

MINORITY STATUS IN INDIA IS STATE-DEPENDENT, SAYS SC

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Every person in India can be a minority in one State or the other. Minority status of religious and linguistic communities is “State-dependent”, the Supreme Court said on Monday.

“Every person in this country can be a minority. I can be a minority outside my State, Maharashtra. Similarly, a Kannada-speaking person may be in minority in States other than Karnataka... Every person in this country can answer this description,” Justice U.U. Lalit, heading a three-judge Bench, said.

The court was hearing a petition filed by a Mathura resident, Devkinandan Thakur, complaining that followers of Judaism, Bahaism and Hinduism, who are the real minorities in Ladakh, Mizoram, Lakshadweep, Kashmir, Nagaland, Meghalaya, Arunachal Pradesh, Punjab and Manipur, cannot establish and administer educational institutions of their choice because of non-identification of ‘minority’ at the State level.

But the court indicated that a religious or linguistic community which is a minority in a particular State, can inherently claim protection and the right to administer and run its own educational institutions under Articles 29 and 30 of the Constitution. The court asked whether a specific notification was required.

This question from the Bench came in response to submissions made by senior advocate Arvind Datar, for Mr. Thakur, that Hindus residing in certain States were unable to exercise their rights under Articles 29 and 30 in the absence of a specific notification declaring them a minority.

“But take the case of linguistic minorities from Kerala to Kashmir. In Punjab, Hindi-speaking people are in a minority. Likewise people who speak all other languages except Hindi are a minority in Delhi. But there is no notification issued per se that these people are a minority in Delhi... Kannada or Tamil speakers are a minority in Maharashtra... Is there a notification?” Justice S. Ravindra Bhat asked.

Mr. Datar said the primary concern was the “general perception” that since Hindus were a majority, they cannot claim minority status in States where they were “definitely a minority”. He pointed out that Hindus were a mere 1% in Ladakh, 2.75% in Mizoram, 2.77% in Lakshadweep, 4% in Kashmir, 8.74% in Nagaland, 11.52% in Meghalaya, 29% in Arunachal Pradesh, 38.49% in Punjab and 41.29% in Manipur.

‘Bring concrete case’

But the court said it cannot examine challenges devised in “thin air”. The court challenged the petitioner to bring a “concrete case” in which Hindus were denied rights in States where they were a minority.

“In Kashmir or Kerala, Hindus may be a minority... but they may have claimed minority status and might be running schools.. How do we know? We cannot go ahead on the basis of challenges made in thin air. A cause of action before us would really arise if someone has been denied his or her right in any State... Where is the injury or untold misery caused to this

petitioner [Thakur]?” Justice Lalit asked.

The petition has argued that the recognition of Muslims, Christians, Sikhs, Buddhists and Parsis nationally by the Centre as ‘minorities’ ignored the fact that religious communities such as Hindus were “socially, economically, politically non-dominant and numerically inferior” in several States.

The court listed the case for hearing after two weeks.

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