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(Mains GS 2:Issues relating to development and management of Social Sector/Services relating to Health, Education, Human Resources.)

Context:

- The National Commission for Protection of Child Rights (NCPCR) has released a report titled “Impact of Exemption under Article 15 (5) with regards to Article 21A of the Constitution of India on Education of Children in Minority Communities”.
- Minority schools are exempt from implementing The Right to Education policy and do not fall under the government’s Sarva Shiksha Abhiyan.
- Through this report, the NCPCR has recommended that these schools be brought under both RTE and SA, amongst a host of other recommendations.

The Right to education:

- In 2002, the 86th Amendment to the Constitution provided the Right to Education as a fundamental right.
- The same amendment inserted Article 21A, which made the RTE a fundamental right for children aged between six and 14 years.
- The passage of the amendment was followed by the launch of the Sarva Shiksha Abhiyan (SSA), a central government scheme implemented in partnership with the state governments that aimed to provide “useful and relevant, elementary education” to all children between six and 14 years.
- In 2006, the 93rd Constitution Amendment Act inserted Clause (5) in Article 15 which enabled the State to create special provisions, such as reservations for advancement of any backward classes of citizens like Scheduled Castes and Scheduled Tribes, in all aided or unaided educational institutes, except minority educational institutes.

Minority schools exempt from RTE and SSA:

- The government brought the Right to Education (RTE) Act, 2009, which centres around inclusive education for all, making it mandatory to include underprivileged children in schools.
- Specifically, Section 12(1)(c) of the Act provided for 25 percent reservation of seats in unaided schools for admission of children from economically weaker sections and disadvantaged groups.
- As opposed to these Acts, Article 30 of the Constitution states the right of minorities to establish and administer educational institutions, with a view to provide opportunities to children from different religious and linguistic minority communities to have and conserve a distinct culture, script and language.
- Subsequently, in 2012, through an amendment, the institutions imparting religious education were exempted from following the RTE Act.
- Later on, in 2014, while discussing the validity of exemption under Article 15 (5), the Supreme Court declared the RTE Act inapplicable to schools with minority status
- The Court held that the Act should not interfere with the right of minorities to establish and administer institutions of their choice.

The Commission's study:

- The Commission's objective was to assess the impact of this exemption of minority educational institutions from various guidelines that are mandatory for non-minority institutions.
- The Commission is of the view that the two different sets of rules – Article 21A that guarantees fundamental right of education to all children, and Article 30 which allows minorities to set up their own institutions with their own rules and Article 15 (5) which exempts minority schools from RTE – as "creating a conflicting picture between fundamental right of children and right of minority communities".

The findings of the report:

- The Commission has observed in the report that many children who are enrolled in these institutions or schools were not able to enjoy the entitlements that other children are enjoying because the institution they are studying in is exempted and is enjoying the rights of minority institutions.
- The Commission has said there have been certain detrimental effects of the exemption – on the one hand there are schools, mostly Christian Missionary schools, which are admitting only a certain class of students and leaving underprivileged children out of the system, thus becoming what the Commission has called "cocoon populated by elites".
- As opposed to this, other types of minority schools, in particular madarasas, have become "ghettos of underprivileged students languishing in backwardness" says the Commission.

Sense of alienation and inferiority:

- The Commission has said that students in madarasas which do not offer a secular course along with religious studies – such as the sciences – have fallen behind and feel a sense of alienation and “inferiority” when they leave school.
- The report also finds that only 4.18% of total students received benefits such as freeships, free uniforms and books, scholarships, etc. from school.
- For ensuring free and compulsory quality education to children, the RTE Act, 2009 provides for norms pertaining to basic minimum infrastructure, number of teachers, books, uniform, Mid-day Meal etc, benefits that students in minority schools have not been receiving.

Surges in minority schools:

- The Commission has also found surges in the number of schools applying for minority status certificates after the 93rd amendment was brought in, with more than 85% of the total schools securing the certificate in the years 2005-2009 and later.
- The Commission believes this took place as schools wanted to operate outside the legal mandate to reserve seats for backward classes.
- A second increase in the number of schools securing MSC was seen in 2010-2014, soon after the RTE was made inapplicable to unaided minority schools.
- In 2014, the Pramati judgement made the entire RTE Act non-applicable to minority schools.

The proportion of minority schools and students:

- The Commission has found a disproportionately high number of Christian Missionary schools in the country, in relation to the population of Christians, as well as to the number of schools run by other minority groups.
- According to the report Christians comprise 11.54 percent of the minority population but run 71.96 percent of schools, Muslims comprise 69.18 percent of the minority population but run 22.75 percent of schools.
- Sikhs comprise 9.78 percent minority population and run 1.54 percent schools, Buddhist comprise 3.83 percent minority population and run 0.48 percent schools and Jains comprise 1.9 percent of the minority population and run 1.56 percent of schools.

The non-minority students:

- It also finds that 74 per cent of students studying at Christian missionary schools are non-minority students.
- The report says that across minority communities – 62.50% of students in minority schools belong to non-minority communities.
- Further, only 8.76% of total students in minority schools belong to socially and economically disadvantaged backgrounds.

Introduce strict guidelines:

- The Commission has said that state governments need to introduce strict guidelines on the minimum percentage of minority students that these schools need to admit.
- The Commission also suggested looking at the proportion of schools run by a particular minority community in relation to the size of the population living in the state, before the school is awarded recognition.

Findings with regards to madarasas:

- There are three kinds of madarasas in India. Madarasas recognised by the government, which usually impart both religious as well as secular Courses, including the sciences.
- There are 10,064 such madarasas in India and the Commission points out that these were the ones taken into consideration by the Sachar Committee when it said four per cent Muslim students (15.3 lakh) studied in madarasas.
- There are unrecognised madarasas, which the government hasn't recognised because they do not impart secular education or lack in physical infrastructure, including the number and quality of teachers.
- Then, there are unmapped madarasas which have never applied for recognition and function in a more informal setup – there is no data on how many such madarasas exist and how many students study there.
- In 2016, there were 3.8 crore Muslim children in the ages of 6-14 years, of which 2.7 crore children were enrolled in schools and 1.1 crore were out of school.