Competitive Exams: Political Science Study Material Islamic Academy case

Islamic Academy Case, 2003

- The decision of the 11-member Bench (October 30, 2002) raised more questions than it answered. Flooded with writ petitions, a five-member Constitution Bench sat to interpret that verdict, and gave its opinion on August 14, 2003 (Islamic Academy of Education and Others Vs. State of Karnataka and Others).
- In the Islamic Academy case, the Supreme Court interpreted the T M A Pai judgment as having declared that: Unaided pjrofessiojial institutions are entitled to autonomy in their administration, but at the same time they should not forgo or discard the principle of merit.
- Secondly, it held that in unaided non-minority professional colleges a certain percentage of seats could be reserved by the management for students who had passed the Common Entrance Test held by itself or by the state/University, whjje the rest of the seats might be fiMed up on the basis of counselling by the state agency.
- Thirdly, the Bench suggested that unaided professional colleges should also make provisions for students from the poorer and backward sections of society.
- It said the government could prescribe the percentage of seats according to local needs and different percentages could be fixed for minority and non-minority institutions.
- The seven-member Bench appears to have considered it its duty to interpret the judgment in the T M A Pai case to identify exactly the law laid down in it
- pronounce as illegal what was not specifically said in the judgment.
- However, in the P A Inamdar case, the Bench held that nowhere in the T M A Pai case judgment it found any justification for the imposing of a seat-sharing quota or reservation policy by the state on unaided private professional colleges. The crucial paragraph in the T. M A Pai judgment interpreted differently in the Islamic Academy case and the P A Inamdar case is paragraph 68. The Bench in the P A Inamdar case interpreted this paragraph to mean that managements may adopt a policy in line with the reservation policy of the state to cater to the educational needs of the weaker and poorer sections of society, but it has to be on the basis of voluntary or consensual arrangements which can be reached between unaided private professional institutions and the state. It is clear that the Bench in the Islamic Academy case read this paragraph as a whole, while that in the P A Inamdar case read the two parts in isolation. The roots of this judicial aberration perhaps lie in the philosophy of the Supreme

Court as it evolved in the T. M A Pai judgment, which considered the right to establish and manage an educational institution as a fundamental right under 19 (1) (g) for the non-minorities and under Article 30 for the minorities. As a corollary, the Supreme Court examined whether reservation of seats in such institutions could be construed as a reasonable restriction under Article 19 (6).

- In the P A Inamdar case, the Bench held that such appropriation of seats cannot be held to be a regulatory measure in the interest of minority within the meaning of Article 30 (1) or a reasonable restriction within the meaning of Article 19 (6).