

National Commission for Minorities Act, 1992

By

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- Constitution of India doesn't define the word 'Minority' but has used the word minorities considering two attributes religion or language of a person.
- For minorities Constitution of India has envisaged a number of rights and safeguards.
- To provide enough equality and to dwindle the discrimination, makers have spelt out various things in Fundamental Rights (Part III); Directive Principles of State policy (Part IV) and also the Fundamental Duties (Part IV-A).

- The Union Government set up the National Commission for Minorities (NCM) under the National Commission for Minorities Act, 1992.
- Six religious communities, viz; Muslims, Christians, Sikhs, Buddhists, Zoroastrians (Parsis) and Jains have been notified in Gazette of India as minority communities by the Union Government all over India .
- Original notification of 1993 was for Five religious communities Sikhs, Buddhists, Parsis, Christians and Muslims

- Andhra Pradesh , Assam , Bihar, Chattisgarh, Delhi , Jharkhand, Karnataka, Maharashtra, Madhya Pradesh, Manipur, Rajasthan, Tamil Nadu, Uttarakhand, Uttar Pradesh and West Bengal have also set up State Minorities Commissions in their respective States.
- Their offices are located in the State capitals. The functions of these Commissions, inter-alia, are to safeguard and protect the interests of minorities provided in the Constitution and laws enacted by Parliament and State Legislatures.

Indian Constitution

World's lengthiest written constitution had 395 articles in 22 parts and 8 schedules at the time of commencement. Now Constitution of India has 448 articles in 25 parts and 12 schedules. **There are 103 amendments been made in the Indian constitution so far.**

Fundamental Rights

(Part III, Articles 12-35)

Originally Constitution provided for seven Fundamental Rights viz.

1. Right to equality (Articles. 14-18)
2. Right to freedom (Articles. 19-22)
3. Right against exploitation (Articles. 23-24)
4. Right to freedom of religion (Articles. 25-28)
5. Cultural and Educational Rights (Articles. 29-30)
6. Right to constitutional remedies (Articles. 32-35)
7. Right to liberty (Article 21- merged with right to freedom)

Right to constitutional remedies

- **Habeas corpus** - To protect the individual from harming him or herself, or from being harmed by the Administrative system.
- **Mandamus** - issued by a superior court to compel a lower court or a government officer to perform mandatory or purely ministerial duties correctly
- **Prohibition** -is an official legal document drafted and issued by a supreme court or superior court to a judge presiding over a suit in an inferior court
- **Quo warranto** - Requires the person to whom it is directed to show what authority he has for exercising some right or power (or "franchise") he claims to hold.
- **Certiorari** - Currently means an order by a higher court directing a lower court, tribunal, or public authority to send the record in a given case for review

Directive Principles of State Policy

The Directive Principles of State Policy (DPSP) are the guidelines or principles given to the federal institutes governing the state of India, to be kept in citation while framing laws and policies. These provisions, contained in Part IV (Article 36–51) of the Constitution of India, are not enforceable by any court, but the principles laid down there in are not considered in the governance of the country, making it the duty of the State to apply these principles in making laws to establish a just society in the country. The principles have been inspired by the Directive Principles given in the Constitution of Ireland which are related to social justice, economic welfare, foreign policy, and legal and administrative matters.

Directive Principles are classified under the following categories economic and socialistic, political and administrative, justice and legal, environmental, protection of monuments, peace and security.

Fundamental Duties

It shall be the duty of every citizens of India-

- (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- (b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- (c) to uphold and protect the sovereignty, unity and integrity of India;
- (d) to defend the country and render national service when called upon to do so;
- (e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- (f) to value and preserve the rich heritage of our composite culture;

(g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;

(h) to develop the scientific temper, humanism and the spirit of inquiry and reform;

(i) to safeguard public property and to abjure violence;

(j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

(k) to provide opportunities for education by the parent the guardian, to his child, or a ward between the age of 6-14 years as the case may be.

National Commission for Minorities

The NCM adheres to the United Nations Declaration of 18 December 1992 which states that "States shall protect the existence of the National or Ethnic, Cultural, Religious and Linguistic identity of minorities within their respective territories and encourage conditions for the promotion of that identity"

Functions of NCM

1. Evaluate the progress of the development of Minorities under the Union and States.
2. Monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures.
3. Make recommendations for the effective implementation of safeguards for the protection of the interests of Minorities by the Central Government or the State Governments.
4. Look into specific complaints regarding deprivation of rights and safeguards of the Minorities and take up such matters with the appropriate authorities.
5. Cause studies to be undertaken into problems arising out of any discrimination against Minorities and recommend measures for their removal.
6. Conduct studies, research and analysis on the issues relating to socio-economic and educational development of Minorities.
7. Suggest appropriate measures in respect of any Minority to be undertaken by the Central Government or the State Governments.
8. Make periodical or special reports to the Central Government on any matter pertaining to Minorities and in particular the difficulties confronted by them.
9. Any other matter which may be referred to it by the Central Government

Powers of NCM

- Summoning and enforcing the attendance of any person from any part of India and examining him on oath.
- Requiring the discovery and production of any document.
- Receiving evidence on affidavit.
- Requisitioning any public record or copy thereof from any court or office.
- Issuing commissions

Composition of NCM

The act states that the Commission shall consist of:

- a Chairperson,
- a Vice Chairperson and
- Five Members to be nominated by the Central Government from amongst persons of eminence, ability and integrity; provided that five members including the Chairperson shall be from amongst the minority communities.

Rights & Safeguards of Minorities

Although Indian Constitution does not define word Minority but it has provided constitutional safeguards and fundamental rights to minorities:

Under Fundamental Rights Part III of Indian Constitution, Indian state is committed to administer these rights which can be enforced by judiciary

1. Right of 'any section of the citizens' to 'conserve' its 'distinct language, script or culture'; [Article 29(1)]
2. Right of all Religious and Linguistic Minorities to establish and administer educational institutions of their choice; [Article 30(1)]
3. Freedom of Minority-managed educational institutions from discrimination in the matter of receiving aid from the State; [Article 30(2)]

Under Part XVII Official Language of Indian Constitution

1. Rights for any section of population for language spoken by them ; [Article 347]
2. Provision for facilities of instruction in mother tongue ; [Article 350A]
3. Provisioning a special officer for linguistic minorities and defining his duties ; [Article 350B]

Success Story

During the visit of Shri Sunil Singhi, Member, NCM to Sirohi (Rajasthan) on 7th July, 2017 the following issue had been raised by Muslim Samaj : “Rajasthan Government had allotted 2 beegha land to Muslim Samaj for construction of Minority communities’ hostel in 2012-13. Muslim Samaj had deposited Rs. 3,78,785/- as the cost of land with the Municipal Council, Sirohi. Due to operation of Model Code of Conduct for Assembly elections 2013, the Rajasthan Government had instructed the Municipal Council, Sirohi to postpone further action in the matter. Since then a period of 4 years has elapsed, but further action for allotment of land and execution of deed has not been taken so far. Muslim Samaj has requested to expedite allotment of land;” (Refer Sirohi Report dated 7.7.2017). 2. Shri Singhi pursued the matter with the Government of Rajasthan telephonically as well as in writing. A copy each of the letters dated 17th July, 2017 and 31 August, 2017 is enclosed. (Annexure I and II). 3. After continuous persuasion, the Government of Rajasthan has finally issued the orders to the Municipal Corporation, Sirohi for execution of the land lease deed in favour of Muslim Samaj. A copy of the order dated 15.9.2017 is enclosed.

Prime Minister's New 15 Point Programme for the Welfare of Minorities

(1) Equitable availability of ICDS Services: The Integrated Child Development Services (ICDS) Scheme is aimed at holistic development of children and pregnant/lactating mothers from disadvantaged sections, by providing services through Anganwadi Centres such as supplementary nutrition, immunization, health check-up, referral services, pre-school and non-formal education. A certain percentage of the ICDS projects and Anganwadi Centres will be located in blocks/villages with a substantial population of minority communities to ensure that the benefits of this scheme are equitably available to such communities also.

(2) Improving access to School Education: Under the Sarva Shiksha Abhiyan, the Kasturba Gandhi Balika Vidyalaya Scheme, and other similar Government schemes, it will be ensured that a certain percentage of all such schools are located in villages/localities having a substantial population of minority communities.

(3) Greater resources for teaching Urdu: Central assistance will be provided for recruitment and posting of Urdu language teachers in primary and upper primary schools that serve a population in which at least one-fourth belong to that language group.

(4) Modernizing Madarsa Education: The Central Plan Scheme of Area Intensive and Madarsa Modernization Programme provides basic educational infrastructure in areas of concentration of educationally backward minorities and resources for the modernization of Madarsa education. Keeping in view the importance of addressing this need, this programme will be substantially strengthened and implemented effectively.

(5) Scholarships for meritorious students from minority communities: Schemes for pre-matric and post-matric scholarships for students from minority communities will be formulated and implemented.

(6) Improving educational infrastructure through the Maulana Azad Education Foundation: The Government shall provide all possible assistance to MAEF to strengthen and enable it to expand its activities.

(7) Self-Employment and Wage Employment for the poor:

(a) The Swarnjayanti Gram Swarojgar Yojana (SGSY), the primary selfemployment programme for rural areas, has the objective of bringing assisted poor rural families above the poverty line by providing them income generating assets through a mix of bank credit and Governmental subsidy. A certain percentage of the physical and financial targets under the SGSY will be earmarked for beneficiaries belonging to the minority communities living below the poverty line in rural areas.

(b) The Swarn Jayanti Shahari Rojgar Yojana (SJSRY) consists of two major components namely, the Urban Self-Employment Programme (USEP) and the Urban Wage Employment Programme (UWEP). A certain percentage of the physical and financial targets under USEP and UWEP will be earmarked to benefit people below the poverty line from the minority communities.

(c) The Sampurna Grameen Rozgar Yojana (SGRY) is aimed at providing additional wage employment in rural areas alongside the creation of durable community, social and economic infrastructure. Since the National Rural Employment Guarantee Programme (NREGP) has been launched in 200 districts, and SGRY has been merged with NREGP in these districts, in the remaining districts, a certain percentage of the allocation under SGRY will be earmarked for beneficiaries belonging to the minority communities living below the poverty line till these districts are taken up under NREGP. Simultaneously, a certain percentage of the allocation will be earmarked for the creation of infrastructure in such villages, which have a substantial population of minorities.

(8) Upgradation of skills through technical training: A very large proportion of the population of minority communities is engaged in low-level technical work or earns its living as handicraftsmen. Provision of technical training to such people would upgrade their skills and earning capability. Therefore, a certain proportion of all new ITIs will be located in areas predominantly inhabited by minority communities and a proportion of existing ITIs to be upgraded to 'Centers of Excellence' will be selected on the same basis.

(9) Enhanced credit support for economic activities:

(a) The National Minorities Development & Finance Corporation (NMDFC) was set up in 1994 with the objective of promoting economic development activities among the minority communities. The Government is committed to strengthen the NMDFC by providing it greater equity support to enable it to fully achieve its objectives.

(b) Bank credit is essential for creation and sustenance of self-employment initiatives. A target of 40% of net bank credit for priority sector lending has been fixed for domestic banks. The priority sector includes, inter alia, agricultural loans, loans to small-scale industries & small business, loans to retail trade, professional and self-employed persons, education loans, housing loans and micro-credit. It will be ensured that an appropriate percentage of the priority sector lending in all categories is targeted for the minority communities.

(10) Recruitment to State and Central Services:

(a) In the recruitment of police personnel, State Governments will be advised to give special consideration to minorities. For this purpose, the composition of selection committees should be representative.

(b) The Central Government will take similar action in the recruitment of personnel to the Central police forces.

(c) Large scale employment opportunities are provided by the Railways, nationalized banks and public sector enterprises. In these cases also, the concerned departments will ensure that special consideration is given to recruitment from minority communities.

(d) An exclusive scheme will be launched for candidates belonging to minority communities to provide coaching in government institutions as well as private coaching institutes with credibility.

(11) Equitable share in rural housing scheme: The Indira Awaas Yojana (IAY) provides financial assistance for shelter to the rural poor living below the poverty line. A certain percentage of the physical and financial targets under IAY will be earmarked for poor beneficiaries from minority communities living in rural

(12)Improvement in condition of slums inhabited by minority communities: Under the schemes of Integrated Housing & Slum Development Programme (IHSDP) and Jawaharlal Nehru National Urban Renewal Mission (JNNURM), the Central Government provides assistance to States/UTs for development of urban slums through provision of physical amenities and basic services. It would be ensured that the benefits of these programmes flow equitably to members of the minority communities and to cities/slums, predominantly inhabited by minority communities.

(13) Prevention of communal incidents: In the areas, which have been identified as communally sensitive and riot prone, district and police officials of the highest known efficiency, impartiality and secular record must be posted. In such areas and even elsewhere, the prevention of communal tension should be one of the primary duties of the district magistrate and superintendent of police. Their performances in this regard should be an important factor in determining their promotion prospects.

(14) Prosecution for communal offences: Severe action should be taken against all those who incite communal tension or take part in violence. Special court or courts specifically earmarked to try communal offences should be set up so that offenders are brought to book speedily.

(15) Rehabilitation of victims of communal riots: Victims of communal riots should be given immediate relief and provided prompt and adequate financial assistance for their rehabilitation.

To summarize, the National Commission for Minorities protects the constitutional and legal rights of minorities in the nation. The minorities are one of the communities on whom the constitution of India has made special safeguards so that they can preserve their religion, language, script and culture, and has been done by carving out an exception to the principle of equality and secularism.

Thank
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