

Bill No. 36 of 1995 LOK SABHA

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the forty-sixth year of Republic of India as follows:

1. This Act may be called the Constitution (Amendment) Act, 1995.
2. For article 30 of the Constitution, the following article shall be substituted, namely:—

“30. (1) Any section of the citizens residing in the territory of India or any part thereof professing a distinct religion or having a distinct language, script or culture of its own or forming a distinct social group shall have the right to establish and administer educational institutions of its choice.

(2) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a section of citizens, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

(3) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a particular section of citizens referred to in clause (1).”.

STATEMENT OF OBJECTS AND REASONS

Article 30 of the Constitution, as it stands, applies to religious and linguistic minorities. By judicial interpretation, the term "minority" has been extended to include identifiable social groups which form a minority in the population of a State even if they form a majority in the Union as a whole. Similarly, the meaning of the term 'minority' has been broadened to include denominations and sects which are generally considered to be part of a larger religious group. In a vast and complex plural society, almost every identifiable group, whether identifiable by religion, including denomination or sect, or by language, including dialects, forms a minority at some operational or functional level, even if it forms a majority at some other levels. In the age of ethnicity that has dawned in the world, all identifiable groups are equally anxious to maintain their identity and they too wish to have the privilege of the right to establish educational institutions of their choice. Indeed, many caste groups have established educational institutions primarily for their own community and, in practice, enjoy the same privileges in matters of administration and management as were originally envisaged for religious and linguistic minorities.

The aspiration for conserving and communicating religious and cultural traditions and language to succeeding generations is legitimate and applies to all groups, big or small. It is, therefore, felt that the scope of article 30 of the Constitution should be widened to include all communities and all sections of citizens who form a distinct social group at any level.

Of late, article 30 has been criticised as bestowing a privilege on the minority communities which the majority community does not enjoy. The majority community or any section thereof should also be allowed to establish and administer educational institutions of its choice, if it so desires.

Hence this Bill.

NEW DELHI; SYED SHAHABUDDIN

April 20, 1995.