



ANALYSIS OF ARTICLE 27 OF THE INDIAN CONSTITUTION

Sowjanya. M* Poornima. N* Yashas Mohan Kumar*

ABSTRACT

We can observe India's commitment to secularism through Article 27 of the Indian Constitution. Indian secularism concept is different and unique from the whole Western world. India respects all religions equally and there is no official religion for this nation. India recognizes personal laws, focuses on communal harmony, and protects minority rights. The article 27 Prohibits the use of public funds for the promotion or maintenance of any particular religion. This article demonstrates Indian secularism which says any religious institution cannot be taxed to promote any specific religion. In this article go across historical background, interpretation of Article 27, the concept of tax and fees and their differences, a discussion on the religious denominations, overview of taxed, and non-taxed religious institutions. Article 27 is a multidimensional approach and this paper provides the disclosure of state involvement in religion.

Keywords: Constitution, Taxation, Religious institutions.

INTRODUCTION

The term Religion has not been defined in the Constitution, and it is a term that is not susceptible to any precise definition. The Supreme Court has, however, given this term and expansive content. The Supreme Court has observed in *The Commissioner Hindu Religious Endowment Madras v. Sri Lakshmindra*, said that "Religion is certainly a matter of faith with individuals or communities and it is not necessarily theistic. There are well-known religions in India like Buddhism and Jainism which do not believe in God or any intelligent first cause. It is clear from the constitutional schemes that it guarantees equality in the matter of religion to

*BA LLB, SECOND YEAR, KLE LAW COLLEGE, BENGALURU.

*BA LLB, SECOND YEAR, KLE LAW COLLEGE, BENGALURU.

*BA LLB, SECOND YEAR, KLE LAW COLLEGE, BENGALURU.

all individuals and groups regardless of their fate, emphasizing that there is no religion of the state itself.

The preamble of the constitution read in particular with articles 25 to 28 emphasizes this aspect and indicates that in this manner the concept of secularism embodied in constitutional schemes as creed adopted by the Indian people has to be understood while examining the constitutional validity of any legislation on the facet of the right to equality woven as the central golden thread in the fabric depicting the pattern of the scheme of our constitution. Secularism in India is a foundational principle enshrined in the Constitution, ensuring that the state treats all religions with equal respect and does not favor or discriminate against any particular faith.

Article 27 explicitly prohibits the imposition of taxes whose proceeds are used for the promotion or maintenance of any religion, reinforcing the commitment to secular governance. As M.P. Jain discusses in Indian Constitutional Law, this provision underscores the importance of maintaining a separation between religion and state affairs, ensuring that no citizen is compelled to financially support a religion they do not adhere to. Similarly, D.D. Basu in Introduction to the Constitution of India emphasizes that Article 27 serves as a safeguard for individual rights, reflecting the broader ethos of equality and non-discrimination that characterizes the secular fabric of the Indian state. Together, these interpretations highlight how secularism is operationalized through constitutional provisions, particularly about taxation and the promotion of religious neutrality.

HISTORY OF ARTICLE 27

History of the demand for fundamental rights in India traces back to the Simon Commission and Joint Parliamentary Committee, which was responsible for the Government of India Act, 1935, had rejected the idea of enacting declarations of fundamental rights on the ground that "abstract declarations are useless unless there exist the will and the means to make them effective". But the nationalist opinion of our country, since the time of the Nehru Report, was definitely in favor of the Bill of Rights because the experience gathered from the British regime was that a subservient legislature might serve as a handmaid to the executive in committing inroads upon individual liberty.

Regardless of the British opinion, therefore, the makers of our Constitution adopted Fundamental Rights. These rights are borrowed from the US Constitution; Article 27 of the

Indian constitution is in the First Amendment of the US Constitution, which prohibits the United States government from favoring religious institutions.¹ Taxation exemption for religious institutions was made later through US Supreme Court verdicts.

Article 27 was Article 21 in the draft constitution and the draft Article 21 (Article 27) was debated on 7 December 1948. It prohibits the State from imposing taxes to raise funds for the promotion of religious institutions or maintenance of any specific religion. Confusion was raised between members of the constituent Assembly about the Article's meaning. Some members seemed to have misinterpreted the Article to mean that religious property was not taxable. Operating under this false understanding, a member argued that religious property should be treated on par with other types of property and should be taxable. Another member intervened to clarify the true meaning of the Draft Article.

He pointed out that in Indian history, kings often collected a special tax to support a particular religion; this use of public tax money had no place in secular India. Therefore, these amendments were all rejected finally, the Draft Article was adopted without amendment on 7 December 1948. Later, some cosmetic amendments were made to the Draft Article by the Drafting Committee². Article 27 provides that no person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination.

INTERPRETATION OF ARTICLE 27

Article 27 expressly states that no individual shall be compelled to pay taxes whose proceeds are utilized for the promotion or maintenance of any particular religion. This provision reflects a fundamental commitment to equality and non-discrimination, safeguarding individuals from being forced to financially support a faith with which they do not identify. The essence of Article 27 is rooted in the idea that the state must maintain neutrality in matters of religion, thus promoting a diverse and pluralistic society. Judicial interpretations of this article have consistently reinforced its significance, with the courts emphasizing that the imposition of taxes for religious purposes is unconstitutional.

¹ Laura Temme, Esq, Tax Exemptions of Religious Property Under the First Amendment, FINDLAW, (July 20, 2022), <https://constitution.findlaw.com/amendment1/annotation03.html>.

² Sudhir krishaswamy, Freedom as to payment of taxes for promotion of any particular religion, CENTRE FOR LAW AND POLCY RESEARCH, <https://www.constitutionofindia.net>.

Notably, this article complements other constitutional provisions, such as Articles 25 and 28, which collectively enshrine the right to freedom of religion, ensuring that citizens can practice their beliefs without state interference or financial obligation. Furthermore, scholars such as M.P. Jain in *Indian Constitutional Law* and D.D. Basu in *Introduction to the Constitution of India* has elaborated on how Article 27 not only protects individual rights but also reflects the broader ethos of secular governance as envisioned by the framers of the Constitution.

By preventing the use of public funds for religious purposes, Article 27 upholds the integrity of a secular state and fosters an environment where all religions can coexist harmoniously, free from governmental favoritism or financial burden. Ultimately, this article is a testament to India's constitutional commitment to ensuring that the state remains a neutral arbiter in religious affairs, thus safeguarding the democratic values of freedom, equality, and respect for diversity.

MAHANT SRI JAGANNATH RAMANUJDAS V. STATE OF ORISSA (1954)³

Is a landmark case majorly, and this case figures out the first condition of this article if the levy is upon the nature of the fee, it does not fall within the prohibition of this article. This case said that there is no generic difference between a tax and a fee, and both were different forms in which the taxing power of a state manifests itself. Here Mahant Sri Jagannath Ramanuj Das, the head priest of the Jagannath Temple, was the petitioner. The State of Orissa was the respondent.

Mahant Sri Jagannath Ramanuj Das, the head priest of the Jagannath Temple. The Act also imposed taxes to manage and maintain Hindu temples. The issue was whether the tax under the Orissa Hindu Religious Endowments Act, 1939⁴ Violated Article 27, which prevents the use of taxes to promote or maintain any particular religion. The petitioner claimed that the tax was being used directly to support Hindu temples, which promoted a particular religion, violating Article 27. He also argued that the government had no right to interfere in religious matters.

The state argued that the Act aimed to ensure proper management of religious endowments for the benefit of the public, not to promote Hinduism. The taxes were for administrative purposes to ensure that religious institutions were managed properly, not for promoting religious activities. The Supreme Court ruled in favor of the State of Orissa, finding that Article 27 had

³AIR 1954 SC 400: 1954 SCR 1046

⁴ Orissa Hindu Religious Endowments Act, 1939, Act No. IV, Acts of Parliament, 1939 (India).

not been violated. The court explained that Article 27 prevents tax money from being used directly for religious promotion, but the tax in this case was meant for administrative control over religious institutions. Since the tax was used for managing and regulating religious properties and not for promoting Hinduism, it didn't violate Article 27.

As long as the money was for administrative purposes and not for religious activities, the law was constitutional. The court ruled that the Orissa Hindu Religious Endowments Act, 1939 did not breach Article 27 because the tax was meant for proper administration of religious institutions, not for promoting religion. Therefore, the state's actions were legal.

If the government spends money on cultural programs for great personalities, where that act doesn't promote any religion; instead, it promotes the country's culture, heritage, and traditions; this was discussed in *Suresh Chandra v. Union of India*.⁵ In that case, the Government of India agreed to support the cultural program for the celebration of the 2500th Nirvana (salvation) of lord Mahavir. The court held that the program didn't promote the Jain religion itself, but the central government has been honoring the memory of great sons of India impartially irrespective of the religion to which they belong.⁶

In another case, *Ramchandra v. State of West Bengal*, the court ruled that Article 27 does not invalidate the levy of a fee to provide some services, and fees can be levied on pilgrims to a religious fair to meet the expenses of the measures taken to safeguard their health, safety, and welfare of the pilgrims.⁷ In that case, Ramachandra, the petitioner, challenged the legality of a tax imposed by the State of West Bengal. The State of West Bengal was the respondent. The petitioner argued that the State of West Bengal was using public funds to support religious institutions, particularly Hindu temples, through a special tax or fee.

The petitioner claimed this violated Article 27, which prohibits using tax money for the promotion or maintenance of any particular religion. The issue was whether the state's use of tax revenue for religious institutions violated Article 27, which prohibits the use of tax money for the promotion or maintenance of any religion. Ramachandra argued that public funds were being used to maintain religious institutions, specifically Hindu temples, which forced people to financially support a particular religion.

⁵ ILR1975DELHI32B

⁶ M.P. Jain. Indian Constitutional Law. 7th ed., LexisNexis, 2017, pgno.1264.

⁷ M.P. Jain. Indian Constitutional Law. 7th ed., LexisNexis, 2017, pgno.1263.

He claimed this was a violation of Article 27 the state argued that the tax wasn't intended to promote religion but was meant to ensure the proper administration and maintenance of public properties, including religious places. The state maintained that the funds were used for secular, administrative purposes, not religious promotion.

The court ruled in favor of the State of West Bengal, deciding that Article 27 was not violated. The court clarified that Article 27 only prohibits taxes that are meant for direct religious promotion. Since the funds were used for general administrative purposes and not specifically to support religious activities, there was no violation of Article 27.

The court concluded that using public funds for the administration and upkeep of religious institutions did not violate Article 27, as the money was not used to directly promote religion but for general management. Therefore, the state's actions were lawful. Irrespective of religion, the state utilizes government funds to bring back the general public situation from any disturbance; this act doesn't violate this article.⁸

This was upheld in the case of *K. Raghunath V. State of Kerala*.⁹ K. Raghunath, the petitioner is an advocate and he, as a taxpayer, has filed a mandamus writ petition for Kannur to forbear from spending any amount from the public funds of Kerala State to reconstruct the places of worship destroyed during the recent disturbances. On 28th-29th December 1971, in Kannur, there were some unfortunate incidents in the surrounding villages between two sections of the people, Hindus, and Muslims, and as a result, some shops, buildings, and places of worship of both sections were destroyed. The government took relief measures through the Distress Relief Fund the government orders that the cost of repairs or reconstruction for the restoration to the condition existing before the incidents of religious and educational institutions and the houses damaged will be met by the Government. The petitioner argued that public money is spent on the promotion of religious institutions, a violation of Article 27. The defendant said that the Government has not sought to utilize any State fund for promoting any particular religion or its cause because the Distress Relief Fund is made up of contributions by the Government, District, and Taluk Committees and by the Public, Association, Clubs, etc.

The issue was whether the Distress Relief Fund is a fund of the Government constituted by taxes collected by the Government. So, it is not possible to say that this is a fund of the

⁸ V.N. Shukla. Constitution of India. 13thed., EBC, 2017.

⁹ AIR 1974 KER 48, 1972 KERLT 442

Government constituted out of taxes collected by the State. And since the Distress Relief Fund is not a fund constituted out of taxes collected by the Government, no question of “specific appropriation” can also arise as contemplated by Article 204.

And even still there is the further question whether there is any promotion or maintenance of a particular religion or religion denomination in this case. Houses, schools, and places of worship belonging to both religious groups. Hindus' and Muslims' houses were damaged, and in restoring them to their original condition, there is no question of promotion or maintenance of any particular religion. None of the elements contemplated by Article 27 of the Constitution are present in this case. It was for these reasons that the court dismissed the writ petition though without any order regarding costs.

The same rule came out, in *Motidas Vs. Shashi*.¹⁰ The argument was Moti Das (the person challenging the tax, the petitioner) argued that the tax was wrong because it was being used for religious purposes, which violated his rights under Article 27. Shashi Bhushan (representing the state, the respondent) argued that the tax was not specifically for religion but for general public purposes, like maintaining public services, even if some religious places also benefited.

The court decided that Article 27 only stops taxes that are directly meant to support a particular religion. If the tax is mainly for public services or general purposes, and religious places benefit only indirectly, then it's not a violation of Article 27. In this case, the court ruled that the tax did not break the law because its primary purpose was not religious. Even though this interpretation of Article 27 through case laws seems reasonable in practice, it's still not entirely clear how it applies in every situation.

DIFFERENCE BETWEEN TAX AND FEE

A tax is a compulsory financial charge levied by the government on individuals or entities, primarily to generate revenue for public expenditure. Taxes are collected to fund government operations and public services, such as infrastructure, education, defense, and healthcare. Taxes are mandatory; individuals cannot opt out of paying them. There is no direct correlation between the amount paid in taxes and specific services received.

A fee is a charge levied by the government for specific services or benefits provided to individuals or entities. Fees are intended to cover the costs of providing specific services,

¹⁰ 1959 AIR 942

regulatory functions, or administrative processes. While many fees are mandatory (e.g., licensing fees), some may be voluntary (e.g., admission fees). There is a direct link between the fee paid and the service received. Fees are often earmarked for the specific service or function for which they were charged.

The Supreme Court observed that the contribution levied under the Madras Hindus Religious and Charitable Endowments Act, 1951 was like tax and no fee.¹¹ In the landmark case *Commissioner, Hindu Religious Endowments V. Sri Lakshmi Narayan of Shirur Mutt*¹². This landmark case involved a dispute over the administration of Hindu religious endowments and addressed significant issues regarding religious freedoms under the Indian Constitution, particularly Article 27.

The case arose in the context of the administration and control of Hindu religious institutions, specifically regarding the management of properties and funds associated with the Shirur Mutt, a religious organization in Karnataka. The state government enacted legislation aimed at regulating Hindu religious endowments, which included provisions for the appointment of commissioners to oversee these institutions.

The core issue was whether the government's involvement in managing religious endowments violated the rights of religious institutions under Article 27, which prohibits compelling individuals to pay taxes for the promotion of any religion. The state argued that the regulation was necessary to ensure proper management and transparency in the administration of religious properties, thus serving the public interest. The Mutt contended that the legislation infringed upon their religious freedom and autonomy. They argued that the state's intervention would interfere with their right to manage their religious affairs, which is protected under the Constitution.

The Supreme Court of India ruled in favor of Sri Lakshmi Narayan of Shirur Mutt, emphasizing that the regulation of religious endowments must respect the freedom of religion guaranteed under Articles 25 and 26 of the Constitution. The court held that while the state has the power to regulate, it must not infringe upon the essential practices and autonomy of religious institutions. Although Article 27 specifically addresses taxation for religious promotion, the

¹¹ V.N. Shukla. Constitution of India. 13thed., EBC, 2017.

¹² AIR 1954 SC 282: 1954 SCR 1005

principles established in this case regarding government intervention in religious matters directly relate to the broader context of religious freedom.

The judgment reinforced the idea that religious institutions should not be compelled to accept government control or oversight in a manner that undermines their autonomy, aligning with the intent of Article 27 to protect individuals from state coercion in religious matters. The case is significant in reinforcing the secular nature of the Indian state and the importance of protecting religious institutions from undue government interference, thereby supporting the rights guaranteed under the Constitution.

It underscores the balance between state regulation and religious freedom, relevant to the interpretation of Article 27. In the case of *Prafull Goradia vs Union of India*¹³ case, the Haj Committee Act, 2002¹⁴ Was challenged, and the court said that Article 27 applies to both direct religious taxes and general taxes (like income tax) used for religion. However, if the amount of money used is small, it's not breaking Article 27. In summary, the key difference lies in the purpose and nature of the charges: taxes are general revenue-raising mechanisms with no direct benefit, while fees are specific charges for particular services that provide a direct benefit to the payer.

TAXED TEMPLES AND NON-TAXED TEMPLES

Taxed temples are those that are subject to government taxation and regulation, often due to the income they generate from various sources, such as donations, offerings, or commercial activities. Many states have enacted specific laws governing Hindu religious endowments. These laws often require temples to pay property taxes and other levies. The Hindu Religious and Charitable Endowments Act¹⁵ Various states regulate the management of temples and may impose certain taxes or fees.

Taxed temples are often subject to oversight by government authorities or commissioners. This oversight is intended to ensure transparency in financial dealings and proper utilization of funds for religious and charitable purposes. Prominent temples with significant income, such as the

¹³ 2011 AIR SCW 789

¹⁴ Haj Committee Act, 2002, Act No.35, Acts of Parliament, 2002.

¹⁵ Hindu Religious and Charitable Endowments Act, 1959, Act No.22, Acts of Parliament, 1959.

Tirumala Tirupati Devasthanams and Shri Jagannath Temple, may fall under such regulations. Non-taxed temples are those that are exempt from certain taxes and government oversight.

This exemption is typically granted due to their small size, lack of significant income, or historical and cultural importance. Temples recognized as places of worship may enjoy exemptions under various tax laws. These include exemptions from income tax, property tax, and other local levies. Certain charitable activities conducted by these temples may also be eligible for tax benefits under Section 80G of the Income Tax Act.¹⁶

Non-taxed temples often play a vital role in local communities, providing spiritual, social, and charitable services without the constraints of government regulations. They may rely heavily on local donations and community support. Many small local temples and shrines, particularly in rural areas, may be classified as non-taxed due to their limited income and community-centric focus.

Taxed temples often have to adhere to stricter financial management and transparency requirements, while non-taxed temples may have more flexibility. The taxation and regulation of temples can raise issues related to religious freedom and the autonomy of religious institutions, as seen in various legal cases. The distinction affects how temples engage with their communities, fund charitable activities, and maintain their religious practices. The taxation of temples in India highlights the balance between government regulation and religious freedom.

CONCLUSION

Article 27 deals against the taxation of religious institutions which is important for maintaining a clear boundary between the government and religion in a secular country like India. This helps to protect religious freedoms, allowing these institutions to grow without the burden of taxes. While the government can help with religious practices, it should not violate and interfere with the freedoms that the Constitution guarantees. Overall, it is necessary that religious institutions can work and move further without government interference or help to maintain a fair and peaceful environment where all religions can coexist without fear of financial or political pressure.

¹⁶ Income Tax Act, 1961, Act No.43, Acts of Parliament, 1961 (India).