

SC ASKS IF HIJAB CAN BE ALLOWED IN SCHOOL

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The Supreme Court on Monday asked whether a student can exercise her private religious right to wear a hijab in a school which adheres to a dress code.

“You may have a right to wear a hijab, but can you wear that right to school,” a Bench of Justices Hemant Gupta and Sudhanshu Dhulia formulated the substantial question of law on a batch of petitions filed by students from Karnataka who were prohibited entry into their classrooms for wearing hijab.

They have challenged a Karnataka High Court decision that wearing a hijab is not an essential practice of Islam. “The practice may be essential or it may not be essential. The question here is whether in a government institution, you can insist on carrying on your religious practice... because the Preamble to the Constitution states we are a secular country,” Justice Gupta observed orally.

Senior advocate Rajeev Dhawan, for one of the students, said the students did not defy the dress code. They just wanted to wear a hijab in addition to their uniform. “Yes, there is a dress code. But can’t I wear a hijab in addition to the dress code? There are a large number of women, in India and elsewhere, who choose to wear hijab. Does the dress code yield to them or do they yield to the dress code?” Mr. Dhawan asked.

He said the restriction on hijab extend to private institutions also. “I have seen in this court judges wearing tilak on their foreheads and insignia of Vaishnavism... I have seen in court too the portrait of a judge wearing a *pagdi* ...” Mr. Dhawan argued.

“Wearing a *pagdi* was usual in royal States...” Justice Gupta said.

“A uniform must be uniform,” Justice Sudhanshu Dhulia said.

“But can’t the uniform be worn in a manner consistent with an individual’s choice of her belief and morality... Can a government put students to the pain of banning them from their classrooms, which is like capital punishment for students, just because they are extra clad,” senior advocate Sanjay Hegde, also for the students, argued.

The court adjourned the case to Wednesday at 2 p.m.

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