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Case Comment: Balancing Institutional Freedom and the Right to Education: An Analysis of *Society for Unaided Private Schools of Rajasthan v Union of India*

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INTRODUCTION

The landmark judgment marks a pivotal moment in the constitutional development of the right to education in India. The case law challenged the constitutional validity of the Right of Children to Free and Compulsory Education Act, 2009 (RTE Act),¹ as it applies to private, unaided, minority, and non-minority educational institutions. This case challenged the state intervention in the private education sector, the tension between individual institutions' autonomy and the scope of Article 21(A)(3).² The petitioners challenged the RTE Act for its provision requiring a percentage of seats to be reserved for children from weaker and disadvantaged sections of society to receive free and compulsory education in private, unaided educational institutions.

The Supreme Court's response to this case is critical not just for its final judgment, but also for the legal reasoning it reflects. The judgment viewed private, unaided educational

¹ Right of Children to Free and Compulsory Education Act 2009

² The Constitution of India 1950, art 21A(3)

institutions as participants in social justice, rather than as autonomous, profit-oriented institutions. At the same time, it also safeguards minority institutions and their rights through the delicate constitutional balance that our constitution framers envisioned.

HISTORICAL BACKGROUND OF RTE ACT 2009

The right to education is recognised as a fundamental right, but previously, it was not considered a fundamental right; instead, it was a directive principle, an obligation, rather than an enforceable right. Some notable case laws that led to the evolution of the right to education from a mere obligation to an explicit fundamental right are *Mohini Jain v State of Karnataka*³ and *Unni Krishnan v State of Andhra Pradesh*.⁴ In *Mohini Jain v State of Karnataka*, the petitioner Mohini Jain challenged the Karnataka government's policy that allowed the private medical colleges to charge exorbitant admission fees, arguing that it restricted access to education based on financial capacity. The Supreme Court held that the right to education is implicitly protected under Article 21⁵ of the right to life. This case laid the foundation for the right to life becoming a fundamental right. Another critical case was the *Unnikrishnan v. State of Andhra Pradesh*, in which the writ petitions were filed against the state regulations controlling the admission and fee structures, particularly the prohibition of capitation fees. The Supreme Court held that the right to education is a fundamental right that implicitly comes under Article 21, as it had in the *Mohini Jain* case. Still, it made further clarifications that it is a fundamental right only up to the age of 14 years, and education beyond that is subject to the state's economic capacity. This judgment directly influenced the insertion of Article 21A⁶ by the 86th Constitutional Amendment.⁷

These judicial interpretations culminated in the 86th Constitutional Amendment Act, 2002. It inserted Article 21A into Part III of the Indian Constitution, making free and compulsory education for children between the ages of six and fourteen a fundamental right. Following this, the parliament enacted the Right to Education Act (RTE Act) 2009,⁸ which came into force on April 1st, 2010.

³ *(Miss) Mohini Jain v State of Karnataka & Ors* AIR 1992 SC 1858

⁴ *Unni Krishnan, J P & Ors Etc Etc v State of Andhra Pradesh & Ors Etc Etc* (1993) 1 SCC 645

⁵ Constitution of India 1950, art 21

⁶ Constitution of India 1950, art 21A

⁷ Constitution (Eighty-Sixth Amendment) Act 2002

⁸ Right of Children to Free and Compulsory Education Act 2009

FACTS OF THE CASE

Multiple writ petitions under Article 32⁹ of the Constitution were filed before the Supreme Court of India by various associations of unaided private schools in Rajasthan. They challenged the constitutional validity of the Right of Children to free and compulsory education Act, 2009, particularly section 12(1)(c).¹⁰ The section mandates unaided private schools to reserve at least 25% of their admission intake in class I for children from weaker sections and disadvantaged groups of society, and to provide them with free and compulsory elementary education till its completion. It also mentions a government reimbursement mechanism for those schools, which shall not exceed the per-child expenditure incurred by the school. The petitioners argued that they were being compelled to discharge state obligations without adequate compensation or consent. They contended that the RTE Act 2009 undermines the autonomy and financial viability of unaided schools. Minority institutions also joined the challenge, claiming that the Act violated their right to establish and administer educational institutions of their choice.

LEGAL ISSUES

1. Whether the Right of Children to Free and Compulsory Education Act, 2009, and section 12(1)(c) are constitutionally valid.
2. Whether section 12 (1)(c) violates the fundamental right to practice any occupation under article 19(1)(g).¹¹
3. Whether the same obligation under section 12 (1)(c) can be imposed on unaided minority schools in light of Article 30(1).¹²
4. How are Articles 21A (Right to education), Article 19(1)(g) (right to carry on occupation), and Article 30(1) (minority rights) interrelated.

ARGUMENTS OF THE PARTIES

Petitioners: The petitioners argued that Article 21A imposes the obligation of free and compulsory education solely on the state, and the state, through legislation, cannot transfer

⁹ Constitution of India 1950, art 32

¹⁰ Right of Children to Free and Compulsory Education Act 2009, s 12(1)(c)

¹¹ Constitution of India 1950, art 19(1)(g)

¹² Constitution of India 1950, art 30(1)

that responsibility to private unaided institutions, violating their fundamental rights under Article 19(1)(g), Article 26(a),¹³ Article 29(1),¹⁴ and Article 30(1).

It was contended that section 12(1)(c) effectively results in the compulsory appropriation of seats, amounting to a form of nationalisation of education, which the Supreme Court in *T.M.A. Pai Foundation*¹⁵ and *P.A. Inamdar*¹⁶ had already disapproved.

The petitioners further submitted that the ancillary provisions of the RTE Act, such as sections 16¹⁷ and 23¹⁸ (Qualifications for appointment and terms and conditions of service of teachers), unduly interfere with institutional autonomy and may adversely affect academic standards.

For minority institutions, it was argued that enforcing a mandatory 25% reservation of admissions to weaker sections and disadvantaged groups will alter the minority character of the institution and constitute a direct violation of the fundamental right under Article 30(1).

Respondent: The Union of India contended that Article 21A embodies a socio-economic right that must be accorded precedence over the rights under Articles 19(1)(g) and 30(1). Unlike most fundamental rights, which primarily serve as limitations on state power, Article 21A imposes a positive constitutional obligation on the state to actively protect and fulfil the right of children aged six to fourteen to free and compulsory education. And so, as a socio-economic right, it may legitimately impose obligations beyond the state, including on private, unaided, minority, and non-minority educational institutions, without constituting a violation of constitutional principles.

The respondent argued that section 12(1)(c) constitutes a reasonable restriction under article 19(6)¹⁹ and is essential to achieve social inclusion and educational equality. The counsel argued that receipt of state aid does not weaken the protection guaranteed under Article 30(1), and that Article 21A, read with Article 30(1), secures the right of minority children to

¹³ Constitution of India 1950, art 26(a)

¹⁴ Constitution of India 1950, art 29(1)

¹⁵ *T M A Pai Foundation & Ors v State of Karnataka & Ors* (2002) 8 SCC 481

¹⁶ *P A Inamdar & Ors v State of Maharashtra & Ors* (2005) 6 SCC 537

¹⁷ Right of Children to Free and Compulsory Education Act 2009, s 16

¹⁸ Right of Children to Free and Compulsory Education Act 2009, s 23

¹⁹ Constitution of India 1950, art 19(6)

free and compulsory education within institutions established and administered by their own communities.

The respondents further submitted that difficulties in implementation could be addressed by establishing appropriate adjudicatory or regulatory authorities, without undermining the constitutional validity of the RTE ACT, 2009.

THE COURT'S DECISION

The landmark judgment was delivered by the Supreme Court of India's three-judge bench comprising then Chief Justice, Justice S.H. Kapadia, Justice Swanter Kumar, and Justice K.S.P. Radhakrishnan. The court upheld the constitutional validity of the Right of Children to Free and Compulsory Education Act, 2009, and particularly its section 12(1)(c). The court held that 25% seat reservation is a reasonable restriction in the public interest and therefore protected under Article 19(6). The court also made an exception, excluding unaided minority educational institutions from the RTE Act, stating that requiring them to comply would violate their right under Article 30(1).²⁰

LEGAL REASONING

Article 21A as a Fundamental Right: The court emphasised that Article 21A is not merely a directive principle but an enforceable fundamental right. It held that providing free and compulsory education is not just a constitutional obligation of the state alone, but also the participation of all, including aided and unaided private institutions. Private schools, though unaided, cannot claim immunity from social obligation as education is a social and public good.

Reasonable Restrictions under Article 19(6): While acknowledging that running an educational institution is an occupation under Article 19(1)(g), the court held that the restrictions imposed are reasonable. Also mentioned, Education is a charitable activity, a social good, and a limited 25% intake for the weaker section, with reimbursement in unaided

²⁰ 'RTE Act Constitutionally Valid for Unaided Non-Minority Schools: Supreme Court Verdict in SPUSR Rajasthan v Union of India' (*CaseMine*, 13 April 2012) <<https://www.casemine.com/commentary/in/rte-act-constitutionally-valid-for-unaided-non-minority-schools:-supreme-court-verdict-in-spusr-rajasthan-v.-union-of-india/view>> accessed 26 December 2025

non-minority schools, is an appropriate, child-centred measure and therefore a reasonable restriction.

Protection of Minority Rights under Article 30(1): the court reaffirmed the special constitutional status of minority rights under Article 30(1) by exempting minority educational institutions from the RTE Act. It held that compulsory reservation would change the character of unaided minority schools and would violate their absolute right to establish and administer their institutions. Therefore, section 12(1)(c) is inapplicable to these institutions.

CASE ANALYSIS

The judgment in *Society for Unaided Private Schools of Rajasthan v Union of India & Anr*²¹ has been widely praised for advancing the cause of inclusive education and strengthening the social dimension of constitutional rights. It also marks a pivotal moment in India's constitutional jurisprudence on the right to education.

The core of the dispute was about section 12(1)(c) of the RTE Act, 2009, which mandates 25% of seats for children from the economically weaker and disadvantaged sections of society. The petitioners' challenge primarily rested on the argument that the state impermissibly transferred its constitutional obligation to provide free and compulsory education to children aged 6 to 14 to private institutions. The court's analysis clearly rejected this narrow understanding of constitutional responsibility. The court adopted a transformative interpretation of Article 21A, holding that the right to education imposes a positive obligation that may extend to private institutions performing a public function. It upheld section 12(1)(c) as a reasonable restriction under section 19(6), characterising education as a public good; at the same time, the court exempted the unaided minority institutions, reaffirming the special protection under article 30(1), though this differential treatment has been criticised for weakening the universality of the right to education. While the judgment advanced social justice by placing private educational institutions on a constitutional footing, concerns remain about uneven obligations, practical reimbursement issues, and broader implications of imposing socio-economic duties on private actors.

²¹ *Society For Un-aided P Schools of Rajasthan v Union of India & Anr* (2012) 6 SCC 1

CONCLUSION

This judgment stands as a milestone in India's constitutional jurisprudence on the right to education. This decision establishes a significant constitutional affirmation of the right to education as a transformative, enforceable fundamental right. By upholding the RTE Act, 2009, for unaided non-minority private schools, the Supreme Court underscored that the obligation to secure socio-economic rights under Article 21A cannot rest solely on the state, but may also legitimately require the participation of private actors engaged in public functions. At the same time, the court exempted unaided minority institutions from the 2009 Act, reflecting its commitment to safeguard the special constitutional protection guaranteed under Article 30(1) of the Indian Constitution and thereby highlighting the Constitution's pluralistic ethos.

The Supreme Court's attempt to strike a balance between institutional autonomy and social responsibility reflects a thoughtful and principled approach to constitutional morality. Although the judgment is not free from conceptual and practical challenges, it strongly affirms that education is a fundamental right and lies at the heart of equality, dignity, and social justice. By this, the court reiterated the constitution's transformative vision, in which fundamental rights are not merely protected in theory but are dynamic tools meant to be actively realised through collective effort between the state and society.