



SUPREME COURT EDUCATIONAL INSTITUTIONS CASES (2005).
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THE FUNDAMENTAL purpose of education is the same at all times and in all places. It is to transfigure the human personality into a pattern of perfection through a synthetic process of the development of body, the enrichment of the mind, the sublimation of the emotions and the illumination of the spirit. Education is a preparation for living and for life, here and hereafter.¹ It is the process through which the values and accumulated knowledge of the society transmits, and an individual is encouraged and enabled to develop his or her potential. Education opens, as stated in *India – Vision 2020*,² new horizons for an individual, provides new aspirations and develops new values. It strengthens competencies and develops commitment. Education generates in an individual a critical outlook on social and political realities and sharpens the ability to self-examination, self-monitoring and self-criticism. In addition, education also serves the purpose of equipping the individual with what is necessary to be a productive member of society. Properly planned educational input can contribute to increase in the gross national product, cultural richness, build positive attitude towards technology and increase efficiency and effectiveness. In the context of democratic form of government, which depends for its sustenance upon the enlightenment of populace, education is both social and political necessity.

Traditionally, in India, imparting of education was treated as a noble function. It was considered to be a charity. Though education was not universalized during those days, teachers used to impart education without charging for the same. However, the parents of rich students used to voluntarily contribute for looking after teachers and their families.

On India becoming independent, in view of the importance of education, the Constitution of India, under articles 41, 45 and 46, created an obligation to universalize the education. Further, to protect the educational interests of religious and linguistic minorities, special

1. Per Mohan, J, *Unnikrishnan J.P., v. State of A.P.*, (1993) 1 SCC 645.

2. Planning Commission of India, *Report of the Committee on India Vision 2020* 250 (2004).



provision has been made, under article 30, entitling them to establish and administer educational institutions of their choice. And, under article 26, every religious denomination or any section thereof has been authorized to establish and maintain institutions for religious and charitable purposes. Thus, the Constitution, apart from imposing an obligation on the state to provide education, has also contemplated private initiatives in imparting education and accordingly authorized and protects the rights of minorities and religious denominations to impart education through institutional set-up.

It was in this background that, when in pursuance of the constitutional provisions discussed above, there has been a spurt of establishment of educational institutions on commercial basis in the country that led to an apparent conflict between obligation of the state under part-IV of the Constitution and rights of the minorities and religious denominations under part-III. This has been a subject matter of controversy before the apex court in various cases ever since 1950s. Various issues relating to admission of students, administration of institution, fee structure, common entrance test, medium of instructions, syllabi, curricula and service conditions of teachers and staff, etc., have come up for consideration by the apex court.

The book under review is a compilation of recent discourses of the apex court on such issues. The book has been divided into three parts. In part-I, nine important cases, which are determinative in the opinion of the editor, decided by the apex court, between 1992 to 2005,³ have been reproduced verbatim as published in 'Supreme Court Cases' (SCC). Part-II consists of head notes of twenty other recent cases,⁴ which

3. *P. A. Inamdar v. State of Maharashtra*, (2005) 6 SCC 537; *Usha Mehta v. State of Maharashtra*, (2004) 6 SCC 264; *Modern School v. Union of India*, (2004) 5 SCC 583; *Brahmo Samaj Education Society v. State of W.B.*, (2004) 6 SCC 224; *Saurabh Chaudri v. Union of India*, (2003) 11 SCC 146; *P.M. Bhargava v. University Grants Commission*, (2004) 6 SCC 661; *Islamic Academy of Education v. State of Karnataka*, (2003) 6 SCC 697; *State of Karnataka v. T.M.A. Pai Foundation*, (2003) 6 SCC 790; *T.M.A. Pai Foundation v. State of Karnataka*, (2002) 8 SCC 481; and *St. Stephen's College v. University of Delhi*, (1992) 1 SCC 558.

4. *Neelu Arora v. Union of India*, (2003) 3 SCC 366; *Supreet Batra v. Union of India*, (2003) 3 SCC 370; *Paramjeet Gambhir v. State of M.P.*, (2003) 4 SCC 276; *Secretary, School Committee, Thiruvalluvar Higher Secondary School v. Government of Tamil Nadu*, (2003) 5 SCC 200; *Secretary, Selection Committee (MBBS) v. N. Anirudhan*, (2003) 5 SCC 283; *NTR University of Health Sciences v. G. Babu Rajendra Prasad*, (2003) 5 SCC 350; *IITT College of Engineering v. State of H.P.*, (2003) 7 SCC 73; *State of M.P. v. Gopal D. Tirthani*, (2003) 7 SCC 83; *Regional Officer, CBSE v. Sheena Peethambaran*, (2003) 7 SCC 719; *Harish Verma v. Ajay Srivastava*, (2003) 8 SCC 69; *P.C. Kesavan Kuttynayar v. Harish Bhalla*, (2003) 8 SCC 490; *Naseem v. State of Haryana*, (2003) 9 SCC 357; *State of A.P. v. K. Purushotham Reddy*, (2003) 9 SCC 564; *Govt. of A.P. v. Medwin Educational Society*, (2004) 1 SCC 86; *State of T.N. v. S.V. Bratheep*, (2004) 4 SCC 513; *Saurabh Chaudhari (II)*



are not determinative, but are decided by applying and interpreting cases cited in part–I. Part–III consists of the full text of nine other recent judgments of the apex court,⁵ which, in the opinion of the editor, involved interpretation and application of cases referred to in part–I and where references have been made to larger bench.

However, it appears that the editor has not strictly observed the principle on which he classified the cases and incorporated into three different parts. For instance, *Islamic Academy of Education v. State of Karnataka*,⁶ has been incorporated into part–I, though it is not determinative as such. It mainly involved interpretation of the apex court’s rulings in *T.M.A. Pai Foundation*.⁷ Some of the cases incorporated in part–III could have been fairly incorporated into part–II itself, since they involved only application of the principles laid down in some of the cases cited in part–I, but no question of interpretation was involved nor references were made to larger bench. Further, though the editor has incorporated *St. Stephens* decided in 1991 in part–I, he has not found *Mohini Jain*⁸ and *Unnikrishna*,⁹ which had been decided in 1992 and 1993 respectively, as determinative cases.

All the cases incorporated in three different parts are being exact reprints from the ‘Supreme Court Cases’ (SCC) with the original page numbering, no separate page numbers were given in the book. However, the editor has provided general index of cases with the help of which readers can find the cases. But, separate indexes provided at the beginning of both part–II and part–III, would not be of much use for the readers to find the cases since they are in alphabetical order whereas the cases have been printed in a chronological order.

v. *Union of India*, (2004) 5 SCC 618; *Medical Council of India v. Swati Sethi*, (2004) 5 SCC 798; *Medical Council of India v. Rajiv Gandhi University of Health Sciences*, (2004) 6 SCC 76; *Managing Trustee, Subhashini Education Trust v. R. Vickramaditjan*, (2004) 6 SCC 726; *Dental Council of India v. S.R.M. Institute of Science & Technology*, (2004) 9 SCC 676.

5. *Manager, Nirmala Senior Secondary School v. N.I. Khan*, (2003) 12 SCC 84; *GSF Medical & Paramedical Assn. v. Assn. of Management of Self Financing Technical Institutes*, (2003) 12 SCC 414; *Pushpagiri Medical Society v. State of Kerala*, (2004) 8 SCC 135; *P.A. Inamdar v. State of Maharashtra*, (2004) 8 SCC 139; *Modern Dental College & Research Institute v. State of M.P.*, (2004) 8 SCC 213; *South Indian Education Society v. Nirmal Narayana P.*, (2004) 8 SCC 216; *Islamic Academy of Education v. State of Karnataka*, (2004) 8 SCC 217; *Bharati Vidyapeeth v. State of Maharashtra*, (2004) 11 SCC 755; *State of U.P. v. M.C. Chattopadhyaya*, (2004) 12 SCC 333.

6. *Supra* note 3.

7. (2002) 8 SCC 481.

8. *Mohini Jain (Miss) v. State of Karnataka*, (1992) 3 SCC 666.

9. *Supra* note 1.



The entire book being the compilation of judgments of the apex court on educational institutions, it is an excellent tool for research in as much as all the cases with interlinking references have been systematically incorporated into it. The researchers need not go through different volumes of reports to find the cases or the connections among decisions. Thus, the book reflects the primary research done by the editor. It serves as a ready reference not only for the lawyers, law students and teachers, but also for institutions imparting education in different fields and students of every discipline in general.

*P. Puneeth**

*Assistant Research Professor, Indian Law Institute, New Delhi.