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Q2

Whether National Commission for Scheduled Castes (NCSC) can enforce the implementation of constitutional reservation for the Scheduled Castes in the religious minority institutions? Examine.

UPSC Civil Services Mains 2018 · GS II · 10 marks · Indian Constitution

Indian Constitution - historical underpinnings, evolution, features, amendments, significant provisions and basic structure.

Core demand of the question

- **Whether National Commission** for Scheduled Castes (NCSC) can enforce the implementation of constitutional reservation for the Scheduled Castes in the religious minority institutions?
Examine
- Centre **Articles 15, 30 and 338**, the 93rd Amendment, and the recommendatory nature of the Commission

Revision summary

Article 338 makes the NCSC a constitutional watchdog, not a court that can execute reservation.

Articles 15(4) and 16 bind the State; **Article 15(5)** expressly spares minority institutions under **Article 30**.

T.M.A. Pai, P.A. Inamdar, **Ashoka** Kumar Thakur and Pramati protect that minority space.

The Commission may still take discrimination complaints and advise on grants.

Only a constitutional amendment, not an NCSC order, could force SC reservation into genuine religious minority institutions.

Flow diagram

Article 338 NCSC -> Inquire advise report

Arts 15-4 16 Arts 15-4 16 SC reservation reservation -> State and aided public seats

Art 15-5 exception -> Art 30 minority institution

Art 30 minority institution -> No forced Arts 15-4 16 SC reservation roster

Inquire advise report -> State and aided public seats

Conclusion

- Keep **Article 30** intact, but publish transparent minority-character tests so fake minority colleges cannot evade both reservation and regulation.
- Use aid, recognition and the NCSC's complaint jurisdiction against caste humiliation, even where a numerical SC roster cannot be forced.

- Parliament, not the Commission, would have to amend **Article 15(5)** if the political choice is to extend reservation into minority institutions; that choice has so far gone the other way.

The NCSC can monitor, inquire and recommend, but it cannot enforce Scheduled Caste reservation inside religious minority educational institutions against **Article 30** and the express exception in **Article 15(5)**. Social justice in those campuses will come from anti-discrimination scrutiny, aid conditions and honest minority-character tests, not from treating the Commission as a second Supreme Court.

Facts & figures

Article 338

Constitutional status, functions and report of the **National Commission** for Scheduled Castes, including inquiry into complaints of deprivation of safeguards.

Article 30(1)

Right of religious and linguistic minorities to establish and administer educational institutions of their choice.

Constitution (93rd Amendment) Act, 2005

Inserted **Article 15(5)**, allowing reservation in private educational institutions except minority institutions under **Article 30**.

P.A. Inamdar v. State of Maharashtra (2005)

Held that the State cannot impose reservation on unaided private professional institutions in the manner then sought.

Pramati Educational and Cultural Trust (2014)

Held that the RTE Act, 2009, does not apply to minority educational institutions under **Article 30**.

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