

RELIGIOUS DENOMINATION, MEANING AND SIGNIFICANCE

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INTRODUCTION

Under the right of freedom of speech and expression, Article 19², the philosophy of freedom of religion in India was created as there were a lot of Muslims scattered all around India. India is a secular country and there is no state religion. In India, Hindus are in the majority and all the religions are accepted over here. In the case of *Pannalal Pitti Vs State of Andhra Pradesh*³, Article 25 and Article 26 give the freedom of religion.⁴

Article 26⁵ of the Constitution provides for:

“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 and charitable purposes;
- (b) To manage its own affairs in matters of religion;
- (c) To own and acquire movable and immovable property; and
- (d) To administer such property in accordance with law”⁶

This Article is, therefore, concerned with the rights of every ‘religious denomination’. It guarantees every such entity the right to manage its own affairs in matters of

religion.⁷ Article 27 also deals with ‘religious denominations’. Before ascertaining the rights that are available to such entities, it’s our job to define what exactly ‘religious denomination’ means and what kind of religious entities will come under its purview. This paper will, therefore, try to define ‘religious denomination’ in the light of the existing precedents of the Supreme Court and various High Courts. It will then proceed to the role this phrase plays with regards to the religious, educational and cultural rights of such entities. Under Article 25 and Article 26, the person can’t do such a thing which can affect public morality and health. For example- no one can Worship on a busy Highway as it will disturb the community and public places.⁸

MEANING

Oxford Dictionary defines the word ‘denomination’ as

“A collection of individuals, classed together under the same name specially a religious sect or body having a common faith and organization and designated by a distinctive name.”⁹

The Constitution has used the words ‘religion’ and ‘religious denomination’ but has not defined it in any manner. Therefore, the Courts have been the agents who have explained the meaning and connotation of these words in various cases that have come for consideration before it.¹⁰ Article 26¹¹ is confined to a religious denomination or any subset of it.¹² Religious denomination takes its meaning from the word religion and therefore there has to be a common faith of the community based on essential religious conditions and the members of the community must have tenets which are unique and peculiar to themselves.¹³ In context of the Articles of the Constitution and the light shed by legal precedent it has been stated by the Supreme Court that religion involves faith. It involves tenet and belief. It concerns the spirit, i.e., a man’s conscience. It must be equipped for expression in word and deed, such as custom, ritual or worship.¹⁴

A religious denomination has to satisfy three essential conditions, namely:

- i. It should essentially be a collection of individuals having a doctrine or beliefs which is regarded as conducive to the well-being of their spirituality.
- ii. It should have a common organization
- iii. It should be designated by a distinctive name.¹⁵

*S.P. Mittal vs Union of India*¹⁶ also goes into detail while trying to explain religious denomination where it defined it a liberal, expansive manner although the claimant was denied of status as a religious denomination where Aurobindo's teachings were regarded as philosophy and not religion. The Supreme Court here emphasized that the common faith of a religious body is a considerably more important feature of a religious denomination than other features.¹⁷ It also stated that an institution belonging to a religion such as Hinduism will also receive the same protection that a sect or sub-sect of Hinduism receives because failing that institutions belonging to Hinduism will not receive the protection accorded by Article 26 which will neither be just or equitable. This was also emphasized in the situation of 'developing' religions which are still in their formative years.¹⁸

The Supreme Court has also repeatedly stated in various cases that the basic chord which connects the people belonging to a religious denomination should be religion and not mere considerations of caste and community.¹⁹ In *Arya Vyasa Sabha*²⁰ case, the Supreme Court reiterated the point which was made by the High Court of Andhra Pradesh in the same case that whether a community forms a religious denomination is a mixed question of law and fact. The Supreme Court has also stated that the Ramakrishna religion is not a separate religion from Hinduism and therefore is not protected by Article 30(1) but it forms a religious denomination and thus are protected under Article 26(a) and are free to maintain and establish institution(s) for charitable purposes.²¹

SIGNIFICANCE

The Supreme Court in its jurisprudence on 'religion' and 'religious denomination' has gone from a strict interpretation of religion in its etymological sense²² to a liberal and expansive definition in contemporary cases.²³

The Supreme Court in a Constitution Bench (7 Judges) in *Commissioner, Hindu Religious Endowments, Madras vs. Sri Lakshmindra Thirtha Swamiar*²⁴ (commonly known as the Shirur Math case) struck down various provisions of the Madras Hindu Religious and Charitable Endowments Act, 1951 on grounds of it being *ultra vires* as the act caused interference in the management of the *Math's* property which was a right granted to it by Article 26 and hence was violative of Article 13. It was stated that the Math had a fundamental right to manage its own affairs under Article 26 through the *Mathadipati* and those provisions which take away the power of the *Mathadipati* amount to a violation of Article 26 in this respect.

The court stated:

"Each one of such sects or sub-sects can certainly be called a religious denomination, as it is designated by a distinctive name, - in many cases it is the name of the founder, - and has a common faith and common spiritual organization."²⁵

It also reiterated the point that Article 26 not only covers religious denominations but also a section thereof. The Punjab and Haryana High Court clarified in a later case²⁶ that benefits of Article 26 is not only confined to minority groups.²⁷

The Supreme Court in a eleven-Judge bench in the case of *T.M.A. Pai Foundation vs. State of Karnataka*²⁸ adopted an expansive definition of religious denomination, with respect to Article 26(a) when it stated that the source of the right to establish educational institutions can be found in Article 26(a).²⁹ The court has, thus, decided that education is a ground under charitable purposes of Article 26(a). The court, thus, held that even a privately funded unaided educational institution cannot charge fees for the purpose of education if it is being set up under Article 26(a).³⁰

It has also been emphasized in various cases including the recent *Haji Ali Durgah* case³¹ that the essential religious practice test which applies to Article 25 is also applicable on Article 26 though religious denominations enjoy some degree of autonomy with regards to the rights given in Article 26. The Supreme Court has also held that laws relating to administration of property by any religious denomination should not do away with the right to administer property and it has to be only regulatory in nature.³² Also, under Article 26(a), the the words ‘establish’ and ‘maintain’ have to be read together (conjunctively) and only the institutions which the religious denomination establishes is the one it can maintain.³³

Under Article 27, it is stated that there will be freedom as to the payment of taxes for promotion of a particular religious denomination such that no person shall be compelled to pay taxes which are used for the promotion of any particular religious denomination. There also exists a difference between the rights granted by Article 25(1) (freedom of conscience) and Article 26 as Article 26 grants a collective right to a community (i.e. religious denomination) while Art. 25(1) talks about individual freedom of religion.³⁴

A religious denomination has also been granted a right to lay down the rituals and ceremonies which need to be performed³⁵ in *Ramanuj vs. State of Tamil Nadu*³⁶

The *Durgah Committee*³⁷ case also stated the existence of the essential religious practice test for the purpose of Article 26 in order to preclude secular activities from coming within its ambit.³⁸

CONCLUSION

The court has been given remarkable jurisdiction in its powers of interpreting the Constitution especially with regards to terms like ‘religion’ and ‘religious denomination’ which do not have any clarification existing in the Constitution. It is clear from this paper that the term ‘religious denomination’ has played and will continue to play a pivotal role in the religious freedom jurisprudence in India. The very first burden that is put on a party asking for rights with respect to collective freedom of religion is to prove the existence of a ‘religious denomination’ as has been explicitly stated in Article 26 and 27. Right from cases such as *S.R. Bommai vs Union of India*³⁹ which prevented Parliament from enacting laws which were in contravention to secularism to the recent *Haji Ali Durgah*⁴⁰ case where the judiciary has undertaken an activist role for the prevalence of equality even in matters of religion, the term ‘religious denomination’ has been significant. The existence of the term ‘religious denomination’ rather than just religion has allowed the myriad of various sects and sub-sects of a particular religion to be protected allowing self-administration of its institutions for essential religious practices. ‘Religious denomination’ has thus granted religious freedom to not only minority groups but also for the many different sects within a particular religion with different rituals and practices which would have been eradicated by the majoritarian forces within a particular religion by the majority imposing their will on them, thus contravening the right of religious freedom of the people belonging to a particular sect. Thus, ‘religious denomination’ plays a big hand in the making

of India as a secular nation by the segregation of the State from religious teachings and preventing the imposition of religious beliefs by the State on its people.

(Endnotes)

- 1 * IVth year student of the W.B. National University of Juridical Sciences (NUJS), Kolkata.
- 2 **The Constitution Of India 1949**
- 3 *Pannalal Pitti Vs State of Andhra Pradesh*, 1996 AIR 1023, 1996 SCC (2) 498
- 4 Articles 25-28 and Right to Freedom of Religion in India <http://www.gktoday.in/articles-25-28-and-right-to-freedom-of-religion-in-india/>, Articles 25-28 and Right to Freedom of Religion in India <http://www.gktoday.in/articles-25-28-and-right-to-freedom-of-religion-in-india/> (2013), <http://www.gktoday.in/articles-25-28-and-right-to-freedom-of-religion-in-india/> (last visited Mar 14, 2017).
- 5 Constitution of India.
- 6 Article 26 of the Constitution of India.
- 7 V.N. Shukla's Constitution of India (Mahendra P. Singh, 12 th Edition, 2013) at pg. 247.
- 8 *Supra* note 3.
- 9 *Supra* note 2; Also used in *Sri Adi Visheshwara of Kashi Vishwanath Temple, Varanasi vs. State of U.P.*, (1997) SCC 606 (para. 23).
- 10 *Religion under Constitution and Related Laws*, Shodhganga, available at http://shodhganga.inflibnet.ac.in/bitstream/10603/1936/8/08_chapter%203.pdf, last seen on 28/02/2017.
- 11 *Supra* note 1.
- 12 *Ramachandra vs. State of Orissa*, AIR 1959 Ori 5.
- 13 *Supra* note 3.
- 14 *S.P. Mittal vs. Union of India*, AIR 1983 SC 1.
- 15 *Acharya Jagdishwarananda Avadhuta vs. Commissioner of Police*, (1983) 4 SCC 522, 530-31 (para 11).
- 16 *Supra* note 7.
- 17 *Supra* note 8, at para. 21.
- 18 *Supra* note 7.
- 19 *Northam Marthandam Vellalar vs. Commissioner, Hindu Religious and Charitable Endowments*, AIR 2005 SC 4225.
- 20 AIR 1976 SC 475.
- 21 *Bramchari Sidheshwar Sai vs. State of West Bengal*, AIR 1995 SC 2089.
- 22 In cases such as *Durgah Committee vs. Syed Hussain Ali* (1962) 1 SCR 383, *Sardar Syedna Taher Saifuddin Saheb vs. State of Bombay*, AIR 1962 SC 853.
- 23 *Supra* note 8.
- 24 *Commissioner, Hindu Religious Endowments, Madras vs. Sri Lakshmindra Thirtha Swamiar*, (1954) 1 SCR 1005.
- 25 At para. 15.
- 26 *Joginder Singh vs. State of Punjab*, AIR 1973 P&H 465.
- 27 In this case it was decided that the Sikhs, though constituting a majority in Punjab, can still claim benefit under Article 26.
- 28 *T.M.A. Pai Foundation vs. State of Karnataka*, AIR 2003 SC 355.
- 29 M.P. Jain, *Indian Constitutional Law* (7th Ed., 2014) at pg. 1256.
- 30 Ruma Pal, *Primary Education and the Law*, 33(2) *India International Centre Quarterly* 115, 122 (2006).
- 31 *Dr. Noorjahan Safia Nehaz vs. State of Maharashtra*, 2016(5) ABR660.
- 32 V.M. Tarkunde, *Secularism and the Indian Constitution*, 22(1) *India International Centre Quarterly* 143, 150 (1995).
- 33 *S. Azeez Basha vs. Union of India*, AIR 1968 SC 662.
- 34 *Jagdishwarananda Avadhuta Acharya vs. Commissioner of Police, Calcutta*, AIR 1990 Cal. 336 (paras 26-29).
- 35 *Supra* note 4.
- 36 *Ramanuj vs. State of Tamil Nadu*, AIR 1972 SC 1856.
- 37 *Durgah Committee, Ajmer vs. Syed Hussain Ali*, AIR 1961 SC 1402.
- 38 In *Commissioner of Police vs. Acharya Jagdishwarananda*, (2004) 12 SCC 770, the Supreme Court laid down the test where it has been found whether the nature of the religion will change without the particular part or practice. If a fundamental difference in the character of the religion takes place then it is regarded as an essential part of the religion.
- 39 AIR 1994 SC 1918; Secularism was declared as a part of the basic structure of the Constitution