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Module : U- 1, M-5: Freedom to Manage Religious Affairs: A Study of Article 26 of the Constitution of India






Development Team	
Principal Investigator:	Prof. (Dr.) YSR Murthy, Executive Director, Centre for Human Rights Studies, OP Jindal Global University
Paper Coordinator:	Mr. Ajay Kumar Pandey, Associate Professor and Executive Director (Clinical Programmes), Jindal Global Law School
Content Writer:	Abdulrahim P. Vijapur, Professor of Political Science, Aligarh Muslim University & Haris Jamil, Pursuing studies at South Asian University, New Delhi
Content Reviewer:	Dr. Varalaxmi Moganty, Formerly with Andhra University

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FREEDOM TO MANAGE RELIGIOUS AFFAIRS: A STUDY OF ARTICLE 26 OF THE CONSTITUTION OF INDIA

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Learning Outcomes:

1. This intensive module introduces students to the relevant provisions in the Indian Constitution which lay down the framework of making India a Secular state while at the same time ensuring guarantees for religious freedom and its practice.
2. The students would learn about Articles 25-28 of the Constitution highlighting the concepts of ‘religious denomination’, ‘matters of religion’, and ‘who is a minority’.

Introduction

The preamble of the Constitution, containing the intentions and ideals of the Constitution makers, declares that people of India have solemnly resolved to constitute India into a Sovereign Socialist Secular Democratic Republic.ⁱThe expression “*Socialist Secular*” was added to the preamble by an amendment in 1976ⁱⁱ with an object “*to spell out expressly the high ideals of socialism, secularism and the integrity of the nation.*”ⁱⁱⁱ¹

¹

Although, India is secular but it cannot be considered as an anti-religious state because its constitution guarantees the freedom of conscience and religion.^{iv} The concept of secularism adopted and practised in India is quite different from the American concept of secularism, which requires complete separation of church and state. Though, Articles 27 and 28 contain some specific prohibitions, there are other provisions in the Constitution of India which are inconsistent with the theory that there should be a wall between church and state.^v

Articles 25-28, reflects the Constitution's *sui generis* approach to secularism, religious issues and the rights of minorities. These Articles divided in two chapters illustrate the unique equilibrium of the Indian Constitution on these three issues. These Articles also manifest an unusual amalgam of individual and collective rights.^{vi}

Articles 27 and 28 emphasize the secular nature of the state, as these two provisions secure to every person freedom from the payment of taxes for the promotion of any religion and freedom from attendance at religious instruction or religious worship in certain educational institutions.

Article 25 guarantees to every person the freedom of conscience and the free profession, practise and propagation of religion while Article 26 guarantees to every religious denomination, or a section of it, a right to manage its own affairs in matters of religion and the right to establish and maintain institutions for religious purposes.

Article 26, thus, guarantees collective freedom of religion, subject to some limitations. It guarantees to every denomination or a section of it the right to establish and maintain institutions for religious and charitable purposes and to manage in its own way all affairs in matters of religion. This provision also provides rights to such denomination or a section of it to acquire and own movable and immovable properties and to administer such properties in accordance with law.^{vii}

This module seeks to focus on freedom to manage religious affairs as provided under Article 26 of the Constitution of India. This module will introspect on the concept of religious denomination

and various rights provided to it, under Article 26. The module will further explore relation between Article 26(b) and Article 25(2) (b). Module also looks into the complications which surface due to legislative regulation of management of religious endowments.

Religious Denomination: Meaning and Scope

As stated, right provided under Article 25 is an individual right whereas the rights guaranteed under Article 26 is the right of a 'collective group' like the religious denomination or any section thereof.

Neither the term 'religion' nor 'denomination' has been defined under the Constitution. However, Supreme Court in the *Sri Shirur Mutt case*^{viii} speaking through Mukherjee, J., adverted to the meaning of the word 'religion' found in the Constitution of India, thus:

"...the word 'religion' has not been defined in the Constitution and it is a term which is hardly susceptible of any rigid definition.Religion is certainly a matter of faith with individuals or communities and it is not necessarily theistic. There are well known religions in India like Buddhism and Jainism which do not believe in God or in any Intelligent First Cause. A religion undoubtedly has its basis in a system of beliefs or doctrines which are regarded by those who profess that religion as conducive to their spiritual well-being, but it would not be correct to say that religion is nothing else but a doctrine or belief. A religion may not only lay down a code of ethical rules for its followers to accept, it might prescribe ritual and observances, ceremonies and modes of worship which are regarded as integral parts of religion, and these forms and observances might extend even to matters of look and dress."^{ix}

Further, a "denomination" has been defined in *Shirur Mutt case*, by the Supreme Court with reference to the meaning of the term in the Oxford Dictionary as "a collection of individuals, classed together under the same name; now almost always specifically, specially a religious sect or body having a common faith and organisation and designated by a distinctive name."^x

It has now been established through various judgments that three conditions must be satisfied in order to qualify as a religious denomination under Article 26.^{xi} These are:

- A. It must be a collection of individuals who have a system of beliefs which they regard as conducive to their spiritual well-being, i.e., common Faith

- B. Common Organisation
- C. Designated by distinctive name

Therefore, members belonging to different religions, satisfying the three tests, would be a denomination within the meaning of Article 26. The expression 'denomination' can also be used for members forming sects or sub-sects of a religion designated by a distinctive name.^{xii}

It is pertinent to note that, unlike Article 30, benefit of Article 26 is not confined to 'minority' groups only. Sikhs, not in minority in Punjab, constitute a 'religious denomination'^{xiii} and can thus, claim the benefit of Article 26.

'Establishment and Maintenance' under Article 26(a)

Every religious denomination has a right to establish and maintain institutions for religious and charitable purposes under Article 26(a). The words 'establish and administer' must be read conjunctively and therefore, where an institution has been established by a religious denomination, it can claim the right to maintain the same as well.^{xiv} In other words, a denomination has no right to maintain an institution until and unless it has not been established by it.

This phrase was also discussed in *Azeez Basha case*,^{xv} where it was held that Aligarh Muslim University has been established under a statute, and not by the Muslims as such, therefore, they cannot claim the right to maintain the same. Court noted that the right under Art. 26(a) will only arise where the institution is established by a religious denomination and it is in that event only that it can claim to maintain it. Court further stated that since Aligarh Muslim University was not established by the Muslim minority, therefore, no question arises of its right to maintain it within the meaning of Article 26(a).

Management of Religious Matters under clause (b)

Clause (b) confers on a religious denomination or a section of it the right to manage its own affairs in 'matters of religion'. This right can be taken away only if it runs counter to public order, health or morality.

The term 'matters of religion' used in Article 26(b) is synonymous with the term 'religion' in Article 25(1). It includes not only religious beliefs but also such religious practises and rites as are regarded to be an essential and integral part of religion.^{xvi}

With regard to the scope of the term 'matters of religion', it has been held by the Hon'ble Supreme Court in *Durgah Committee, Ajmer v. Syed Hussain Ali*^{xvii} that in order that the practices in question should be treated as a part of religion they must be regarded by the said religion as its essential and integral part; otherwise even purely secular practices which are not an essential or an integral part of religion are apt to be clothed with a religious form and may make a claim for being treated as religious practices within the (1) meaning of Art. 26. Court further noted that, even practices, though religious, may have sprung from merely superstitious beliefs and may in that sense be extraneous and unessential accretions to religion itself. In the light of these observations, Court held that, unless such practices are found to constitute an essential and integral part of a religion their claim for the protection under Art. 26 may have to be carefully scrutinised.

What constitutes an essential part of religion or religious practice has to be decided the courts with reference to doctrines and tenets of that particular religion.^{xviii}

An interesting issue came before the Hon'ble Supreme Court in *Sardar Sayedna Taher Saifuddin Saheb v. State of Bombay*.^{xix} The petitioner, who was the religious head of the *Dawoodi Bohra* community and trustee of its property, challenged the constitutional validity of Bombay Prevention of Excommunication Act, 1949, on the ground that it violated its fundamental rights guaranteed under Articles 25 and 26 of the Constitution. This Act invalidated ex-communication of member of any community. Court, after examining the provisions of this act, held that expression "laws providing for social welfare and reform" in Article 25(2)(1) of the Constitution was not intended to enable the legislature to reform a religion out of existence or identity. The activities referred to in Article 25(2)(a) are obviously not of the essence of religion nor was Article 25(2)(b) intended to cover the essentials of a religion which are protected by Article 25(1). By taking away the power of ex-

communication from *Dai-ul-Multaq*, by which he kept the denomination together and maintained the purity of its fellowship the impugned, Court held, the impugned Act contravened Article 25(1) of the Constitution. However, minority view was that Act was a measure of social reform justified by Article 25(2)(b).

However, this pronouncement is subject to criticism that it prefers the denominational right over individual's freedom of conscience guaranteed under Article 25. It can also be argued that Article 17 abolishes untouchability and position of an ex-communicated person is very much similar to that of an untouchable, thus protected under Article 17.^{xx}

Harmonising Articles 25 (2)(b) and 26(b)

On a combined reading of the Articles 25(2)(b) and 26(b), we find an inconsistency. Article 25(2)(b) provides for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus while under Article 26(b), the term 'matters of religion' include religious practices which signifies such questions as who are the persons entitled to enter into a temple for worship, where they are entitled to stand and stand, how worship is to be concluded,^{xxi} are all matters of religion coming within the purview of Article 26(b). Therefore, it means that a denomination has a right to exclude persons from participating in the worship under Article 26(b).

In order to harmonise these two provisions, the question which arises is whether the right guaranteed under Art. 26(b) is subject to a law protected by Art. 25(2)(b). In order to resolve this issue Court in *Sri Venakataramana Devaru v. State of Mysore*,^{xxii} held that:

"....the right of a denomination to wholly exclude members of the public from worshipping in the temple, though comprised in Art. 26(b) must yield to the overriding right declared by Art. 25(2)(b) in favour of the public to enter into a temple for worship. But where the right claimed is not one of general and total exclusion of the public from worship in the temple at all times but of exclusion from certain religious services, they being limited by the rules of the foundation to the members of the denomination, then the question is not whether Art. 25(2)(b) overrides that right so as to extinguish it, but whether it is possible so to regulate the rights of the persons

protected by Art. 25(2)(b) as to give effect to both the rights. If the denominational rights are such that to give effect to them would substantially reduce the right conferred by Art. 25(2)(b), then of course, on our conclusion that Art. 25(2)(b) prevails as against Art. 26(b), the denominational rights must vanish. But where that is not the position, and after giving effect to the rights of the denomination what is left to the public of the right of worship is something substantial and not merely the husk of it, there is no reason why we should not so construe Art. 25(2)(b) as to give effect to Art. 26(b) and recognise the rights of the denomination in respect of matters which are strictly denominational, leaving the rights of the public in other respects unaffected.”^{xxiii}

Based on the above submission, the highest court ruling in favour of *Gowda Saraswath Brahmins*, held that during certain ceremonies, and on special occasions, only members of their community are entitled to participate to the exclusion of all others. Therefore, the denominational right has been recognised for what is left to the public of its right under Article 25(2)(b) is substantial.

Another very interesting issue came before the Court in *Sarwar Hussain and Ors. v. Additional Civil Judge and Ors.*^{xxiv} The issue before the Court was, whether a Mohammedan belonging to a particular sect has an absolute right to demand that the Imam of his sect would lead him to prayers and restrain others from preventing him for offering his prayers as desired by him. Court after reviewing the literature on the issue held that, Court ruled that a public mosque is a place of worship for the Mohammedans and regardless of their sect or denomination or as to who had founded the mosque, they are entitled to offer their prayers in the mosque. It is a fundamental right of every Mohammedan to offer his prayer in a public mosque. He cannot be denied this right on the ground of not belonging to a particular sect or denomination that have founded the mosque or were managing the said mosque. Court further noted that, “*the fundamental right of a Muslim in a mosque is to offer his prayers. What particular rite will be followed and how it shall be done, are matters of practice. This cannot be termed to be a fundamental right in the exercise of religious rites.*”^{xxv}

Acquiring and Administering the Property

Clause (c) and (d) of Article 26 provides to a religious denomination the right to acquire and own property and own property and to administer such property in accordance with law. A

distinction has to be made between ‘administration of property’ as mentioned in clause (d) and managing religious affairs as provided for in clause (b). While the former can be regulated by laws which the legislature can validly make, the latter is a right which subject to public order, morality and health no legislature can take away.

In the landmark case of *Ratiala Panachand Gandhi v. State of Bombay*,^{xxvi} court made some significant pronouncement on the scope of Article 26(d). Court noted that:

“...the language of the two clauses (b) and (d) of article 26 would at once bring out the difference between the two. In regard to affairs in matters of religion, the right of management given to a religious body is a guaranteed fundamental right which no legislation can take away. On the other hand, as regards administration of property which a religious denomination is entitled to own and acquire, it has undoubtedly the right to administer such property but only in accordance with law. This means that the State can regulate the administration of trust properties by means of laws validly enacted; but here again it should be remembered that under article 26(d), it is the religious denomination itself which has been given the right to administer it's property in accordance with any law which the State may validly impose.”^{xxvii}

It is to be noted that, Article 26(d) is the fundamental right of religious denomination to administer properties in accordance with law; and the law, therefore, must leave the right of administration to the religious denomination itself subject to such restrictions and regulations as it might choose to impose. A law which takes away the right the right of administration altogether from the religious denomination and vests it in any other secular authority would amount to violation of the right guaranteed by Article 26(d).^{xxviii}

In *Durgah Committee v. Hussain Ali*,^{xxix} Durgah Khwaja Saheb Act, 1955, which vested administration of property attached to the Durgah in a nominated committee, was challenged on the ground that the committee would include persons other than the Chisti Muslims, which was unconstitutional. Court held that since in the instant case, the Chishti Sufies never had any rights of the management over the Durgah endowment for the centuries, since it was created, the argument of unconstitutionality of the act must fail. Court noted that:

“Art. 26(c) and (d) do not create rights in any denomination or its section which it never had; they merely safeguard and guarantee the continuance of rights which such denomination or its

section had. In other words, if the denomination never had the right to manage the properties endowed in favour of a denominational institution as for instance by reason of the terms on which the endowment was created it cannot be heard to say that it has acquired the said rights as a result of Art. 26(c) and (d), and that the practice and custom prevailing in that behalf which obviously is consistent with the terms of the endowment should be ignored or treated as invalid and the administration and management should now be given to the denomination. Such a claim is plainly inconsistent with the provisions of Art. 26. If the right to administer the properties never vested in the denomination or had been validly surrendered by it or has otherwise been effectively and irretrievably lost to it Art. 26 cannot be successfully invoked.”^{xxx}

Based on the above mentioned observations, Court in *State of Rajasthan v. Shri Sajjanlal Panjawat and ors.*,^{xxxi} held that when properties and management of Shri Rikhabdevji temple [a Jain temple] had been taken over by the Ruler of Udaipur, Jains lost their right of managing the temple and they could not regain it by invoking Article 26(d).

Another significant issue relates to the scope of Article 26(c), which guarantees to a religious denomination the right to own and acquire immovable property. However, this provision is to be read subject to the State’s power to acquire private property. In other words, clause (c) does not bar state from acquiring properties, owned and administered by religious denomination.

In *Khajamian Wakf Estates v. State of Madras & anr.*,^{xxxii} Court noted that:

“It was next urged that by acquiring the properties belonging to religious denominations the legislature violated Articles 26(c) and (d) which provide that religious denominations shall have the right to own and acquire movable and immovable property and administer such property in accordance with law. These provisions do not take away the right of the State to acquire property belonging to religious denominations. Those denominations can own acquire properties and administer them in accordance with law. That does not mean that the property owned by them cannot be acquired. As a result of acquisition they cease to own that property. Thereafter their right to administer that property ceases because it is no longer their property. Art. 26 does not interfere with the right of the State to acquire property.”^{xxxiii}

Supreme Court, however, have restricted this right of acquisition by holding that, if acquisition of property of a religious denomination by the State can be proved to be such as to destroy or completely negative its right to own and acquire movable and immovable property for even the

survival of a religious institution, the question may have to be examined in a different light.^{xxxiv} Court has also noted that, what is reasonable regulation by state must depend on the nature of the fundamental right sought to be regulated, the purpose for which it is conferred and the general pattern of Constitutional rights and obligation. It must also depend on the Directive Principles enumerated in Part IV and the socio-economic structure envisaged by the Constitution. That in the event of conflict between the individual right and the legislation implementing socioeconomic policies laid down in Part IV, greater weight should be given to the policy enumerated in the Directive Principles.^{xxxv}

Another case which needs mention here is *Dr. M. Ismail Faruqui v. Union of India*,^{xxxvi} where the Hon'ble Supreme Court considered the question of acquisition of religious place by the State. Court held that a temple, church or mosques etc. are essentially immovable properties and subject to protection under Articles 25 and 26. Every immovable property is liable to be acquired. Court further noted that:

".....there can be no reason to hold that a mosque has a unique or special status, higher than that of the places of worship of other religions in secular India to make it immune from acquisition by exercise of the sovereign or prerogative power of the State. A mosque is not an essential part of the practice of the religion of Islam and namaz (prayer) by Muslims can be offered anywhere, even in open. Accordingly, its acquisition is not prohibited by the provisions in the Constitution of India. Irrespective of the status of a mosque in an Islamic country for the purpose of immunity from acquisition by the State in exercise of the sovereign power, its status and immunity from acquisition in the secular ethos of India under the Constitution is the same and equal to that of the places of worship of the other religions, namely, church, temple etc. It is neither more nor less than that of the places of worship of the other religions. Obviously, the acquisition of any religious place is to be made only in unusual and extraordinary situations for a larger national purpose keeping in view that such acquisition should not result in extinction of the right to practise the religion, if the significance of that place be such. Subject to this condition, the power of acquisition is available for a mosque like any other place of worship of any religion. The right to worship is not at any and every place, so long as it can be practised effectively, unless the right to worship at a particular place is itself an integral part of that right."^{xxxvii}

Relying on the above observations, Gujarat High Court has justified the acquisition of a mosque in the public interest for widening the road. Reiterating the observations made in *Ismail Faruqi* case, the High Court noted that the protection under Articles 25 and 26 of the Constitution is to religious practice which forms an essential and integral part of the religion. A practice may be a religious practice but not an essential and integral part of practice of that religion. While offer of prayer or worship is a religious practice, its offering at every location where such prayers can be offered would not be an essential or integral part of such religious practice unless the place has a particular significance for that religion so as to form an essential or integral part thereof. Places of worship of any religion having particular significance for that religion, to make it an essential or integral part of the religion, stand on a different footing and have to be treated differently and more reverentially than the other places of worship of that religion.^{xxxviii}

Summing Up

We began by highlighting the diverse nature of Indian secularism and its incorporation in the Indian Constitution. While discussing the scope of Article 26, we noted that benefit of fundamental right is not confined to 'minority' groups only. Further, we explored the meaning of the term religious denomination under Article 26 through various case laws. It has now been settled that the three conditions of, 'common faith', 'common organisation' and 'designated by distinctive name' has to be satisfied in order for a community or group to qualify as religious denomination. We further saw that under Article 26(a), a denomination has no right to maintain an institution until and unless it has not been established by it. We also looked that the term 'matters of religion' used in Article 26(b) is synonymous with the term 'religion' in Article 25(1) and it includes not only religious beliefs but also such religious practises and rites as are regarded to be an essential and integral part of religion. We also emphasised on the application of doctrine of harmonious construction by reading Articles 25(2)(b) and 26(b) subject to one another by the Hon'ble Supreme Court. Highlighting the distinction between Article 26(b) and 26(d), we noted that as regards administration of property which a religious denomination is entitled to own and acquire, it has undoubtedly the right to administer such

property but only in accordance with law, meaning thereby that State can regulate the administration of trust properties by means of laws validly enacted. The regulation can only be in respect of the administration of the secular part of the religious endowment, and not of beliefs or practices, which are integral part of the religious belief or faith.



REFERENCES:

ⁱThe preamble of India reads as: “WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE, social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity;

and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.”

ⁱⁱThe Constitution (Forty-Second Amendment) Act, 1976.

ⁱⁱⁱSee, Statement of Objects and Reasons of the Constitution (Forty-Second Amendment) Act, 1976. *Para 3* [emphasis added].

^{iv}See, H M Seervai, *Constitutional Law of India* (Universal Law Publishing Co., New Delhi, 4th edn., vol. 2, Reprint 2011) at p. 1259.

^vSee, *Kidangazhi Manakkal Narayanan Namboodripad v State of Madras*, AIR 1955 Mad 385. Art. 16(5) recognize the validity of laws relating to management of religious and denominational institutions. Art. 28 (2) contemplates the State itself managing educational institutions wherein religious instruction is to be imparted. And among the subjects which are spelt out in List III of the 7th Schedule to the Constitution, Entry 28 is as follows: “Charities and charitable institutions, charitable and religious endowments and religious institutions”.

^{vi} Abhishek Singhvi, “India’s Constitution and Individual Rights: Diverse Perspectives” 41 *George Washington International Law Review* 327 (2009) at p. 333.

^{vii}Article 26 of the Constitution reads as- “**Freedom to manage religious affairs:** 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.”

^{viii}*Commissioner, Hindu Religious Endowments v. Sri Lakshmindra Thirtha Swamiar of Shirur Mutt*, AIR 1954 SC 282

^{ix}*Ibid* at p. 290 [emphasis added]. While exploring the meaning of the term ‘religion’ Mukherjee, J., noted that, “in an American case [*Davis v. Benson*, 133 US at 342] it has been said ‘that term ‘religion’ has reference to one’s views of his relation to his Creator and to the obligations they impose of ‘reverence’ for His Being and character and of obedience to His will. It is often confounded with cults of form or worship of a particular sect, but is distinguishable from the latter.’ We do not think that the above definition can be regarded as either precise or adequate. Articles 25 and 26 of our Constitution are based for the most part upon article 44(2) of the Constitution of Eire

and we have great doubt whether a definition of 'religion' as given above could have been in the minds of our Constitution makers when they framed the Constitution."

^x*Ibid*. Also see, *Syed Fazal Pookoya Thangal v. Union of India and Ors.*, AIR 1993 Ker. 308.

^{xi}*Ibid*; Also see, *P. Mittal v. Union of India*, AIR 1983 SC 1; *Jagdishwaranand v. Police Commissioner, Calcutta*, AIR 1984 SC 51; *Brahmachari Sidheshwar Shai v State of West Bengal*, AIR 1995 SC 2089.

^{xii}Supreme Court opined in *Commissioner of Police v. Acharya Jagdishwarananda Avadhuta*, [AIR 2004 SC 2984] that Ananda Marga is a religious denomination though not a separate religion as they are a collection of individuals who have a system of beliefs with regard to their conducive spiritual well-being, a common organization and a definite name. Similarly, among Mohammedans, Hanafi, Shafi, Ismaili, Shia or Chisti sects can be considered as a 'religious denomination'. Among Hindus, Vaishnava, followers of Madhawacharya, Ananda Marga are 'religious denomination'. See, M P Singh, *V N Shukla's Constitution of India* (Eastern Book Company, Lucknow, 11th edn., 2008) at p. 247.

^{xiii}*Joginder Singh v. State of Punjab*, AIR 1973 P & H 465.

^{xiv}Justice Ruma Pal and Samaraditya Pal, *M P Jain Indian Constitutional Law* (Lexis Nexis Butterworths Wadhwa, Nagpur, 6th edn., Rev. 2010) at p. 1327.

^{xv}*Azeez Basha v. Union of India*, AIR 1968 SC 662. However, Supreme Court did not finally decide whether, in view of Article 30(1) specifically making a provision with respect to educational institutions, colleges will fall within the scope of Article 26(a) or not. However, this issue was resolved in *TMA Pai Foundation and Ors. v. State of Karnataka and Ors.*, [AIR 2003 SC 355] where it was held that religious denominations or sections thereof, which do not fall within the special categories carved out in Articles 29(1) and 30(1), have the right to establish and maintain religious and educational institutions, meaning thereby, members belonging to any religious denominations, including the majority community, has a right to set up an educational institution.

^{xvi}*Supra* note 14 at p. 1328.

^{xvii}AIR 1961 SC 1402. Also see, *Supra* note 8.

^{xviii}See, *Mohd. Hanif Quraeshi v. State of Bihar*, AIR 1958 SC 731; *Syedna Taher Saifuddin Saheb v. State of Bombay*, AIR 1962 SC 853; *Commissioner of Police v. Acharya Jagdishwarananda Avadhuta*, AIR 2004 SC 2984

^{xix}AIR 1962 SC 853

^{xx}See, *Supra* note 14 at 1328.

^{xxi}*Sri Venakataramana Devaru v. State of Mysore*, AIR 1958 SC 255

^{xxii}*Ibid*

^{xxiii}*Ibid* at p. 268 [emphasis added].

^{xxiv}AIR 1983 All. 252.

^{xxv}*Ibid* at para 17 [emphasis added].

^{xxvi}AIR 1954 SC 388.

^{xxvii}*Ibid* at p. 391 [emphasis added].

^{xxviii}See, *Supra* note 8 at p.291. In this case, Section 56 of the Madras Hindu Religious and Charitable Endowments Act, 1951 which empowered the Commissioner, at any moment he chose, to deprive the *mahant* of his right to administer the trust-property even if there was no negligence or maladministration on his part, was held to be opposed to the provisions of Article 26(d). Also see, *State of Madhya Pradesh v. Mahant Kamal Puri*, AIR 1965 MP 183 at para 6.

^{xxix}[1962]1SCR383

^{xxx}*Ibid* at p. 414[emphasis added].

^{xxxi}1974 SCR (2) 741.

^{xxxii}1971 SCR (2) 790.

^{xxxiii}*Ibid* at p. 797 [emphasis added].

^{xxxiv}*Mahant Ram Kishan Dass v. State of Punjab and Ors.*, AIR 1981 SC 1576. Also see, *Acharaya Maharajshri Narendra Prasadji Anandprasadji Maharaj v. State of Gujarat & Ors.*, AIR 1974 SC 2098.

^{xxxv}*Acharaya Maharajshri Narendra Prasadji Anandprasadji Maharaj v. State of Gujarat & Ors.*, AIR 1974 SC 2098. Court observed that one fundamental right of a person may have to co-exist in harmony with the exercise of another fundamental right by others and also with reasonable and valid exercise of power by the State in the light of the Directive Principles in the interests of social welfare as a whole. The Court's duty is to strike a balance between competing claims of different interests. The core of religion is not interfered with in providing for amenities for sufferers of any kind.

^{xxxvi}AIR 1995 SC 605.

^{xxxvii}*Ibid* at p. 641 [emphasis added]

^{xxxviii}*Gulam Kadar Ahmadbhai Menon v. Surat Municipal Corporation*, AIR 1998 Guj. 234, 240.