

Article 25 (Freedom of conscience and free profession, practice and propagation of religion)

Article 25 guarantees the freedom of conscience, the freedom to profess, practice and propagate religion to all citizens.

- The above-mentioned freedoms are subject to public order, health and morality.
- This article also gives a provision that the State can make laws:
- That regulates and restricts any financial, economic, political or other secular activity associated with any religious practice.
- That provides for the social welfare and reform or opening up of Hindu religious institutions of a public character to all sections and classes of Hindus. Under this provision, Hindus are construed as including the people professing the Sikh, Jaina or Buddhist religions and Hindu institutions shall also be construed accordingly.
- People of the Sikh faith wearing & carrying the *kirpan* shall be considered as included in the profession of the Sikh religion.

Article 26 (Freedom to manage religious affairs)

This Article provides that every religious denomination has the following rights, subject to morality, health and public order.

1. The right to form and maintain institutions for religious and charitable intents.
2. The right to manage its own affairs in the matter of religion.
3. The right to acquire immovable and movable property.
4. The right to administer such property according to the law.

Article 27 (Freedom as to payment of taxes for promotion of any particular religion)

According to Article 27 of the Constitution, there can be no taxes, the proceeds of which are directly used for the promotion and/or maintenance of any particular religion/religious denomination.

Article 28 (Freedom as to attendance at religious instruction or religious worship in certain educational institutions)

This article permits educational institutions that are maintained by religious groups to disseminate religious instruction.

- This provides that no religious instruction shall be provided in State-run educational institutions.
- Educational institutions administered by the State but that were established under any endowment or trust which requires that religious instruction shall be imparted in such institutions is exempt from the above clause (that no religious instruction shall be provided).

- Any person who attends any educational institution recognised by the State or receiving State aid shall not be required to participate in any religious instruction that may be imparted in such institution, or also attend any religious worship in such institutions unless he/she has given consent for the same. In the case of minors, the guardians should have given consent for the same.

What is Secularism?

The word ‘secularism’ means separate from religion.

- It entails the separation of religion from the government, social, economic and cultural aspects of life.
- Here religion is an entirely personal matter.
- India is a secular country with no State religion.
- However, this in India, also means that there is equal respect for all religions and faiths.
- The word is also a part of the Basic Structure of the Constitution. It was added by the 42nd Amendment to the Constitution.
- This concept enjoys high regard in Indian democracy.
- Secularism has also been an inalienable part of Indian culture as seen by the multitude of faiths that have co-existed in this country for centuries.
- All religious groups in India have the same powers without any discrimination.

Indian and Western Models of Secularism

The term secularism, as explained above, indicates the separation of the State from religion. This concept, however, has slightly differing connotations in the Indian and the western polity. This is discussed below.

- In the Western model, secularism connotes complete separation of the State from the Church. This owes its origin to the French Revolution where the revolution sought to establish a ‘secular’ government, one which had no influence of the church or the clergy.
- Both the institutions (church and government) would not interfere in each other’s domains.
- In India, however, the State and religion are not water-tight compartments.
- Even though the State has to maintain equal distance from all religions, the influence of the government does extend to religious affairs, albeit in a limited fashion.
- Unlike the western model, where the State does not offer financial support to any religious institution, in India, the State has chosen a positive engagement model.
- The state provides religious minorities the right to establish their educational institutions, and in some cases, also extends assistance to these institutions.
- Many Hindu temples are directly governed by the State.

- The State has set up Boards for the administration of large temples and has also set up the Waqf Board, etc.
- In India, when talking about society and the community, the word pluralism is better suited than the word secularism.
- Western societies have largely been homogenous with minimal religious (and other) minority groups, until recently.
- In India, for centuries, many religious groups have shared spaces in all respects and thrived together.

Bijoe Emanuel v. State of Kerala

(1986) 3SCC 615

The Children belonging to Jehovah community witnessed expulsion from the school refusing to sing the National Anthem. The circular issued by the director of instruction. Kerala has made it obligatory for students in school to sing National Anthem, The Children in this case stood up respectfully when the national anthem being sung at their school but they did not join in singing it. The children were expelled from school for not singing National Anthem and they committed an offence under National Honours Act, 1971. The Kera High Court upheld the expulsion but the Supreme Court held reversed the decision of Kerala High Court and held that they did not commit any offence because by standing in respect of National Anthem shows that they have full respect towards it as far as their not singing it is concerned they are fully covered under article 25 of the Constitution of India.

Sessamal v. State of Tamil Nadu

(1972) 2SCC 11

The hereditary Archakas and Mathadipatis of some ancient Hindu Public temples in Tamil Nadu challenged the validity of Tamil Nadu Religious and Charitable Endowment Act 1970 on the ground that it violates article 25 of the Constitution of India. The issue was archarakas were appointed as per heredity and by the virtue of the Act anybody who is well versed irrespective of caste can become acharakas if he performs the puja of the deity as per hindu mythology by reciting proper mantras and by performing rituals. The Court held there is no such guarantee under constitution of India which directly violate fundamental rights of equality. Court held any person who can recite mantra as per vedic order and who is well versed as per practice of hindu religion can become achrakas and hence no such fundamental right is available under article 25 to these mathadipatis to appoint acharakas as per heredity.

N . Adityanan v. Travancore Devoswam Board.

(2002) 8 SCC 106.

Whether non brahmins can become pujaris in temples. This was the substantial question of law in this case. The Supreme Court decided that Brahmins do not have the monopoly over

performing puja in a temple and said that a non-brahmin can be appointed as a pujaris if he is properly trained and well versed with rituals as per vedic hindu order.

State of Karnataka v. (Dr.) Praveen Bhai Togadia,

(2004) 9 SCC

The Supreme Court held that Secularism means that State has no religion, must get an assurance from the state that he has the protection of law to freely profess, practise and propogate his religion and freedom of conscience.