper II: Indian Constitution, Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

Significance of Prelims: article 29,30,350-B, NMC body

Significance of Mains: T.M.A. Pai Foundation v/s State of Karnataka, The centre's stand, Supreme court decision

Context

- To complete the consultation on demands to permit minority status to Hindus in some states where their number has decreased, the centre has asked for some more time from The Supreme Court.
- The Centre stated that “the matter is sensitive in nature and will have far-reaching ramifications”

Back-story

- Advocate Ashwini Upadhyay has put a petition, contending that the 2011 census showed that the Hindus have become a minority in many states like

Lakshadweep (2.5%),

Mizoram (2.75%),

Nagaland (8.75%), Meghalaya (11.53%),

J&K (28.44%),

Arunachal Pradesh (29%),

Manipur (31.39%), and

Punjab (38.40%),

- But we're still being denied minority benefits that are currently being enjoyed by the respective minorities communities in these states

Who are considered minorities in India?

- At present, the communities notified under section 2 (c) of the National Commission for Minorities Act(NMC), 1992, by the central government are considered a minority.

In T.M.A Pai's Case, the 11-judge bench judgment of the Supreme Court had clearly set that linguistic and religious minorities must be identified at the state level rather than at the national.

Despite this, Under Section 2(c) of the National Level Act 1992, the Centre has the "unbridled power" to inform Minorities.

- Minorities Commission (MC) was renamed as National Minority Commission NMC in 1992, with the enactment of the NMC Act 1992.
- It became a statutory body.
- The 1st statutory National Commission was set up in 1993.
- 5 religious communities are notified as Minority communities they are Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis)
- Jains were also notified as a minority community, in 2014.

Constitutional Provisions for Minorities

Article 29:

- According to this article "any section of the citizens residing in any part of India having a distinct language, script or culture of its own shall have the right to conserve the same."
- It gives protection to both linguistic Minorities as well as religious minorities.
- Although, the supreme court stated that the scope of this article is not necessarily restricted to minorities only, as the use of the word 'section of citizens' in the Article states that it includes the Minority as well as the Majority.

Article 30

- This article states that "whether based on religion or language, shall have the right to establish and administer educational institutions of their choice."
- Some special rights enjoyed by minorities are
- Under Article 30(1)(a)

- Minorities enjoy the Right to education as a fundamental right. The whole expenses of BPL card holders on a case of poverty, the expenses are taken over by the states because of the compensation to be provided to established institutions elsewhere.
- They are not required to provide admission to children in the age group of 6-14 years up to 25% of seats are reserved for the EWS of the Society

Article 350 -B

- The 7th Constitutional Amendment act 1956 was added to this article.
- According to this article, there will be a special officer appointed by the president of India for Linguistic minorities.
- the officer will investigate all the matters relating to the safeguards given to Linguistic minorities under the Constitution.

T.M.A. Pai Foundation v/s State of Karnataka

- The petitions asserted that the Hindus of many states don't have the minority status, where they are "socially economically- and politically non-dominant and numerically inferior."
- The plea contends that **their right under Articles 29-30 is being siphoned off illegally to the majority community in the state because the Centre has not notified them as a 'minority' under the National Commission for Minorities Act.**
- **The plea challenges Section 2(C) of the NMC Act 1992, which declared Muslims, Christians, Buddhists, Parsis, Sikhs, and Jains as minorities at the national level and sought direction for district-wise identification of minorities and state-wise status.**
- Depending on statistics of Hindus, the petitioner calls attention to the numbers which are **1% in Ladakh, 2.75% in Mizoram, 2.77% in Lakshadweep, 4% in Kashmir, 8.74% in Nagaland, 11.52% in Meghalaya, 29% in Arunachal Pradesh, 38.49% in Punjab, 41.29% in Manipur.** However, the Centre has not declared them as a 'minority'.

The centres stand

- The Centre responded to it, stating the petitioners' argument is not correct **since states can also "certify institutions as being minority institutions** according to the rules of the said state.
- The Centre explained that **Maharashtra had notified Jews as a minority community in 2016 and Karnataka had notified Urdu, Telugu, Tamil, Malayalam, Marathi, Tulu, Lamani, Hindi, Konkani and Gujarati as minority languages.**
- **Parliament and State legislatures have concurrent powers to enact laws to provide for the protection of minorities and their interests.**
- The TMA Pai ruling also **"reveals that the SC has nowhere eroded the power of the Central Government to notify a community as a 'minority'.**
- **The Parliament was empowered under Article 246 of the Constitution read with Entry 20, "economic and social planning", of the Concurrent List to enact laws to promote and protect the interests of minorities.**

Conclusion:

It is a fact that liberal democracy is known for the protection of minorities. This is what Ambedkar believed to be a crucial test for a democracy that believes in the dignity of Individuals. The recognition of the rights of Hindus will enhance the quality of democracy in India itself.

Sources

Thehindu

TheIndianExpress

LegalserviceIndia

Further readings

National Commission for Minorities Act(NMC), 1992

Why India's minority groups are not in danger concurrent powers

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