

## FREEDOM OF RELIGION AND ATTIRE



### Issue

Several girl students were prevented from attending college classes for wearing hijab in Karnataka's Udupi district.

### Background

Imposition of dress code in colleges that can interfere with religious rights of students has complicated the issue.

### Details

The main questioning arising during the episode is whether the right to wear a hijab is constitutionally protected.

### Religious freedom in constitution

- Freedom of conscience and the right freely to profess, practice and propagate religion is granted under Article 25(1) of the constitution.
- However, the state has powers to restrict the right on grounds of public order, decency, morality, health and other state interests.

### The essential religious practice test

- To determine what all practices are essential for religion, the Supreme Court has devised a test known as 'essential religious practice test'.
- It will help courts decide which practices to be constitutionally protected and what not. It originated during the 'Shirur Mutt case' in 1954.
- Firstly, the essential aspects of the religion are determined with reference to the doctrines of that religion itself.

### Criticism

It has been criticized by legal experts as it pushes the court to delve into theological spaces.

### Suggestions

Legal experts have asked the courts to use the test to prohibit religious practices for public order rather than determine its essentiality in religion.

### Rulings on hijabs

- The Kerala High court in 2015 had asked CBSE to conduct additional check for students who intended to wear a dress that was contrary to the dress code for appearing for exam.
- In *Fathima Tasneem v State of Kerala* (2018), the collective rights of an institution were given primacy over individual rights of the petitioner.
- The court said that petitioners cannot seek imposition of their individual right as against the larger right of the institution.

### NOTES

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