
(1998) 12 MAD CK 0038
In the Madras High Court

Sadakathulla Appa College

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 03-12-1998

Acts Referred:

Citation : (1999) 2 LW 223 : (1999) 1 MLJ 450

Hon'ble Judges : T. Meenakumari, J

Bench : Division Bench

Judgement

T. Meenakumari, J.—The writ petition is for the issue of writ of certiorarified mandamus to call for the records of the second respondent

ending with his order No.O.Mu.No. 18404/A4/89, dated 23.5.1989 and quash the same and direct the respondents 1 to 3 to pay the grant in

respect of the three laboratory Assistants namely, Zakir Hussain, S.M.A. Syed Mohamed and S. Mohamed Ibrahim appointed by the petitioner.

2. The petitioner is the Secretary and Correspondent of Sadakathullah Appa College, Tirunelveli. The above college was established by a Society

namely Sadakathullah Appa Educational Society, Tirunelveli. The Society is registered under the Societies Registration Act. The college was

started in the year 1971 by the members of Muslim minority community for the benefit of the Muslims of that particular area. The case of the

petitioner is that the college is a minority institution as defined u/s 2(7) of the Tamil Nadu Private Colleges Regulation Act, 1976 and it is a minority

institution under Article 30 of the Constitution of India and is entitled to the rights guaranteed under Article 30(1) of the Constitution of India. The

Government of Tamil Nadu passed an Act called the Tamil Nadu Private College Regulation Act, 1976 in order to provide for regulation of

Private Colleges in the State of Tamil Nadu. The reason for the passing of that Act is to regulate the condition for the service of teachers employed

in the Private Colleges and to make the regulation relating to such colleges. Prior to this Act, there was an Act called the Tamil Nadu Recognition

of Private School Regulation Act, 1973. As various provisions of the School Act violated the rights of the minority institutions guaranteed under

Article 30(1) of the Constitution of India, the minority institutions filed Writ Petition Nos. 4478 of 1974, etc. challenging the various provisions of

the School Act. This Court by order dated 7.12.1985 in W.P.Nos. 4478 of 1974 etc. struck down the various provisions viz., Sections 2(1)(a),

11(1)(b), 12(1), 14 to 18, 21(2) to 26, 31, 33, 39, 41 to 45 and Rules 7, 9 except clauses (e) and (k) of Sub-rules (2), Rules 10 to 14, 16 to 18

and 22 to 24 as not applicable to minority institutions. After the College Act has come into force, the petitioner being the minority institution filed

W.P.No. 3507 of 1976 etc. challenging the various provisions of the Tamil Nadu Private College Regulations Act, 1976. This Court struck down

Sections 10, 27, 28, 29, 34(4), 37, 38, 39, 40 and 41 and Rules 7, 9, 10, 13, 14, 18, 19 and 20 as not applicable to Minority Institutions. In the

year 1987 a vacancy arose for the post of Laboratory Assistant due to the promotion given to one Mohamed Basheer from the post of Laboratory

Assistant to the post of typist. The college recruited one Zakir Hussain directly as he had more than the minimum qualifications required. The

college wrote to the third respondent for approval for the purpose of grant and regularisation of services through their letter dated 12.10.1987. On

19.11.1987, the petitioner received a letter from the third respondent in which the third respondent directed the college to promote the persons

from the lower cadre to the post of Laboratory Assistant. The reason being the vacancy should be filled by promotion from the lower cadre. On

14.12.1983, the third respondent sent another letter in which he has stated that there were eligible candidates available in the petitioner college to

be promoted as Laboratory Assistant and as such appointment of the candidates through direct recruitment could not be approved. On

30.12.1987, the petitioner college sent an explanation requesting the third respondent to approve the appointment of Zakir Hussain to the post of

Laboratory Assistant. On 21.3.1988 the third respondent sent another letter stating that one Sheik Mohammed Ali Office Assistant and one N.

Khaja Mohideen were eligible for promotion to the post of Laboratory Assistant and as such the appointment of Zakir Hussain by means of direct

appointment could not be approved. It is also stated that due to the resignation of one P. Gani, Laboratory Assistant, the petitioner appointed one

S.M.A. Syed Mohamed Khaja by direct recruitment on 3.11.1987. On 30.12.1987 the petitioner-college requested the third respondent to

approve the said appointment. Later on, there was a lot of correspondence between the third respondent and the petitioner college and ultimately,

the third respondent refused to approve the said appointment. The petitioner wrote a letter to the second respondent on 15.6.1988 pointing out

that they had already promoted the persons from the lowest category to the post of laboratory assistants. The petitioner requested the second

respondent to direct the third respondent to approve the appointment of the said three persons to the post of laboratory assistants. The second

respondent passed an order on 23.5.1989 confirming the order dated 6.10.1988 of the third respondent. The present writ petition has been filed

questioning the order of the second respondent ending with order No.O.Mu. 18404/A4/89, dated 23.5.1989.

3. In this matter, N. Kaja Mohideen, Record Clerk got himself impleaded as the fourth respondent. The Government has also filed their counter.

4. The first and foremost point stressed by the learned Senior Counsel for the petitioner is that the petitioner college is a minority institution and is

entitled to the protection under Article 30(1) of the Constitution of India which enshrines a fundamental right of the minority institutions to manage

and administer their educational institutions which is completely in consonance with the secular nature of democracy and the Directives in the

Constitution itself. Learned Senior Counsel argued that the right of administration includes the right to appoint staff of its own choice. That right

cannot be governed by the Government. The only course open to the authorities is to see whether the persons appointed are duly qualified. He has

argued that the interference of the respondents with the rights of the petitioner in appointing the person of their own choice is totally unwarranted

and is violative of their rights under Article 30(1) of the Constitution and is against the principles laid down by the Supreme Court in catena of

decisions. He has also argued that as per G.O.Ms.No. 60, Edn. RD, dated 20.1.1986 wherein Rule 11(4)(1) has been amended stating that the

promotion of the non-teaching staff shall be made on seniority basis provided that other conditions regarding their qualification were satisfied.

Again by G.O.Ms.No. 1690, Edn., dated 21.10.1986. Rule 11(4)(2) was directed to be read as follows:

The committee shall fill up the posts by promotion or by direct recruitment. The committee shall, while making promotion, consider the claims of all

the qualified teachers in that college. If, however, none of the qualified teachers in the college is found suitable for promotion, the vacancy shall be

filled up by direct recruitment by calling for applications from qualified persons through the press or by calling for a list of candidates from the

Employment Exchange by following the rule of reservation ordered by the Government from time to time for direct recruitment.

Basing on the above, learned Senior Counsel for the petitioner argued that the committee has got the power to fill up the posts by promotion or by

direct recruitment. He has also argued that the authorities have misconceived the scope of Rule 11(4)(i) and Rule 11(4)(ii). Rule 11(4)(i) deals with

the promotion of the teachers and the non-teaching staff whereas Rule 11 (4)(ii) deals with appointments. Learned Senior Counsel has argued that

the Rule itself is very clear in the categorical terms that the committee has a right to fill up the posts by promotion or by direct recruitment. In view

of the above position, the petitioner college has resorted to the method of direct recruitment and the authorities have no power to question the

same being the minority institution. Relying upon the decisions in The Ahmedabad St. Xavier's College Society and Another Vs. State of Gujarat

and Another, , L. Paulraj Vs. The District Educational Officer and Others, and M. Reethammal v. State of Tamil Nadu 1992 W. L. R. 185,

learned Senior Counsel has argued that the authorities have no power to interfere with the administration of the minority institution and their action

is arbitrary in not approving the appointments made. The action of the respondents indicate how they have fittered the right of administration of

minority institutions in regard to choice of the governing body, appointment of teachers and in the right to administer. Basing on the above, he has

argued that the action of the respondents in not approving the appointments is violative of Article 30(1) of the Constitution and Rule 11(4)(ii).

5. In the counter of the second respondent it is stated that as the management failed to comply with the rules of the Government in this regard, the

approval sought for by the management for the improper direct appointment of the three persons was denied. The second respondent has also

stated that in view of amendment to Rule 11(4)(i) issued by the Government in G.O.Ms.No. 60, Education (RD), dated 20.1.1986 with reference

to which promotions in respect of non-teaching staff shall be made on seniority basis, Rule 11(4) ii) is not applicable to non-teaching staff. The

question of direct recruitment to a non-teaching post comes only when qualified persons are not available in the lower category.

6. Learned Counsel for the fourth respondent has submitted that the fourth respondent in the writ petition namely N. Kaja Moideen was not

considered for the post of laboratory assistant even though there was a vacancy. He has argued that Rule 11(4)(ii) as incorporated by

G.O.Ms.No. 1690, Edn., dated 21.10.1986 is not applicable in so far as the non-teaching staff of the aided colleges are concerned. He has

argued that according to G.O.Ms.No. 11, dated 4.1.1989 while appointment to the posts of Junior Assistants in the non-teaching staff category is

made, it should be done on seniority basis as per Rule 11(4)(i) of the Tamil Nadu Private Colleges (Regulation) Rules, 1976 as amended. He has

also argued that in the subsequent guidelines of the Government, it has been clarified that promotion shall be done only on the basis of seniority.

One of such proceedings was N.K.No. 7821/-1/85, dated 17.12.1985. Learned Counsel for the fourth respondent has argued that autonomy in

administration means right to administer effectively and to manage and conduct the affairs of the institutions. The distinction is between a restriction

on the right of administration and a regulation prescribing the manner of administration. The right of administration is day to day administration. The

choice in the personnel of management is a part of the administration. The Government has a right to see that there is no mal-administration. If there

is mal-administration, the Government will take steps to cure the same. There may be control and check on administration in order to find out

whether the minority institutions are engaged in activities which are not conducive to the interest of the minority or to the requirements of the staff.

Basing on the above, he has argued that even though the fourth respondent is eligible to be appointed as lab assistant, his case has not been

considered thereby the petitioner has tampered their right to administer. In view of the above, he has supported the order of the Government

refusing to approve the appointment by sanctioning the necessary grant. Learned Counsel for the fourth respondent has relied upon the decisions in

All Saints High School, Hyderabad and Others Vs. Government of Andhra Pradesh and Others, , All Bihar Christian Schools Association v. State

of Bihar and others 1990 A.I.E.C. 228, A.P. Christians Medical Educational Society v. Government of Andhra Pradesh (1950) 2 A. I. E. C. 3 79

and Frank Anthony Public School Employees" Association Vs. Union of India (UOI) and Others, . Relying upon the above decisions, learned

Counsel for the fourth respondent has supported the direction given by the Government to appoint the candidates in the lower category will not

infringe the right of the minority institution under Article 30(1) of the Constitution of India.

7. In the matter of minorities, the main attack comes from Article 30(1) of the Constitution. Article 30 of the Constitution pertains to right of

minorities to establish and administer educational institutions. Article 30(1) of the Constitution reads as follows:

All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice....

It has also been contended before this Court that by issuing the impugned order, there is an attempt on the part of the respondents to interfere with

the administration of the institution. As observed by the Apex Court in State of Kerala, etc. Vs. Very Rev. Mother Provincial, etc., . Article 30(1)

contemplates two rights Which are separated in point of time. The first right is the initial right to establish institutions of minority"s choice. It is

irrelevant that in addition to the minority community others from other minority communities or even from the majority community can take

advantage of these institutions. The next part of the right relates to the administration of such institutions which means "management of the affairs"

of the institutions. This management must be free of control so that the founders or their nominees can mould the institutions as they think fit and in

accordance with their ideas of how the interests of the community in general and the institutions in particular will be best served. In Rev. Father W.

Proost and Others Vs. The State of Bihar and Others, , it was held that the right need not be enlarged or whittled down. The constitution speaks of

administration and it should be left to the minority institution. A Division Bench of this Court in W.P.No. 4478 of 1974 etc. batch by order dated

7.12.1975, has observed that the right to administer is free from any limitation, so that a religious or linguistic minority community or an individual belonging to either, has the whole field of administration of the institution open, uninhibited by any interference. A religious or linguistic minority including an individual belonging to it, has unfettered right to found any educational institution of its or his choice, and administer it according to its or his wish and discretion. Any restriction in the sense that has the effect of abridging the right or making inroad into its substance, call its regulation or restriction, is unconstitutional. That is the ambit and effect of the right under Article 30(1) and as laid down in the Supreme Court cases from Kerala Education Bill 1959 S.C.R. 995 to The Ahmedabad St. Xavier's College Society and Another Vs. State of Gujarat and Another, . It has also been observed that throughout the various decisions of the Supreme Court, the absolute character of the right has always been kept in view and any erosion on its substance has not been permitted. In the judgment cited supra, the Division Bench has observed that the Educational Agency shall, by law, be bound by anything done by the School Committee in the discharge of its functions, and to crown it all, any decision of the committee within its jurisdiction shall be deemed to be the decision or action taken by the Educational Agency. This is a total invasion of the fundamental right of the Educational Agency of a minority school to administer it. The general administration, appointment of teachers and other employees, fixation of pay and allowances and defining the duties of the employees and the conditions of their service and the power to take disciplinary action against the teachers and other employees of the school without any doubt whatsoever, belong to the sphere of administrations and the right to administer the school. When these matters are taken away from the purview of the Educational Agency, it cannot, be denied that to that extent the provisions in Chapter IV and the related rules deprive the founders of a minority school and position is made worse when the Educational Agency is directed to be bound by anything done by the school committee in the discharge of its functions when in fact any action or decision of the school committee within its jurisdiction shall be deemed to be the decision or action taken by the Educational Agency. Sections 15 to 18 and Rules 12 to 14 which have such effect of depriving the founder of the minority school of its or his right to administer the school are in

flagrant violation of Article 30(1). This view receives support from State of Kerala, etc. Vs. Very Rev. Mother Provincial, etc., . Basing on the

above, the Division Bench has held that Sub-section (2) of Section 21, Sections 22 to 25 as also Rules 17 and 18 are in abrogation of the right to

administer a minority school and violate Article 30(1). So also Section 26, offends Article 30(1) which provides for absorption by a private school

of a teacher or other employee retrenched elsewhere. With regard to the scope of and the sanctity to be annexed to the right guaranteed under

Article 30(1) of the Constitution of India, a Division Bench of this Court in The Madras Diocese of the Church of South India v. State of Tamil

Nadu W.P.No. 295 of 1975 order dated 24.9.1976, has held thus:

Under Article 30(1) all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of

their choice. The right guaranteed under this Article is a fundamental right available to religious or linguistic minorities. This right is among the group

of rights relating to freedom of religion, freedom to manage religious affairs, freedom as to attendance at religious institution or religious worship in

certain educational institutions, cultural and educational rights. Article 25(1) ensures that all persons are equally entitled to freedom of conscience

and the right freely to profess, practice and propagate religion; but this right is subject to public order, morality and health, and to the other

provisions of Part-III of the Constitution, Though the right under Article 25(1) is of a large amplitude, it is, however, not absolute. The right is

subject to public order, morality and health and the other provisions of the part. Clause (2) of the Article further abridges the scope of the right.

Again, the freedom to manage religious affairs given by Article 26 to religious denomination or any section thereof is not absolute either, because it

is subject to public order, morality and health again. But, the right under each of Articles 28 to 30 is not subjected to any limitation or restriction.

The right guaranteed in Article 30(1) is in absolute terms, and no abridgment of the substance of the rights is therefore permissible. Unlike the

freedom under Article 19, the right under Article 30(1) cannot even be subjected to reasonable restriction in public interest. So, the right of a

religious or linguistic minority to make its own choice of educational institutions, establish and administer the same, is of the widest amplitude, and is

ultrammelled. The test being what is good or is in the interest of the religious or linguistic minority, no other criterion like reasonableness or public

interest can avail to abridge its scope and effect, for otherwise the right will lose its purpose. The right is in two parts (1) the right to establish; and

(2) the right to administer. The right to establish an educational institutions is secured to all religious or linguistic minorities, which include not merely

religious or linguistic minority communities, but also individuals belong to either of them. A person belonging to a religious or a linguistic minority is

given as in the case of religious linguistic community, unbridled and absolute right to establish any institution of his choice, which means that any

restriction which will have the effect of abridging that right will be unconstitutional. Likewise the right to administer is free from any limitation, so that

a religious or linguistic minority community or an individual belonging to either has the whole field of administration of the institution open, un-

inhibited by any interference. A religious or linguistic minority, including an individual belong to it, has unfettered right to found any educational

institution of its or his choice and administer it according to its wish and discretion. But a s administration does not mean mal-administration, any

regulation which will endanger proper administration will be permissible , So also will be permissible any regulation, procedural in character, which

is designed to further the objects of the right and which does not in fact and substance eat into the vitals of the right. While regulation of the right,

therefore, is not open to objection, any restriction in the sense that it has the effect of abridging the right or making in road into its substance, call it

regulation or restriction, is unconstitutional. That, in our opinion, is the ambit and effect of the right under Article 30(1) and as laid down in the

Supreme Court cases from Heavy Engineering Mazdoor Union Vs. State of Bihar and Others, , The Ahmedabad St. Xavier's College Society and

Another Vs. State of Gujarat and Another, , while there is this uniformity of opinion including in the recent decision of the Supreme Court in the

Gandhi Faiszeam College, Sharanpur v. University of Agra Civil Appeal No. 1611 of 1969, as to the scope and effect of Article 30(1) as

expounded in the different cases, the problem in each case r presented seemingly differing approaches, or points of view or yardstick in testing the

validity of an allegedly offending statutory provision or rule, or regulation or

administrative order viz-a-viz, the impact on the fundamental right. But we should think that though the various decisions of the Supreme Court, as we see them, absolute character of the right has always been kept in view and any erosion on its substance has not been permitted. Most of the earlier decisions of the Supreme Court were reviewed by a large Bench of the same Court in *The Ahmedabad St. Xavier's College Society and Another Vs. State of Gujarat and Another*, .

[Italics supplied]

The above view has been taken note of by another Division Bench of this Court in *L. Paulraj Vs. The District Educational Officer and Others*, . A

learned Judge of this Court in *M. Reethammal v. State of Tamil Nadu* 1992 Writ L. R. 185 has held that whether it is teaching staff or non-

teaching staff all come under the administration of the college and the right to administer will include the right to manage and conduct the affairs of

the institution including the appointment of non-teaching staff. The above judgment was rendered relying upon the principles laid down in

Association of University Teachers v. State of Tamil Nadu 1990 (Supp.) W.L. R. 51. A learned single Judge of this Court had an occasion to deal

with the validity of Rule 11(4)(i) and (ii) of the Rules framed under the *Tamil Nadu Colleges Private (Regulation) Act 1916* (sic) *M. Reethammal v.*

State of Tamil Nadu W.P.Nos. N762 of 1989 and 6693 of 1990, 1992 Writ L. R. 185 and observed as follows:

In so far as the appointment of non-teaching staff is concerned, I am of the view that if the amendment is allowed to remain, it will be infringing the

right guaranteed to the minorities under Article 30 of the Constitution. As pointed out by the Division Bench of this Court in *W.A.No. 972 of 1990*

dated 22.1.1991 each case has to be decided on its own facts, taking note of the implication of the act, rule, regulation, order or proceeding which

has come to be made and the impact, it may have on the right guaranteed to minority institutions under Article 30(1) of the Constitution of India.

Here is a case where Rule 11(4)(i) of Rules contemplates that seniority alone has to be considered in matters of promotion for non-teaching staff,

where merits and ability are approximately equal in a minority institution. Surely this imposition will curtail the freedom of choice of the minority

institution, when it wants a person with merit and ability even in their non-

teaching staff. I do not think a Rule can be made, curtailing the right of the minority institution, stating that seniority alone shall be considered in case of promotions. When a minority institution would like to go by certain standards and norms in appointing non-teaching staff, that right should be of the widest amplitude and is untrammelled. In my view, the Rule as framed with regard to non-teaching staff cannot stand for a minute for scrutiny of this Court in the light of Article 30 of the Constitution and also in view of the principles laid down in an unreported decision in W.A.No. 972 of 1990, dated 22.1.1991 which considered the earlier decisions on this aspect of this Court and the Apex Court of the land. I am not convinced by the distinction sought to be made by Mr. K. Chandru, the learned Counsel appearing for the petitioner in W.P. 11762 of 1989 between the teaching and the non-teaching staff, when considering the scope of Article 30 of the Constitution with regard to the right of a minority institution to administer a college. In view of my conclusion arrived at, the latter portion of Sub-Rule (4)(i) of Rule 17 as amended in G.O.Ms.No. 60, Education (RD) Department, dated 20.1.1986 has to be struck down in so far as it offends Article 30 of the Constitution. Accordingly, the Writ Petition No. 6693 of 1990 will stand allowed.

Recently, the Supreme Court rendered the decision relying upon the decisions in *Sidhrajabhai Sabbai v. State of Gujarat* AIR 1963 S.C. 540,

Ahmedabad St. Xavier's College Society v. State of Gujarat 1974 S.C. 1389, etc., has reiterated the view taken in *Kerala Education Bill 1957*,

In re. AIR 1958 S.C. 956. One of the propositions laid down by the Constitution Bench in the said decision is the right guaranteed under Article

30(1) is a right that is absolute and any law or executive direction which infringes the substance of that right is void to the extent of infringement.

But the absolute character of the right will not preclude making of regulations in the true interests of efficiency or instruction, discipline, health,

sanitation, morality, public order and the like, as such regulations are not restrictions on the substance of the right guaranteed by the Constitution.

The aforesaid proposition was approved by the another Constitution Bench of the Supreme Court in *Sidhrajabhai Sabbai v. State of Gujarat* AIR

1963 S.C. 540 and also by a nine-Judge Bench of the Supreme Court in *Ahmedabad St. Xavier's College Society v. State of Gujarat* 1974 S.C.

1389 : (1979) 1 S.C.C. 717. The Supreme Court in The Ahmedabad St. Xavier's College Society and Another Vs. State of Gujarat and

Another, has observed that the selection and appointment of teachers for an educational institution is one of the essential ingredients of the right to

manage an educational institution and the minorities can plainly be not denied and such right of selection and appointment without infringing Article

30(1). Basing on the above decision, the Supreme Court in N. Ammad Vs. The Manager, Emjay High School and Others, , has held that the

management's right to choose a qualified person as the Headmaster of the School is well insulated by the protective cover of Article 30(1) of the

Constitution and it cannot be chiselled out through any legislative act or executive rule except for fixing up the qualifications and conditions of

service for the post. Any such statutory or executive fiat would be violative of the fundamental right enshrined in the aforesaid article and would

hence be void. Basing on the above, the Supreme Court has held that the management has the right and freedom to appoint him as the Headmaster

of the School whether it is by bringing him down from another school or even from outside the State.

8. On the other hand, learned Counsel for the fourth respondent has tried to emphasise on the fact that the purpose is not to interfere with internal

administration or autonomy of the institution but is merely to improve the excellence and efficiency of the administration. He has further argued that

if the impugned order is sustained, it will amount to giving a blanket and uncanalised and arbitrary powers so as to act at their own sweet will

ignoring the very spirit and objective of the institution. He has further argued that the impugned order is regulatory in character and indeed nor does

it plays an unreasonable restraint in the right of the management to administer the college. It has also been argued by the learned Counsel for the

fourth respondent that the management of a minority educational institution cannot be permitted under the guise of Article 30(1) to oppress or

exploit its employees any more than any other private employee. Oppression or exploitation of the staff of an educational institution is bound to

lead, inevitably, to discontent and deterioration of the standard of instruction imparted in the institution affecting adversely the object of making the

institution an effective vehicle of education for the minority community or other persons who resort to it. The management of a minority institution

cannot complain of invasion of the fundamental right to administer the institution when it denies the members of its staff the opportunity to achieve

the very object of Article 30(1) which is to make the institution an effective vehicle of education. He has also argued that the regulations intended to

advance excellence in educational standards and to provide for satisfactory conditions of service for the staff do not annihilate or restrict the right of

the minority under Article 30(1) of the Constitution of India. Learned Counsel for the fourth respondent also tried to impress upon the court that

the substance of all the decided cases on the amplitude of Article 30(1) of the Constitution is that it is subject to regulations, but such regulations

shall not abridge or annihilate the right of the minority community. The permissible regulations are those that subserve the excellence of the

institution as a minority institution rather than advance public interest. Regulations regarding conduct of the institution do advance excellence of

educational standards and they do not curtail but promote the interests of the institution. Hence they are not violative of Article 30(1) of the

Constitution. A learned single Judge of this Court has already held that Rule 11(4) as framed with regard to non-teaching staff cannot stand for

scrutiny of the court under Article 30 of the Constitution. In *The Ahmedabad St. Xavier's College Society and Another Vs. State of Gujarat* and

Another, the Apex Court has held as follows:

Another conclusion which follows from what has been discussed above is that a law which interferes with a minority's choice of qualified teacher

and its disciplinary control over teacher and other members of the staff of the institution is void as being violative of Article 30(1).

In view of the discussion above and the case laws cited, disagreeing with the contentions of the counsel for the 4th respondent it has to be held that

a law which interferes with a minority's choice of qualified teacher and its disciplinary control over teacher and other members of the staff of the

institution is void as being violative of Article 30(1). What has been guaranteed under Article 30(1) is absolute, and no abridgment of the same

could be brooked. The right is not only to establish, but also to administer educational institutions of their choice. That right is of widest amplitude

and must remain untrammelled. In view of the above, it could be held that the impugned order issued by the respondents is an erosion and a total

invasion of the fundamental right of the minority institution. Hence, it is in flagrant violation of Article 30(1) of the Constitution of India. In view of the above, the impugned order is quashed. The writ petition is allowed as prayed for. No costs, Consequently, W.M.P.Nos. 4001 and 4002 of 1985 are closed.