

### **SYNOPSIS**

The Petitioners are followers of Sanatan Vedic Dharam and belong to Hindu community. The petitioners are invoking the jurisdiction of this Hon'ble Court under Article 32 of Constitution of India as members of Hindu community are being discriminated merely on the ground of religion as a number of beneficiary schemes carrying budget of Rs.4700 crores have been initiated in favour of some religious minorities even though Constitution of India does not conceive the idea for making special provision in the name of any religion or for making separate law and schemes for the benefit of majority or minority community.

The petitioners are also challenging the constitutional validity of establishment of National Minority Commission by Central Act No. 19/1992 as Parliament cannot make any law for the benefit of any religion maybe, for minority religious groups and further that special benefit and advantage within the sweep of Article 15(4) can be provided only to those communities who are found 'socially and educationally backward' classes of citizens by a Commission established under Article 340 of the Constitution of India. From tax payer money, no religion or religious groups can be promoted and therefore, no Minority Commission can be created to achieve the purposes enumerated in the Act. The Government cannot be invested with the power to declare any Community as a Minority Community. It is for the Minority Community to establish the institution of its choice in accordance with Article 30 of the Constitution of India.

The Government and Parliament of India cannot promote minoritism and cannot show inclination towards them and allure them to flourish by initiating beneficial programs for them. Such an action will be detrimental for the Sovereignty and Integrity of India and give rise to separatists and may create a situation for another division of the nation.

Right to Equality, Equal Protection of Law, Rule of Law and a Secular State are basic pillars of Indian Constitution. The solemn declaration in the Preamble of the Constitution reflected in Part III of the Constitution particularly in Article 14,15 and 27 are being

flagrantly breached by the Central Government by initiating beneficial schemes 'only' on the basis of religion classifying a group of religions as 'minorities', thereby discriminating and prejudicing the interest of similarly situated persons of Hindu community which is a serious jolt on the Constitution of India and principles of Secularism and therefore, such legislation and executive orders in exercise of the powers under Article 32 of the Constitution of India are liable to be quashed.

In substance, the facts of the case are that the Government of India has initiated number of schemes in favour of a religious group terming same as 'Minorities' to the tune of Rs. 4700 crores as is evident from the budget of 2019-2020.

The Government is showing undue favour to Waqf and Waqf properties denying the same benefit to the institutions of Hindu community like Trusts, Mutts, Akharas and other religious denominations.

The Government of India laid down economic criteria in respect of some of the schemes and the persons belonging to notified minority communities having total income of Rs. 6 lacs per annum have been declared eligible to avail the benefit of the scheme. On the other hand, the similarly situated persons having less than six lacs income per annum are not qualified to avail the benefit of the scheme because they belong to majority Hindu community. Therefore, the action of the Government is not to provide assistance to needy and poor sections of the society but to benefit a section of society because they belong to a particular religion and therefore, such an action is completely discriminatory.

The Government of India has initiated some schemes for religious minorities without laying down any financial condition. Thus, it is clear that financial constraints of weaker sections of society or upliftment of economically depressed section of society are not the consideration for providing financial assistance to religious minorities.

It is relevant to mention that none of the notified minority community have been declared as socially, educationally backward

class or economically depressed class of the citizens. Therefore, there is no constitutional sanction for initiating and implementing the impugned schemes described in detail in subsequent paragraphs hereinafter.

The State cannot make any distinction between majority and minority community. The State cannot make any rule, law or regulation distinguishing religious minorities as a separate class. The State cannot make any law in the name of minorities beyond the scope of Article 30 of the Constitution of India.

That the Mandal Commission has taken note of the condition of different segment of society, castes, class and occupational groups. The Commission has considered the conditions of person belonging to different religions and has pointed out the classes or castes eligible for special protection. Therefore, there is no valid reason for establishing a Minority Commission. Therefore, the impugned act is absolutely unconstitutional and also beyond the law-making power of Parliament.

That the action of the Government initiating different programs including awarding scholarship and other financial benefits to the members of so-called religious minorities is against the Principles of Secularism and also in violation of the provisions contained in Article 14,15 and 27 of the Constitution of India.

The Central Government has introduced number of schemes in favour of the religious minorities who have been declared as Minority Community under sub-clause (c) of Section 2 of National Commission for Minorities Act, 1992 (Central Act No.19 of 1992). The schemes initiated by the Central Government are being challenged in this petition for discriminating Hindu Community giving an edge and advantage to religious minorities some of the schemes are being briefly enumerated herein below:-

1. Pradhan Mantri Jan Vikas Karyakram for Minorities Communities.
2. Scholarship for Minority Students: (Pre-Matric, Post-Matric and Merit-cum-Means).

3. Nai Roshni, the schemes for leadership development of minority women.
4. Seekho aur Kamao schemes i.e. Skill Development initiative for minorities.
5. Naya Savera schemes-free coaching and Allied schemes for the candidates/students belonging to minority communities.
6. Nai Manzil schemes - To promote holistic development of the minority community through an integrated education and livelihood initiative.
7. Nai Udaan Schemes, for support of minority students clearing prelims conducted by Union Public Service Commission, State Public Service Commission and Staff Selection Commission.
8. Padho Pardesh schemes, of interest subsidy on educational loans for overseas studies for the students belonging to minority community.
9. Usttad schemes, for upgrading the skills and training in traditional arts/crafts for development.
10. Hamari Dharohar schemes, to Preserve Rich Heritage of Minority Communities of India.
11. Development of Urban Waqf Property Schemes, loan under this yojana is to be provided for development of a waqf property.
12. Central Sector Schemes- for research/study monitoring and evaluation of development schemes including publicity.
13. Maulana Azad National Fellowship-in the form of financial assistants to the students from minority communities to pursue higher studies such as M.Phil and Phd.
14. Corpus Funds to Maulana Azad Education Foundation- to formulate and implement educational schemes and plans for the benefit of the educationally backward minorities in particular and weaker sections in general.

It is relevant to mention that a sum of Rs.4,700 crores is being spent in the current financial year on religious minorities under the

schemes introduced by the Central Government. Thus, the citizens of this country are being forced to pay taxes for the promotion of a religious minority and such an action violates constitutional injunction embodied in Article 14,15 and 27 of the Constitution of India.

It is relevant to mention that members of majority community similarly situated with those of minority communities are being deprived of the benefit being extended to religious minorities.

The State cannot promote or give any benefit to any religious community whether minority or majority keeping in view the secular ethos embedded in the Constitution of India.

#### LIST OF DATES

- |          |   |
|----------|---|
| 1992     | Parliament enacted Act No.19 of 1992 known as National Commission for Minorities Act,1992.  |
| 2019     | Parliament has passed budget granting financial sanction to various schemes initiated by Central Government for the benefit of Religious Minority Communities notified under Section 2(c) of N.C.M. Act,1992. |
| .08.2019 | Hence, the present Writ Petition.   |

**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION**

(Under Order XXXVIII of the Supreme Court Rules 2013)

**WRIT PETITION (CIVIL) No. OF 2019**

**IN THE MATTER OF: -**

1. Neeraj Shankar Saxena  
Aged about 49 years,  
S/o. Sh.Bhawani Shankar Saxena,  
Resident of 25/51 Shiva Ji Marg,  
Lucknow-226018,  
Uttar Pradesh.
  2. Manish Sharma,  
aged about 30 years  
S/o Shri Ramakant Sharma  
R/o. 18/18, Purani Mandi Tajganj,  
Agra-282001, Uttar Pradesh.
  3. Umesh Rawat,  
aged about 32 years  
S/o late Shiv Charan Rawat  
R/o. Nai Abadi Amita Nagar  
Gover Choki Tajganj Agra-282001  
Near Tyagi Ji Wali Gali  
Uttar Pradesh.
  4. Arun Kumar Singh,  
aged about 33 years  
S/o Shri Rajpal Singh  
R/o. 40 AA/270, Sainik Nagar,  
Ukharra Road, Rajpur Chungi,  
Agra-282001, Cantt Agra,  
Uttar Pradesh.
  5. Shishupal Bhagel,  
aged about 29 years  
S/o. Sh.Subhash Bhagel  
R/o. 2/241 Naam Ner Agra,  
Uttar Pradesh.
  6. Saurabh Singh  
Aged about 23 years  
S/o. Sh. Bhanu Pratap Singh  
R/o. M-42, Dharam Vihar,  
Khora Colony, Ghaziabad-201309,  
Uttar Pradesh.
- .... Petitioners

VERSUS

1. Union of India  
Through Secretary,  
Ministry of Minority Affairs  
11<sup>th</sup> Floor, Pt. Deen Dayal  
Antodaya Bhavan,  
CGO Complex, Lodhi Road,  
New Delhi-110003.

2. National Commission for Minorities  
Through Chairperson,  
5<sup>th</sup> Floor Lak Nayak Bhavan,  
Khan Market,  
New Delhi-110003.

3. Central Waqf Council  
Through its Secretary  
P 13 & 14, Pushp Vihar,  
Sector -6, Opposite Family Court,  
Saket, Delhi 110017.

Respondents

**WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION  
OF INDIA**

To,

The Hon'ble the Chief Justice of India and his  
Companion Justices of the Supreme Court of India.  
The humble petition of the Petitioner above named.

**MOST RESPECTFULLY SHOWETH:**

1. The present Writ Petition under Article 32 is being filed challenging the action of the Central Government in initiating schemes and grant of Rs.4700 crores in the budget 2019-20 for the benefit of religious minorities and also the constitutional validity of National Commission for Minorities Act, 1992, inter alia on the ground that special status and grant to religious minorities discriminates the majority Hindu community from the same benefit and they are being deprived of equality before the law on the ground of religion only and such action is discriminatory and violative of the provisions contained in Article 14,15 and 27 of the Constitution of India.



1(d). That the Petitioners are aggrieved with the action of the Government initiating beneficial schemes in favour of the persons who belong to notified religious minorities. Generally, the persons belonging to minority communities whose income from all sources are not more than Rs.6 lakhs are eligible under various scheme initiated by the Central Government. The Petitioners are similarly situated with their counter parts belonging to notified religious minorities. The religious minorities are entitled for scholarship for further studies and to get loan on very cheaper rates, that too very easily but the members of Hindu community have been denied same benefit only on the ground of religion. The Petitioners are filing this petition against the injustice being done by the Central Government discriminating them with the members of other religious communities distinguished on the basis of religion. The Petitioners and other members of Hindu community are suffering because they have been born in majority community.

## 2. QUESTIONS OF LAW

2.1 Whether Parliament can constitute National Commission for

Minorities to perform the functions enumerated in Section 9 of National Commission for Minorities Act, 1992?

2.2 Whether the Central Government under the schemes of constitution have no power to differentiate between Minority and Majority community and so it can have no power to notify any community as minority community under Section 2(c) of National Commission for Minorities Act, 1992?

2.3 Whether the concept of minority is limited to Article 30 of the Constitution of India and the same cannot be utilized for any other purpose and no special provision can be made for religious minorities?



- 2.4 Whether Parliament is competent to establish a Commission for the benefit of a group of religion, may be minority religious group?
- 2.5 Whether the concept of creation of a Minority Commission is alien to the provisions of the Constitution of India?
- 2.6 Whether the Parliament can sanction the tax payer money to be spend on some religious groups ignoring the majority community?
- 2.7 Whether Parliament can exclude the majority community from the benefit of financial help being provided to similarly situated members of other religious communities for being a religious minority?
- 2.8 Whether Central Government has discriminated members of Hindu community from the beneficial schemes being sponsored for religious minorities?
- 2.9 Whether religious minorities can be given special status and opportunities over and above the interest of majority Hindu Community?
- 2.10 Whether the depressed class of majority community having lower income than the religious minorities are being deprived from the beneficial schemes and such action is hit by Article 14,15(4) of the Constitution of India?
- 2.11 Whether the State, the Government and the Parliament can spend the money collected from tax payers for the promotion and benefit of some religious groups in violation of Article 27 of the Constitution of India?
- 2.12 Whether the Central Government has sponsored the impugned schemes for minorities only on the basis of religion and the members of depressed class and weaker section of the Hindu society are being deprived from the same benefit only on the ground of religion in violation of provisions contained in Article 15(4) of the Constitution of India?
- 2.13 Whether religious minorities form a separate class and can they be treated separately for all beneficial schemes?

- 2.14 Whether Mandal Commission in its report has taken into consideration the social, educational and economical condition of every class, castes and occupational groups including notified minority communities?
- 2.15 Whether any class, caste or community unless found to be socially and educationally backward or economically weaker of the society on the basis of report of a commission established under Article 340 of the Constitution of India, they cannot be treated differently for grant of financial help within the sweep of Article 15(4) of the Constitution of India?
- 2.16 Whether the grant of Rs.4700 crores from tax payer money for the benefit and promotion of religious minorities is illegal and unconstitutional being violative of Article 14,15 and 27 of the Constitution of India?
3. The brief facts giving rise to the present petition are as follows:
- 3.1 That the Parliament has passed budget 2019-2020 making provision for expenditure to the tune of Rs.4700 crores to be spent on different schemes initiated by the Government of India for minorities. In addition to this, there is budget of Rs.100 crores against equity contribution to National Minorities Development and Finance Corporation. The copy of budget is available on website. A true copy of budget for the year 2019-2020 as downloaded from website of the Ministry of Minority Affairs is annexed hereto and marked as **ANNEXURE P-1**(page
- 3.2 That the Parliament has made special grants in favour of so called minorities to the tune of Rs.4700 crores + Rs.100 crores towards equity contribution to National Minorities Development and Finance Corporation. Thus, total amount collected from tax payer i.e. an amount to the tune of Rs.4800 crores will be spent on minority communities distinguished on the basis of religion against the Constitutional injunction embodied in Article 14,15 and 27 of the Constitution of India.

3.3 That Parliament has passed Demand No.68 of Central budget, 2019-2020 of Ministry of Minority Affairs under the following heads: -

	Subject	Budgetary sanction in Crores
1. Establishment Expenditure of the Centre	1.Secretariat 2.Special Program for minorities 3. Office building-construction of building	116.00
2.Central Sector Schemes/Projects	2. Quami Waqf board Taraqquti schemes and Sahari Waqf Sampatti Vikas Yojana	20.66
3.Education empowerment	3.1 Pre-Matric Scholarship for Minorities	1220.30
	3.2 Post-Matric Scholarship for Minorities	496.01
	3.3 Merit-cum-Means Scholarship for professional and technical courses (under graduate and post-graduate)	366.43
	3.4 Maulana Azad National Fellowship for Minority Students	155.00
	3.5 Free Coaching and allied schemes for Minorities	75.00
	3.6 Interest Subsidy on Educational loans for Overseas Studies	30.00
	Support for students clearing Prelims conducted by UPSC, SSC, State Public Service Commissions etc	20.00
	<b>Total education empowerment</b>	<b>2362.74</b>
4. - Skill Development and Livelihoods	4.1 Skill Development Initiatives	250.00
	4.2 Nai Manzil-the Integrated Educational and Livelihood Initiative	140.00
	4.3 Upgrading Skills and Training in Traditional Arts/Crafts for Development (USTTAD)	50.00

	4.4 Schemes for Leadership Development of Minority Women	15.00
	5.5 Grants in aid to State Channelizing Agencies (SCAs) for implementation of NMDFC Programmes	2.00
	4.6 Equity contribution to National Minorities Development and Finance Corporation (NMDFC)	100.00
Total-Skill Development and Livelihoods		557.00
5. Special Programmes of Minorities	5.1 Research/Studies, Publicity, Monitoring and Evaluation of development Schemes for Minorities	60.00
	5.2 Hamari Dharohar for conservation and protection of culture and heritage of Minorities	8.00
	5.3 Schemes for containing population decline of small minority community	4.00
Total-Special Programmes of Minorities		72.00
Total-Central Sector Schemes/Projects		3012.40
6. Other Central Sector Expenditure	6. 1 National commission for minorities	9.30
Statutory and Regulatory bodies	6.2 Special Officer for linguistic minorities	2.30
Total statutory and regulatory bodies		11.060
7. Autonomous Bodies	7.1 Maulana Azad Education Foundation (MAEF)	90.00
Total-Other Central Sector Expenditure		101.60
8. Pradhan Mantri Jan Vikas Karyakaram		1470.00
Total-Centrally Sponsored Schemes		
Grand Total		4700.00
9. Investment in Public Enterprises	Equity contribution to National Minorities Development and Finance Corporation	100.00

3.4 That the Parliament has described the allocation of funds earmarked against different heads to be spent on minorities in the budget 2019-20 for which Central Government has also issued executive orders for implementing those schemes and the same are being placed hereinafter.

3.5 That para 2 of the budget 2019-20 declares 'Special Program for Minorities' under this heading it has been mentioned that:-

“this provision is for Haj management in India and Saudi Arabia”.

3.6 That in item 5 of Demand No.68 of budget 2019-20 there is provision for allocation of fund under the following caption:-

“Quami Waqf Board Taraqqiati Schemes and Sahari Waqf Sampati Vikas Yojana”.

3.6.1 That para 5 of the budget 2019-20 is being reproduced below:-

“Quami Waqf Board Taraqqiati Schemes (QWBTS) and Sahari Waqf Sampati Vikas Yojana(SWSVK) are being implemented for computerization of record, strengthening of State Waqf Boards and to protect vacant urban waqf land from encroachers and to develop it on commercial lines for generating more income in order to widen welfare activities respectively. Financial assistance under QWBTS is provided to State/UT Waqf Boards (SWBs) for deployment of man power for doing data entry in vamsi madules, GIS mapping of waqf property, maintenance of Centralized Computing Facility (CCF), ERP solution for better administration SWS, setting up of video conferencing facility in SWBs, cash award to Mutawalli/Management Committee strengthen legal & accounting section for meeting training and administrative cost of SWBs.

Under SWSVY, financial assistant is provided to extend interest free loans to various Waqf institutions in the country

for taking up economically viable buildings on the urban waqf land for development such as commercial complexes, marriage halls, hospitals, cold storages etc. Central Waqf Council (CWC) is the implementing agency for both schemes”.

3.6.2 The Government of India has issued executive order laying down guidelines for implementing the Shahari Waqf Sampati Vikas Yojana Schemes (for short SWSVY Schemes) for the period 2017-18 to 2019-20 relating to computerization of records and strengthening of State Waqf Boards and also laying down the method of obtaining interest free loan for the management of the waqf upto 2 crores or 75% of the estimated costs of the project excluding the value of the land, whichever is less. The guidelines issued in a booklet mentioning continuation for the period 2017-2018 to 2019-2020 of the schemes. A true copy of the guidelines related to Quami Waqf Board Taraqqiati Schemes and Sahari Waqf Sampati Vikas Yojana issued by Government of India Ministry of Minority Affairs for the period 2017-2018 to 2019-2020 is annexed hereto and marked as **ANNEXURE P-2** (page

3.6.3 In para 2.2 of SWSVY schemes, it has been mentioned that interest free loan is advanced to Waqf boards and Waqf institutions in the country for construction of economically viable buildings on the waqf land, such as commercial complex, marriage halls, hospitals, cold storage etc.

3.6.4 In para 2.2. of SWSVY schemes, it has been accepted that the Central Government has released in total grant-in-aid amounting to Rs.52.37 crore between September,1974 between March,2017. Thus, it is clear that Central Government is paying towards the development of Waqf properties.

3.6.5 That from SWSVY schemes it is clear that Central Government has shown undue favour to Waqf properties denying same benefit to the properties managed by Hindu Trusts, Mutts and Akharas. It is clear that the Government is making discrimination with the members of Hindu community



on the basis of religion and giving undue advantage and preference to the members of Muslim community and the properties occupied by Waqf Boards at the cost of tax payer money being paid by majority Hindu community thereby violating provisions contained in Article 15 and 27 of the Constitution of India.

3.6.6 That it is respectfully submitted that Central Government is treating Muslim community above law and the Constitution and an undue advantage is being given to them ignoring the provisions contained in Article 14,15 and 27 of the Constitution of India. The Hindu Trusts, Mutts and other institutions are being placed at lower pedestal violating the Equality Clause enshrined in the Preamble of the Constitution and the Constitutional injunction embodied in Article 14,15 and 27 of the Constitution of India.

3.7 That in para 6.01, 6.02 and 6.03, the budget, 2019-2020 provision has been made for providing financial help to the students of minority communities studying in pre-metric, post-metric and merit-cum-means scholarship in professional and technical courses (under graduate and post-graduate) by way of scholarship.

3.7.1 That the Secretary, Ministry of Minority Affairs, Government of India had issued guidelines laying down the criteria for providing scholarship under these schemes vide letter dated 24.7.2018 addressed to Chief Secretary/Administrator of all the State Government and Union Territory Administration. A true copy of the letter dated 24.7.2018 issued by Secretary, Ministry of Minority Affairs, Government of India to Chief Secretary/Administrator of all State Government/UT Administration for providing scholarship in pre-metric, post-metric and merit-cum-means scholarship in professional and technical courses is annexed hereto and marked as **ANNEXURE P-3** (page

7.2 That it is clear that only consideration for providing financial help from public exchequer is to benefit the member



of so-called minority communities distinguished on the basis of religion is alien to the provisions contained in Article 14,15 and 27 of the Constitution and solemn declaration made in the Preamble of the Constitution of India.

7.3 That it is relevant to mention that the similarly situated students of majority community are not getting same benefit and scholarship as are being paid to the members of so called religious minority communities violating the fundamental rights of every citizen of India guaranteed in Part Third of the Constitution of India. The concept of making law to benefit particular religion or religions is alien to the provisions of the Constitution. Under the umbrella of the fundamental rights guaranteed in Part Third of the constitution, every citizen is entitled for equal benefit and treatment and there can be no departure from the constitutional mandate enshrined in Article 14, 15 and 27 of the Constitution of India.

7.4 That it is noteworthy that the Constitution Assembly has rejected to make any special or separate provision for minorities. It is in the Constitution Assembly Debates that provision was being enacted from Article 25 to 30 in the Constitution to ensure protection to the Minorities and as such there was no reason to make any special provision for them.

7.5 That the Union of India is stretching the scope of Article 30 and taking a clue from the word 'Minority' for political reasons special provisions are being made making budgetary provision for providing financial help to a section of society distinguished on the basis of religion who do not come within the ambit of weaker section of the society. There are number of persons living below poverty line belonging to Hindu community and their economic condition is worst in comparison to the notified minority communities. The irony of fate is that despite the poor financial condition, the Hindus are being deprived of the benefit of the scheme i.e. on the ground 'only' of religion and the members of notified minorities are

being benefitted and promoted from the tax payer money in violation of Article 27 of the Constitution of India.

7.6 That the students of Hindu community are being discriminated before law and they being denied same benefit and same treatment as is being given to the members of other religious minority communities and this type of discrimination is made solely on the basis of religion from tax payer money clearly violating the provisions of contained in Article 14,15 and 27 of the Constitution of India.

7.7 That the Government of India issued directives to all the Chief Secretaries of the State and the Administrative of Union Territory laying down the guidelines for providing financial help and scholarship to the students of six notified minority communities. From the perusal of the aforesaid directives, it is clear that financial help is being given to six notified minority communities because they have taken birth in that particular community irrespective of their financial condition and the students of weaker section of society of Hindu community even in worst financial conditions in comparison to those minority communities have been left out from the benefit of financial help in the matter of pursuing studies.

7.8 That the Central Government alongwith letter dated 24.7.2018 has also earmarked the number of persons of the minority communities entitled for benefit of financial help in the matter pre-metric, post-matric and merit-cum-means based scholarship. Thus, it is clear that on the basis of strength of population of minority communities scholarship is being given, who may be selected on the basis of their financial condition.

7.9 That in letter dated 15.11.2018 the Central Government has earmarked State-wise numbers to be chosen for providing merit-cum-means based scholarship. It has also been provided that the annual income of the beneficiary of the parent or guardian of the beneficiary should not exceed Rs.2.50 lakh from all sources.

7.10 That it is relevant to mention that a student of Hindu community whose parents' income is less than Rs.2.50 lakh from all the sources will not get same treatment in the matter of pursuing studies infringing his right to get education under Article 21A of the Constitution of India and denying him equal protection of law by discriminating him on the basis of religion which is alien to the provisions contained in Article 14, 15 and 27 of the Constitution of India.

7.11 The moot point for consideration is as to whether similarly situated students of Hindu community can be denied same benefit as are being given to the members of minority communities. The effect of impugned action is that a student of Hindu community howsoever poor may be, living much below poverty line will be denied benefit of the schemes only on the ground of his religion and he will suffer for not taking birth in any of the minority communities.

7.12 That disastrous financial condition and the poverty is not the criteria for providing financial help to the students of notified religious minority communities but same is being provided because they have been born in a community which is a religious minority community. It is clear that the action of the Central Government is not supported by any provision of the Constitution of India. The Central Government has conceived this idea on political considerations adopting appeasement policy to attract the voters belonging to notified minority communities.

7.13 That in case of Bal Patil vs. Union of India reported in (2005) 6 SCC 690 the Hon'ble Supreme Court has deprecated the practice of demanding minority status and has warned that such tendency will be disastrous for the Sovereignty, Unity and Integrity of India and will give rise to separatist tendencies.

7.14 That due to action of Government giving special treatment to notified minority communities will give rise to unrest and dissatisfaction amongst majority Hindu community. Providing special benefit to minority community may allure a

number of persons to embrace another religion and there may be demographic changes which is bound to affect to sovereignty and integrity of India.

3.8 That in para 6.04 of the budget-2019-20, it has been declared that object of Maulana Azad National Fellowship was introduced in the form of Financial Assistance to Students belonging to minority communities to pursue higher studies at M.Phil and Ph.D. level. The schemes covers all the universities/institution recognized University Grants Commission (UGC) under Section 2(f) of the UGC, Act. It has been further provided that the fellowship is on the pattern of UGC fellowship awarded to research students pursuing regular and full time M.Phil and Ph.D. courses.

3.8.1 That the Government of India, Ministry of Minority Affairs has issued necessary guidelines laying down criteria for grant of Maulana Azad National Fellowship on 24.12.2014. The guidelines issued by the Government in this regard is available on Website. A true copy of guidelines laying down criteria for grant of Maulana Azad National Fellowship issued by Government of India, Ministry of Minority Affairs downloaded from website is annexed hereto and marked as **ANNEXURE P-4** (page

3.8.2 The guidelines issued by the Central Government on the eligibility of criteria for awarding financial assistance to students from minority communities notified by the Central Government to pursue higher studies such as M.Phil and Ph.D. The fellowship holders are to be known as 'Ministry of Minority Affairs Scholars'.

3.8.3 In para 4 of the guidelines eligibility criteria has been laid down which has nothing to do with the financial conditions of the beneficiary but same is being given as a reward for having taken birth in a particular religious minority community.

3.8.4 It is also clear that Maulana Azad National Fellowship is not being given to the students on the basis of their financial

condition or that they are living below poverty line or they belong to weaker section society but they are being given scholarship simply because they have taken birth in in a community which has been declared as religious minority community by the Central Government.

3.8.5 That it is relevant to mention that the students of Hindu community howsoever in financial distress are being denied the same benefit of scholarship as is being given to the students of notified minority communities under Maulana Azad National Fellowship schemes. Therefore, these schemes being funded by the Central Government from the tax payer money is a serious jolt on the theme and soul of the Constitution brushing aside the very theme of Secularism, Rule of law, Democracy and the Principles of Equality accepted by the Constitution of India. This type of discrimination is forbidden under Article 14 and 15 of the Constitution of India and the same is liable to be quashed.

3.9. That in para 6.05 of the budget it has been declared that there are schemes for coaching and allied schemes for Minorities. The same is reproduced below:-

“Free Coaching and allied schemes for Minorities-the objective of the schemes is to assist economically weaker section candidates belonging to minority communities by providing them opportunities for enhancing their knowledge, skills and capabilities for employment in government/private sector through competitive examinations/process of selection, and for admission in reputed institutions”.

3.10. That the Government of India, Ministry of Minority Affairs has issued guidelines laying down the criteria and eligibility for free coaching and allied schemes for Minorities. The revised schemes are in operation w.e.f. 7.12.2017. A true copy of the guidelines for eligibility for free coaching and allied schemes issued by Government of India, Ministry of Minority

Affairs downloaded from website is annexed hereto and marked as **ANNEXURE P-5** (page

3.10.1 The Central Government has launched a scheme known as Naya Savera for providing free coaching for the candidates/students of minority communities. It is further declares that the schemes aims to empower the students belonging to minority communities and prepare them for competitive examination, so that their participation in Government and private jobs improves.

3.10.2 That para 7 of the guidelines lays down the criteria to be eligible to get free coaching under the schemes. It provides that those candidates whose family income from all sources is not exceeding Rs.6 lakh per annum, will be eligible under the schemes. Para 8 of the guideline further provides that the Ministry of Minority Affairs will fund the entire expenditure of coaching provided to selected minority students as per the terms and conditions of the schemes.

3.10.3 That it is relevant to mention that providing free coaching to the students religious minority communities is an abuse of public fund collected from taxes recovered from general public and is highly discriminatory. The schemes aims to benefit the students of religious minority communities solely on the ground that they belong to declared minority community and said financial benefits are not being given to the students on the basis of their poor financial condition or that they belong to weaker section of the society.

3.10.4 That it is strange that Parliament has approved such schemes violating the constitutional injunction in Article 14,15 and 27 of the Constitution of India at the cost of the interest of similarly situated students of Hindu community. The similarly situated students of Hindu community are being discriminated only on the basis of their religion and on the other hand the members of notified minority communities are being benefited on the basis of their religion.



3.11. That in item 6.6 of the budget there is allocation of fund for providing subsidy on education loans for overseas students. Para 6.6 of the budget provides that:-

“This schemes is being implemented with the objective of providing interest subsidy on educational loans to the students of minority communities selected for pursuing higher studies abroad”.

3.11.1 That the Government of India had announced Prime Minister's new 15 Point Programme for the welfare of Minorities in June 2006 laying down the necessary conditions and eligibility criteria for the candidates of notified religious minorities to opt the schemes. In this regard the guidelines issued by the Central Government is available on the website of the Ministry of Minority Affairs, Government of India and the revised guidelines are effective from 29.9.2017. A true copy of the guidelines launched a scheme known as Naya Savera issued by the Ministry of Minority Affairs, Government of India is annexed hereto and marked as **ANNEXURE P-6** (page

3.11.2 That para 2 of the guidelines describe the objective of the schemes as the schemes to award interest subsidy to meritorious students belonging to economically weaker sections of notified minority communities so as to provide them better opportunities for higher education abroad and enhanced their employability.

3.11.3 That para 6 provides income ceiling to be eligible to avail the schemes, according to which the total income from all sources of the employed candidate or his/her parents/guardians in case of unemployed candidate shall not exceed 6 lakhs per annum.

3.11.4 That it is strange that even the candidates having income upto Rs.50,000/- have been considered as belonging to weaker section of the society.

3.11.5 That it is strange that the candidates of Hindu community having much less than 50,000/- per month income



(i.e. Rs.6 lakhs per annum) are not eligible to avail the schemes only on the ground the religion and on the other hand, the candidates of notified religious minority on the basis of religion have been given financial assistance. Therefore, impugned schemes are totally discriminatory violative of Article 14,15 and 27 of the Constitution of India.

3.11.6 That the impugned schemes are highly discriminatory and undue favour is being shown to notified religious minorities and the members of Hindu community are being discriminated and are being denied equal opportunity to study in abroad.

3.11.7 That the Petitioners are referring same grounds for challenging the present scheme on which other schemes initiated by the Central Government has been challenged in this petition and for the sake of brevity, same are not being repeated herein.

3.12. In item No.6.7 of the budget financial grant has been earmarked for the support of the students clearing prelims conducted by UPSC, SSC, State Public Service Commission etc. Para 6.7 of the budget has declared the objective of the schemes for the purpose 'to increase the representation of minority in Civil Services'.

3.12.1 That the Government has issued guidelines for implementing the schemes under the caption Nai Udan-support for minority students clearing prelims conducted by UPSC, State P.S.C. and SSC. The revised guidelines are effective from 29.9.2017. A true copy of the guideline in respect of schemes under the caption Nai Udan issued by the Government of India Ministry of Minority Affairs is annexed hereto and marked as **ANNEXURE P-7**(page

3.12.2 That in para 3 eligibility criteria has been laid down. Sub para 3 (ii) provides that the total family income of the candidates from all sources should not exceed Rs.6 lakhs per annum.

3.12.3 That para 5 provides that every year 2000 candidates will be given financial support under the schemes throughout the country. The Central Government has also provided community-wise quota for distributing money to the students. In other words, there is an indirect reservation for religious minorities in Government welfare schemes.

3.12.4 That it is relevant to mention that the students of Hindu community whose income from all sources is less than Rs.6 lakhs have been ignored and deprived from the benefit of the schemes. The Hindu students are being denied the benefit only on the ground of their religion. The Petitioners reiterate the grounds taken to assail the schemes under various acts to the minorities in support of their challenge to the aforesaid schemes.

3.13. That in the budget 2019-20, in Item 7 there is provision for grant for Skill Development and Livelihood for the members of notified religious minority. Para 7.1 of the budget provides that:-

“the objective of the schemes is to allow urban and rural livelihoods to implement for inclusive growth by providing skill to the minority communities who do not possess any. For those who already possess skills, the schemes proposes to upgrade the same to enhance their employment opportunities and also provide credentials to allow such persons to gain access to credit to help them expand their enterprises.”

3.14.1 That the Government of India has declared the necessary guidelines to give effect to the skill development initiative for minorities laying down necessary eligibility criteria. The said guideline is available on official website of Ministry of Minority Affairs. A true copy of the guidelines in respect of Skill Development issued by the Government of India Ministry of Minority Affairs is annexed hereto and marked as **ANNEXURE P-8** (page

3.14.2 That it is strange that the Union of India has given special status to notified religious minorities in every field and also in the matter of skill development and livelihood ignoring the members of majority community and discriminating the members of Hindu community in every respect. The Government is giving undue advantage to the members of religious minority only on the ground of their religion.

3.14.3 That from perusal of schemes it is clear that no financial condition has been made criteria for giving the benefit of the schemes has been prepared aiming to benefit members of notified religious minorities discriminating the members of Hindu community. That para 6 of the schemes provides for pattern of funding.

3.14.4 That the impugned schemes initiated for skill development for notified minorities are unconstitutional as the members of Hindu community have been denied benefit of the schemes solely on the basis of their religion whereas the members of notified minorities are being benefited because they have born in that particular community.

3.14.5 That the Petitioners crave to refer and rely on the grounds of challenge being raised against other schemes mentioned in the budget and for brevity same are not being repeated.

3.15. That in the budget in item 7.2 of the budget 2019-20 relates to schemes known as the Integrated Educational and Livelihood Initiative. Para 7.2 runs as under:-

Nai Manzil-the Integrated Educational and Livelihood Initiative: Main objectives of the schemes are:-

(i) Nai Manzil aims to engage constructively with the poor Minority youth and help them to obtain sustainable and gainful employment opportunities that can facilitate them to be integrated with mainstream economic activities.

(ii) Mobilize youth from minority communities who are school dropouts and provide them formal education and certification

upto 08th or 10th class through National Institute of Open Schooling (NIOS) or other state govt. open schooling.

(iii) To provide integrated Skill training to the youth in market driven skills.

(iv) To provide placements to at least 70% of the trained youth in jobs which would earn them basic minimum wages and provide them other social protection entitlements like Provident funds and ESI etc.

(v) To raise awareness and sensitization in health and life skills.

15.1 That the above schemes ignores the interest of members of Hindu community and undue advantage is being given to the members of notified religious minorities. That the Petitioners crave to refer and rely on the grounds of challenge being raised against other schemes mentioned in the budget and for brevity same are not being repeated.

3.16. That item 7.3 of the budget provides for Upgrading Skills and Training in Traditional Arts/Crafts for development (USTTAD). Para 7.3 of the budget mentions that the said schemes was being initiated to conserve the rich heritage of the country and will establish linkages with National and International markets and ensure dignity of labour.

3.16.1 That the Government of India has framed necessary guidelines to give affect to the schemes Usttad. The said schemes are available on the website of the Ministry of Minority Affairs. A true copy of guidelines in respect of USTTAD issued by the Government of India, Ministry of Minority Affairs is annexed hereto and marked as **ANNEXURE P-9**(page

3.16.2 That the impugned schemes Usttad has nothing to do with the financial condition of the members of notified religious minority and the only criteria is that concerned person should belong to any of the such communities. It appears that there is notion that every skill development is in the hands of

members of notified minorities and the members of Hindu community are skill less.

3.16.3 That the impugned schemes is highly discriminatory, irrational and has nothing to do with the development of weaker sections of society and the same has been aimed to benefit the religious minorities which is perse unconstitutional being violative of Article 14,15 and 27 of the Constitution of India.

3.16.4 That the Petitioners crave to refer and rely on the grounds of challenge being raised against other schemes mentioned in the budget and for brevity same are not being repeated.

3.17. That item 7.4 of the budget 2019-20 there is mentioned that schemes for Leadership Development of Minority Woman was to ensure that the benefits of growth reaches deprived women and that such women are provided with Leadership training and Skill development so that they are emboldened to moveout of the confines of their homes and community and begin to assume a leadership role in assessing services, skills and opportunities available to them under various programmes and schemes.

3.17.1 That the Government of India issued guideline for implementing the impugned schemes for Leadership Development of Minority Women. The schemes as enforced w.e.f. 23.9.2017 is available on website. A true copy of guidelines in respect of schemes for Leadership Development of Minority Women issued by the Ministry of Minority Affairs, Government of India is annexed hereto and marked as **ANNEXURE P-10**(page

3.17.2 That para 7.1 of the guidelines provides that villages and urban localities having substantial percentage of minority population shall be selected by the organization for conducting the Leadership Development Training Programme and such list should be submitted to the Ministry.

3.17.3 That the impugned schemes initiated for minority women have nothing to do with the financial condition. This scheme will benefit the women of notified minorities simply because they belong to such community and thus there is discrimination with similarly situated Hindu Women residing in urban and rural areas and they have been denied same benefit on the ground of their religion.

3.17.4 That the impugned schemes is totally wastage of public money. It has nothing to do with the objects sought to be achieved. The tax payer money is being utilized for the benefit of religious groups named as minority communities. Such concept is alien to the provisions of the Constitution and violate the provisions contained in Article 14,15 and 27 of the Constitution of India.

3.17.5 That the Petitioners crave to refer and rely on the grounds of challenge being raised against other schemes mentioned in the budget and for brevity same are not being repeated.

3.18. That item 7.5 of budget 2019-20 is in respect of grant in 8 State Channelizing Agencies (SCAs) for implementation of NMDEC programs. Item 7.6 is in respect of equity contribution to National Minorities Development and Finance Corporation (NMDEC). Para 7.6 of the budget provides that the provision is for providing share capital to the National Minorities Development and Finance Corporation (NMDFC) and for arranging the operation of new initiated venture capital fund for minorities.

3.18.1 That from the above it is clear that the Government of India from the tax payer money is contributing in the finance corporation created for minorities.

3.18.2 That the Government of India has laid down guidelines for disbursement of loan to the members of notified Minority Communities. It is relevant to mention that according to schemes the financial condition of the applicant should be upto 98,000/- in rural areas and 1,20,000/- in Urban areas per



annum under the schemes as per credit line-1 and Rs.6 lakhs annual family income in credit line-2. The guidelines issued by the Government of India laying down the conditions to avail the schemes financed by NMDFC is available on the website of Ministry of Minority Affairs. A true copy of guidelines in respect of schemes NMDFC issued by the Ministry of Minority Affairs Government of India relating to schemes financed by the National Minorities Development and Finance Corporation (NMDFC) is annexed hereto and marked as **ANNEXURE P-11** (page

3.18.3 That the impugned schemes are totally wastage of public money. It has nothing to do with the objects sought to be achieved. The tax payer money is being utilized for the benefit of religious groups named as minority communities. Such concept is alien to the provisions of the constitution and violate the provisions contained in Article 14,15 and 27 of the Constitution of India.

3.18.4 That the Petitioners crave to refer and rely on the grounds of challenge being raised against other schemes mentioned in the budget and for brevity same are not being repeated.

3.19. That in item No.16 of the budget 2019-20 there is provision for Pradhan Mantri Jan Vikas Karyakram. The said schemes has not been clarified in the budget.

3.19.1 That the Government of India Ministry of Minority Affairs has issued a detailed guideline for implementation of Pradhan Mantri Jan Vikas Karyakram (for short PMJVK) schemes. A copy of impugned schemes is available on the website of Ministry of Minority Affairs. A true copy of guidelines in respect of PMJVK scheme issued by the Ministry of Minority Affairs Government of India is annexed hereto and marked as **ANNEXURE P-12**(page

3.19.2 That it is unfortunate that the Government of India has prepared schemes for the benefit of religious minorities discriminating similarly situated citizens of Hindu community.



It is respectfully submitted that the Constitution does not envisage for making provision on the basis of religion giving an edge to members of minority community over the members of majority community, i.e. Hindu community.

3.19.3 That all the Nations who have conceived the idea of welfare State and have followed the concept of 'equality before the law for the citizens' have not made any special law or schemes for the benefit of religious minorities of the country.

3.19.4 That the Constitution Assembly Debates discussed the matter thoroughly to safeguard the interest of religious minorities. It is relevant to mention that while ensuring equal production to have belief and worship in Article 30 religious minorities have been given right to preserve their religious education.

3.19.5 That the Constitution makers could have never thought that the coming Government with political reasons will take a clue from the word minority occurring in Article 30 and will initiate special programmes, schemes and financial benefits for religious minorities.

3.19.6 That from the plethora of the judgments of the Hon'ble Supreme Court, it has been established that the State cannot discriminate citizens on the basis of religion since the Government is bound to follow the Principles of Secularism.

3.19.7 That it is well establish that in a secular State Government cannot show any inclination or favour to any religious group and cannot do anything for development and promotion of any religion or religious groups.

3.19.8 That in the instant case the Petitioners have placed on record the various schemes being initiated by Government of India from public exchequer in favour of religious minorities ignoring similarly situated members of Hindu community and discriminating them only on the ground of religion.

3.19.9 That PMJVK schemes makes it clear that the Government of India is promoting the minority religious groups at the cost of majority community. In para 5.1 of the impugned

schemes it has been aimed that the schemes for minorities will be implemented on the basis of their population in a block which could be 25% of the population of minority community.

3.19.10 That it is relevant to mention that in almost all the blocks which could be selected it will be only Muslims population which may be 25% or above. The population of other religious minorities may not be to such extent in most of the States.

3.19.11 That from the schemes initiated by Government of India for minorities it is clear that same has been aimed to benefit members of Muslim community.

3.19.12 That para 8.11 of the impugned schemes provides that 'computer project may be taken up in Madarsas' approved/recognized by the appropriate authority in the States and teaching modern subjects. Under this, Madarsas' will be provided computers in accordance with norms of SSA/RMSA with internet facility. It is clear that Government is promoting and favouring Madarsas' which is space unconstitutional.

3.19.13 That without discussing each and every para of the impugned schemes it is submitted that a perusal of PMJVK schemes reveals that Government of India from the tax payer money is favouring the members of religious minorities at the cost of Hindu Community and members of Hindu Community are being discriminated only on the ground of religion whereas religious minorities are being favoured by giving financial assistance simply on the ground of religion.

3.20. That apart from above the Government of India has also declared schemes known as Central Sponsored Schemes for Providing Quality Education in Madarsa (SPQEM). In para 5 it provides that an amount of Rs.325 crores is proposed for the schemes as per budget provision made by planning commission in 11<sup>th</sup> 5 year plan. The guidelines are available on the website of Ministry of Minority Affairs. A true copy of guidelines Schemes for Providing Quality Education in Madarsa (SPQEM) issued by Ministry of Minority Affairs,

Government of India is annexed hereto and marked as **ANNEXURE P-13** (page

3.20 That para 7 of the schemes provides that:-

“The SPQEM is a demand driven schemes. The schemes will endeavor to cover a total of 4,5000-6000 Madarsas and provide honorarium to about 13,500-18,000 teachers in Madarsa all over the countries during the 11<sup>th</sup> plan period. This will include Madaras for which recurring grant will be given in continuation and new Madarsas covered. It is expected that a total of about 7 lakhs of students of Madarsas will peruse modern education in addition to their traditional education”.

3.21 That it is respectfully submitted that the schemes initiated by Central Government for Madarsas clearly establishes that the Central Government is favoring a particular religion and doing everything for promotion of that religion which is forbidden by the Constitution.

3.22 That there is no justification for making provision for giving special financial help to the members of notified minorities over and above the interest of students of Hindu community and such action is unconstitutional being in violation of provisions contained in Article 14,15 and 27 of the Constitution of India. It is worth to mention that members of Hindu community are being denied benefit of the schemes ‘Only’ on the basis of religion as they are being denied benefit of the schemes for the reason that they belong to religious majority community.

3.23 That initiation of schemes and financial assistance to religious minorities will hamper the interest of Hindu community. The Hindus are being put to disadvantageous position simply because of their religion. It is respectfully submitted that inclination of the Central Government towards religious minorities may allure the poor and depressed class of Hindu community to embrace another religion.

- 3.24 That the impugned schemes will weaken the Sovereignty and Integrity of India and may create chaos and unrest amongst Hindu community.
- 3.25 That the Petitioners are also challenging the Constitutional validity of National Commission for Minorities Act, 1992 (Parliament Act No.19 of 1992, (hereinafter referred to as NCM Act).
- 3.26 That the Central Government has been given power under Section 2(c) of NCM Act to declare any community to as minority community. Section 11 describes the functions of the Commission.
- 3.27 That it is relevant to mention that religious and linguistic minorities have been given fundamental right under Article 30 of the Constitution of India to establish an administer educational institutions of their choice. Apart from this, Article 29 empowers any section of the citizens having a distinct language script or culture to conserve the same.
- 3.28 That religious minorities have been given sufficient protection under Article 29 and 30 of the Constitution of India but it is not for the Government to promote their religion and sponsor schemes in their favour to promote their interest.
- 3.29 That the State, Government of India, State Government do not derive any power or jurisdiction under the Constitution to declare any community as a minority community. Any minority community can establish educational institution within the parameters of Article 30 of the Constitution of India.
- 3.30 That it is respectfully submitted that the State and the Governments have no power or jurisdiction to instigate the minorities to claim minority status and to provide financial help at the cost of tax payer money.
- 3.31 That in case of Dayanand Anglo Vedic (DAV) College Trust and Management Society vs. State of Maharashtra reported in (2013) 4 SCC 14 the Hon'ble Court has held that the word 'Establishment' means bringing into being of an institution and it must be by minority community.

- 3.32 That the Government and State can no doubt make special provision for advancement of socially and backward classes of citizens or for schedule caste and schedule tribes.
- 3.33 That it is relevant to mention that by way of 102 amendment Act,2018 (published in official gazette on 11.08.2018). Article 338B has been substituted in the Constitution thereby making provision for establishing a commission for socially and educationally backward classes known as 'National Commission for Backward Classes'. Under Article 338B(5) it is the duty of the Commission to submit reports and make recommendation as to the measures there should be taken by the Union or any State for the effective implementation of the safeguards available to such class and measures for protection welfare and socially economic development of socially and educationally backward classes.
- 3.34 That the Central Government can appoint any commission to investigate the conditions of backward classes by virtue of powers vested in Article 340 of the Constitution of India. Now after insertion of Article 338B (5) a National Commission for backward classes is there to look after the interest of backward classes.
- 3.35 That in view of the above provision it is clear that there is a Commission to find out the conditions of backward classes. Therefore, there is no scope for the Minority Commission to judge the conditions of religious minorities separately. There can be no justification for appointing a commission over and above the Backward Class Commission.
- 3.36 That in view of the 102 amendment of the Constitution the National Commission for Minorities has become redundant and it cannot continue to perform the functions enumerated in Section 9 of NCM Act,1992.
- 3.37 That by 103 Amendment Act,2019 (published in the official gazette on 12.1.2019) sub clause (6) has been inserted in Article 15 of the Constitution of India. In pursuance of the

aforesaid provision Parliament can make any law for the advancement of economic weaker sections of the society.

3.38 That it is relevant to mention that the notified religious minorities have not been declared as socially and educationally backward classes or weaker sections of the society. There may be some class or caste within minority communities which could come within the fore-corners of socially and educationally backward classes or in the ambit of weaker section of the society.

3.39 That the irony is that financial assistance is being given to religious minorities for being religious minority and not on the ground that they belong to backward classes or weaker section of the society.

3.40 That while finding out backward classes either on economic basis or on the basis of social and educational condition every class, caste or occupational group similarly situated belonging to any community has to be given same treatment but selection cannot be made on the ground for belonging a particular religious sect or religious denomination. Therefore, the purpose of establishing minority commission is unconstitutional and also the initiation of beneficial schemes for religious minorities is fraud on the constitution and misuse of power being committed by the Central Government to appease a section of the society at the cost of National integration. This type of scheme will destroy the constitutional fabric and will create dissatisfaction amongst majority community for being suppressed and discriminated for taken birth in Hindu community.

3.41 That in absence of any report of any commission describing the notified minorities as socially and educationally backward classes the Central Government, the Parliament has no power or jurisdiction to initiate any schemes and provide financial help to them.



- 3.42 That since the schemes initiated by the Central Government is unconstitutional, the Minority Commission has no right to evaluate such schemes.
- 3.43 That from tax payer money the State has no power or jurisdiction to establish any commission for minorities, especially when no report has been submitted by any commission appointed under Article 340 of the Constitution regarding their economic and social conditions.
- 3.44 That the Parliament cannot make any law giving special benefit to religious minorities over and above the scope of Article 14,15(4), 16(4) and 46 of the Constitution of India.
- 3.45 That it is relevant to mention that the notified minority communities cannot be treated as weaker section of society. It may be that some of the members of those communities may be living below poverty line and could come within the term 'weaker' sections of the society but the notified communities as a whole cannot be treated as social and educationally backward within the meaning of Article 15(4) and 16(4) and cannot be considered to be weaker section under Article 46 of the Constitution of India.
- 3.46 That impugned act is against the secular character of the Constitution of India and offends the provisions contained in Article 14,15 and 27 of the Constitution of India.
- 3.47 That no purpose enshrined in Article 15(4),29, 30 and 46 of the Constitution of India can be achieved by establishing a separate commission for religious minorities.
- 3.48 That after the acceptance of Mandal Commission report approved by the Hon'ble Supreme Court in case of Indra Swahany vs. Union of India reported in (1992) Supp. 3 SCC 217 there is no reason to enact a separate law for religious minority.
- 3.49 That it is relevant to mention that the Mandal Commission report the conditions of members of different religious communities have been taken care of. The said report has considered the conditions of citizens belonging to different



Castes, class and occupational groups and nature of work being performed by different section of society while recommending for making special provision for giving grants to them.

3.50 That it is worth to mention that the Mandal Commission has discussed and elaborated the conditions of different segment of society whether based on religion, caste, class or traditionally engaged in different occupations. The Commission has discussed the conditions of members of Muslim, Sikh, Christian and other communities.

3.51 That it is worth to mention that socially and educationally backward classes including weaker section form a class within the meaning of Article 14 of the Constitution of India but there can be no further classification in the name of religion.

3.52 That the Minority Commission has been established from public money i.e. tax payer money out of the grant sanctioned by the Central Government. As such the establishment of Commission for the benefit and promotion of some religious minorities is in violation of Article 27 of the Constitution of India. Article 27 of the Constitution of India runs as under:

“No person shall be compelled to pay any taxes, the proceed of which or specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination”

3.53 That in view of the above constitutional mandate the Parliament has no power to establish any commission for religious minorities for the purposes the impugned enactment has been made.

3.54 That the impugned NCM Act is ultra vires to article 14,15and 27 of the Constitution of India and is liable to be struck down.

4. It is most respectfully submitted that the Petitioners further declared that they have not filed any other petition before any court or in this Hon'ble Court in respect of the subject matter of this petition.

5. The present petition is being preferred amongst other on the following: -

GROUND:

- A. Because the Central Government has shown undue favour to Waqf properties denying same benefit to the properties managed by Hindu Trusts, Mutts and Akharas. It is clear that the Government is making discrimination with the members of Hindu community on the basis of religion and giving undue advantage and preference to the members of Muslim community and the properties occupied by Waqf Boards at the cost of tax payer money are being paid by majority Hindu community thereby violating provisions contained in Article 15 and 27 of the Constitution of India.
- B. Because the Central Government is treating Muslim community above law and the Constitution and an undue advantage is being given to them ignoring the provisions contained in Article 14,15 and 27 of the Constitution of India. The Hindu trust, mutts and other institutions are being placed at lower pedestal violating the equality clause enshrined in the preamble of the Constitution and the Constitutional injunction embodied in Article 14,15 and 27 of the Constitution of India.
- C. Because the similarly situated students of majority community are not getting same benefit and scholarship as is being paid to the members of so called religious minority communities violating the fundamental rights of every citizen of India guaranteed in Part Third of the Constitution of India. The concept of making law to benefit particular religion or religions is alien to the provisions of the Constitution. Under the umbrella of the fundamental rights guaranteed in Part Third of the Constitution, every citizen is entitled for equal benefit and treatment and there can be no departure from the constitutional mandate enshrined in Article 14, 15 and 27 of the Constitution of India.
- D. Because the Constitution Assembly has rejected to make any special or separate provision for minorities. It is in the Constitution Assembly Debates that provision was being

enacted from Article 25 to 30 in the Constitution to ensure protection to the minorities and as such there was no reason to make any special provision for them.

- E. Because the Union of India is stretching the scope of Article 30 and taking a clue from the word 'Minority' for political reasons special provisions are being made making budgetary provision for providing financial help to a section of society distinguished on the basis of religion who do not come within the ambit of weaker section of the society.
- F. There are number of persons living below poverty line belonging to Hindu community and their economic condition is worst in comparison to the notified minority communities. The irony of fate is that despite poor financial condition, the Hindus are being deprived from the benefit of the scheme i.e. on the ground 'only' of religion and the members of notified minorities are being benefitted and promoted from the tax payer money in violation of Article 27 of the Constitution of India.
- G. Because the students of Hindu community are being discriminated before law and they being denied same benefit and same treatment as is being given to the members of other religious minority communities and this type of discrimination is made solely on the basis of religion from tax payer money clearly violating the provisions of contained in Article 14,15 and 27 of the Constitution of India.
- H. Because a student of Hindu community whose parents income is less than Rs.2.50 lakh from all the sources will not get same treatment in the matter of pursuing studies infringing his right to get education under Article 21A of the Constitution of India and denying him equal protection of law by discriminating him on the basis of religion which is alien to the provisions contained in Article 14, 15 and 27 of the Constitution of India.
- I. Because a student of Hindu community howsoever poor may be, living much below poverty line will be denied benefit of the

scheme only on the ground of his religion and he will suffer for not taking birth in any of the minority communities.

- J. Because disastrous financial condition and the poverty is not the criteria for providing financial help to the students of notified religious minority communities but same is being provided because they have been born in a community which is a religious minority community. It is clear that the action of the Central Government is not supported by any provision of the Constitution of India. The Central Government has conceived this idea on political considerations adopting appeasement policy to attract the voters belonging to notified minority communities.
- K. Because in case of *Bal Patil vs. Union of India* reported in (2005) 6 SCC 690 the Hon'ble Supreme Court has deprecated the practice of demanding minority status and has warned that such tendency will be disastrous for the sovereignty, unity and integrity of India and will give rise to separatist tendencies.
- L. Because due to action of Government giving special treatment to notified minority communities will give rise to unrest and dissatisfaction amongst majority Hindu community. Providing special benefit to minority community may allure a number of persons to embrace another religion and there may be demographic changes which is bound to affect to sovereignty and integrity of India.
- M. Because the Maulana Azad National Fellowship is not being given to the students on the basis of their financial condition or that they are living below poverty line or they belong to weaker section society but they are being given scholarship simply because they have taken birth in in a community which has been declared as religious minority community by the Central Government.
- O. Because the students of Hindu community howsoever in financial distress are being denied the same benefit of scholarship as is being given to the students of notified

minority communities under Maulana Azad National Fellowship scheme. Therefore, this scheme being funded by the Central Government from the tax payer money is a serious jolt on the theme and soul of the constitution brushing the very theme of Secularism, Rule of Law, Democracy and the Principles of Equality accepted by the Constitution of India. This type of discrimination is forbidden under Article 14 and 15 of the Constitution of India and the same is liable to be quashed.

- P. Because providing free coaching to the students of religious minority communities is abuse of public fund collected from taxes recovered from general public and highly discriminatory. The scheme aims to benefit the students of religious minority communities solely on the ground that they belong to declared minority community and said financial benefit is not being given to the students on the basis of their poor financial condition or that they belong to weaker section of the society.
- Q. Because the Parliament has approved such scheme violating the constitutional injunction in Article 14,15 and 27 of the Constitution of India at the cost of the interest of similarly situated students of Hindu community. The similarly situated students of Hindu community are being discriminated only on the basis of their religion and on the other hand the members of notified minority communities are being benefited on the basis of their religion.
- R. Because the candidates of Hindu community having much less than 50,000/- per month income (i.e. Rs.6 lakhs per annum) are not eligible to avail the scheme only on the ground the religion and on the other hand the candidates of notified religious minority on the basis of religion have been given financial assistance.
- S. Because the impugned scheme initiated for skill development for notified minorities is unconstitutional as the members of Hindu community have been denied benefit of the schemes solely on the basis of their religion whereas the members of

notified minorities are being benefited because they have born in that particular community.

- T. Because the impugned schemes are highly discriminatory, irrational and has nothing to do with the development of weaker sections of society and the same has been aimed to benefit the religious minorities which is per se unconstitutional being violative of Article 14,15 and 27 of the Constitution of India.
- U. Because the impugned schemes initiated for minority women have nothing to do with the financial condition. These schemes will benefit the women of notified minorities simply because they belong to such community and thus there is discrimination with similarly situated Hindu Women residing in urban and rural areas and they have been denied same benefit on the ground of their religion.
- V. Because the impugned schemes are totally wastage of public money. It has nothing to do with the objects sought to be achieve. The tax payer money is being utilized for the benefit of religious groups named as minority communities. Such concept is alien to the provisions of the constitution and violate the provisions contained in Article 14,15 and 27 of the Constitution of India.
- W. Because the Government of India from the tax payer money is contributing in the Finance Corporation created for minorities.
- X. Because the impugned schemes are totally wastage of public money. It has nothing to do with the objects sought to be achieved. The tax payer money is being utilized for the benefit of religious groups named as minority communities. Such concept is alien to the provisions of the constitution and violate the provisions contained in Article 14,15 and 27 of the Constitution of India.
- Y. Because the Government of India has prepared schemes for the benefit of religious minorities discriminating similarly situated citizens of Hindu community. It is respectfully



submitted that the Constitution does not envisage for making provision on the basis of religion giving an edge to members of minority community over the members of majority community, i.e. Hindu community.

- Z. Because the all the Nations who have conceived the idea of welfare State and have followed the concept of 'equality before the law for the citizens' have not made any special law or schemes for the benefit of religious minorities of the country.
- AA. Because the Constitution Assembly debated the matter thoroughly to safeguard the interest of religious minorities. It is relevant to mention that while ensuring equal production to have belief and worship in Article 30 religious minorities have been given right to preserve their religious education.
- BB. Because the Constitution makers could have never thought that the coming Government with political reasons will take a clue from the word minority occurring in Article 30 and will initiate special programmes, scheme and financial benefits for religious minorities.
- CC. Because PMJVK schemes makes it clear that the Government of India is promoting the minority religious groups at the cost of majority community. In para 5.1 of the impugned schemes it has been aimed that the schemes for minorities will be implemented on the basis of their population in a block which could be 25% of the population of minority community.
- DD. Because there is no justification for making provision for giving special financial help to the members of notified minorities over and above the interest of students of Hindu community and such action is unconstitutional being in violation of provisions contained in Article 14,15 and 27 of the Constitution of India. It is worth to mention that members of Hindu community are being denied benefit of the scheme 'Only' on the basis of religion as they are being denied benefit of the schemes for the reason that they belong to religious majority community.

- EE. Because initiation of schemes and financial assistance to religious minorities will hamper the interest of Hindu community. The Hindus are being put to disadvantages position simply because of their religion. It is respectfully submitted that inclination of the Central Government towards religious minorities may allure the poor and depressed class of Hindu community to embrace another religion.
- FF. Because the impugned schemes will weaken the sovereignty and integrity of India and may create chaos and unrest amongst Hindu community.
- GG. Because the religious minorities have been given sufficient protection under Article 29 and 30 of the Constitution of India but it is not for the Government to promote their religion and sponsor schemes in their favour to promote their interest.
- HH. Because the State, Government of India, State Government do not derive any power or jurisdiction under the Constitution to declare any community as a minority community. Any minority community can establish educational institution within the parameters of Article 30 of the Constitution of India.
- II. Because in case of Dayanand Anglo Vedic (DAV) College Trust and Management Society vs. State of Maharashtra reported in (2013) 4 SCC 14 the Hon'ble Court has held that the word 'Establishment' means bringing into being of an institution and it must be by minority community.
- JJ. Because the no Commission appointed under Article 340 of the Constitution of India has given an opinion to the effect that the notified minority communities are socially and educationally backward classes and to improve their condition grant should be made.
- KK. Because in absence of any report of any Commission describing the notified minorities as socially and educationally backward classes the Central Government, the Parliament have no power or jurisdiction to initiate any scheme and provide financial help to them.

- LL. Because since the schemes initiated by the Central Government is unconstitutional, the Minority Commission has no right to evaluate such schemes.
- MM. Because from tax payer money the State has no power or jurisdiction to establish any commission for minorities, especially when no report has been submitted by any commission appointed under Article 340 of the Constitution regarding their economic and social conditions.
- NN. Because the Parliament cannot make any law giving special benefit to religious minorities over and above the scope of Article 14,15(4), 16(4) and 46 of the Constitution of India.
- OO. Because the notified minority communities cannot be treated as weaker section of society. It may be that some of the members of those communities may be living below poverty line and could come within the term 'weaker' sections of the society but the notified communities as a whole cannot be treated as social and educationally backward within the meaning of Article 15(4) and 16(4) and cannot be considered to be weaker section under Article 46 of the Constitution of India.
- PP. Because the impugned act is against the secular character of the Constitution of India and offends the provisions contained in Article 14,15 and 27 of the Constitution of India.
- QQ. Because no purpose enshrined in Article 15(4),29, 30 and 46 of the Constitution of India can be achieved by establishing a separate commission for religious minorities.
- RR. Because after the acceptance of Mandal Commission report approved by the Hon'ble Supreme Court in case of Indra Swahany vs. Union of India reported in (1992) Supp. 3 SCC 217 there is no reason to enact a separate law for religious minority.
- SS. Because in the Mandal Commission report the conditions of members of different religious communities have been taken care of. The said report has considered the conditions of citizens belonging to different Castes, class and occupational

groups and nature of work being performed by different section of society while recommending for making special provision for giving grants to them.

TT. Because the Mandal Commission has discussed and elaborated the conditions of different segment of society whether based on religion, caste, class or traditionally engaged in different occupations. The Commission has discussed the conditions of members of Muslim, Sikh, Christian and other communities.

UU. Because socially and educationally backward classes including weaker section form a class within the meaning of Article 14 of the Constitution of India but there can be no further classification in the name of religion.

VV. Because the Minority Commission has been established from public money i.e. tax payer money out of the grant sanctioned by the Central Government. As such the establishment of Commission for the benefit and promotion of some religious minorities is in violation of Article 27 of the Constitution of India. Article 27 of the Constitution of India.

WW. Because the impugned NCM Act is ultra vires to article 14,15and 27 of the Constitution of India and is liable to be struck down.

#### PRAYER

It is therefore most respectfully prayed that this Hon'ble Court be graciously pleased to:

a) Issue an appropriate writ, order or direction striking down National Commission for Minorities Act, 1992;

- b) Issue an appropriate writ, order or direction or declaration to the effect that Central Government has no right, jurisdiction and power to grant benefits from tax payer money on the schemes framed in favor of notified religious minority communities as contained in Annexure P-2 to P-13 to the writ petition;
- c) Issue an appropriate writ, order or direction in the nature of mandamus restraining the Central Government from implementing and spending any money from Government fund on the impugned schemes as contained in Annexure P-2 to P-13;
- d) Issue an appropriate writ, order or direction in the nature of mandamus commanding the Central Government to give benefit of the beneficial schemes as contained in Annexure P-2 to P-13 to the writ petition uniformly to all the eligible candidates belonging to any creed, caste or religion on economic basis;
- e) Issue an appropriate writ, order or direction in the nature of mandamus commanding the Central Government to frame guidelines laying down necessary conditions and eligibility criteria for all the eligible candidates irrespective of their caste or religion to avail the benefit of Centrally sponsored beneficial schemes contained in Annexure P-2 to P-13 to the writ petition; and
- f) Issue such other order or directions as may be deem fit and proper to be passed in the interest of justice and to do complete justice in the matter.

DRAWN & FILED BY

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Drawn: .07.2019

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# Bar and Bench

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