

**IN THE SUPREME COURT OF INDIA
(CRIMINAL APPELLATE JURISDICTION)**

SPECIAL LEAVE PETITION (CIVIL) NO. 008541 OF 2024

IN THE MATTER OF :

ANJUM KADARI

...PETITIONER(s)

Versus

UNION OF INDIA

...RESPONDENT(s)

AND IN THE MATTER OF:

**NATIONAL COMMISSION FOR
PROTECTION OF CHILD RIGHTS [NCPCR]
THROUGH THE CHAIRPERSON**

...APPLICANT

**WRITTEN SUBMISSIONS ON BEHALF OF NATIONAL
COMMISSION FOR PROTECTION OF CHILD RIGHTS [NCPCR] /
APPLICANT.**

1. The Applicant National Commission for Protection of Child Rights (hereinafter referred to as NCPCR) is a statutory body constituted under Section 3 of the Commission for Protection of Child Rights Act, 2005 (hereinafter referred as “CPCR Act, 2005”) to protect child rights and other related matters in the country. NCPCR is further mandated to monitor the proper and effective implementation of the Protection of Children from Sexual Offences (POCSO) Act, 2012, Juvenile Justice Act, 2015, and Right to Free and Compulsory Education (RTE) Act, 2009. In addition to functions assigned under Section 13 of the CPCR Act, 2005, NCPCR has also been mandated under Section 13(1) (j) to take suo-moto notice of matters related to deprivation

and violation of child rights. In the light of above mentioned statutory mandate, the concern of NCPCR is limited to protection, welfare and rights of such children.

2. That NCPCR is committed to ensure welfare of children, strong institution-building processes, respect for local bodies and decentralisation at the community level and greater social concern in this direction. NCPCR emphasizes the principle of universality and inviolability of child rights and recognizes the tone of urgency in all the child related policies of the country. For NCPCR, protection of rights of all children up to the age of 18 years of age is a statutory duty and therefore the same is of utmost importance.
3. The Applicant Commission has been bestowed with various important functions as laid down under Section 13 and 15 of the Commissions for Protection of Child Rights (CPCR) Act, 2005 which imposes a duty upon NCPCR to take important actions and steps for ensuring welfare of children.
4. That it is respectfully submitted that NCPCR has been entrusted with certain functions as laid down in the CPCR Act, 2005 which are as follow:

“... Rule 17 Functions of the Commission: (h) Promote the incorporation of child rights into the school curriculum, teachers training and training of personnel dealing with children...”
5. It is further submitted that the Commission is the monitoring authority under Juvenile Justice Act, 2015, Right to Education Act, 2009 and Protection of Children from Sexual Offences Act, 2012 and is responsible for monitoring the implementation of the rights of the children, violations of the rights of the children and advises the Government on formulation, amendment and implementation mechanisms of any policy, or legislation related to children. Further, Section 31 of the Right to Education, Act empowers the Commission

to monitor the child's right to education. The same is reproduced hereinbelow for the convenience of this Hon'ble Court :-

“...31. Monitoring of child's right to education. (1) The National Commission for Protection of Child Rights constituted under section 3, or, as the case may be, the State Commission for Protection of Child Rights constituted under section 17, of the Commissions for Protection of Child Rights Act, 2005 (4 of 2006), shall, in addition to the functions assigned to them under that Act, also perform the following functions, namely: -

(a) examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation,

(b) inquire into complaints relating to child's right to free and compulsory education; and

(c) take necessary steps as provided under sections 15 and 24 of the said Commissions for Protection of Child Rights Act.

(2) The said Commissions shall, while inquiring into any matters relating to child's right to free and compulsory education under clause (c) of sub-section (1), have the same powers as assigned to them respectively under sections 14 and 24 of the said Commissions for Protection of Child Rights Act.

(3) Where the State Commission for Protection of Child Rights has not been constituted in a State, the appropriate Government may, for the purpose of performing the functions specified in clauses (a) to (c) of sub-section (1), constitute such authority, in such manner and subject to such terms and conditions, as may be prescribed. ...”

6. That it is most respectfully submitted that the Constitution of India through Article 21, guarantees every citizen the Fundamental Right to live with human

dignity in the country and in the facts and circumstances of this case, the States and institutions of the nature mentioned are becoming instrumental for violation of this right and infact violating the same on regular basis and further showing complete disregard to the protection, safety, education and welfare of children which is an important duty of a welfare State. The Right to education emanating from the Right to life and thereby being a natural right of a child, obligates the State to build, develop and aid such educational system which can provide the best quality education to children.

7. That it is also humbly stated that the Right to Education is constitutionally protected in India. In the landmark case being “Unni Krishnan v. State of Andhra Pradesh; AIR 2178, 1993 SCR (1) 594”, this Hon’ble Court affirmed that the right to education is an integral part of the fundamental right to life under Article 21 of the Constitution. This expanded the scope of Article 21, which had been progressively broadened during the 1980’s and 1990’s to encompass the right to “live with dignity.” As a result, various Directive Principles of State Policy, which are ordinarily non-justiciable under Article 37, were brought within the enforceable scope of Article 21. The significance of this was further solidified in the year 2002 when the Parliament passed the Eighty-Sixth Amendment Act, introducing Article 21-A into the Constitution. This new provision mandates the state to provide free and compulsory education to all children aged 6-14, in a manner determined by the state. The Eighty-Sixth Amendment Act of 2002 introduced Article 21-A, which enshrines the right to free and compulsory education for children aged 6 to 14 years. This amendment has been a significant step in recognizing education as a fundamental right and aimed to address educational disparities and for ensuring equitable access of education for all and therefore even after the 86th Constitutional Amendment Act of 2002 having being passed by Parliament in the year 2002 and coming into effect on April 1, 2010 we still stand today before this Hon’ble Court forced to highlight the said state of affairs which is denying the minor children their most important fundamental right of

education as enshrined under the Constitution of India and mandated under the provisions of Right to Education Act.

8. It is to be stated that the issue of children studying in Madrasa's is one which requires consideration by this Hon'ble Court and therefore, NCPCR, in the interest of the Children humbly submits that the education imparted to children in Madrasa is not comprehensive, and is therefore against the provisions of Right to Education Act, 2009.
9. That it is most respectfully submitted that, the denial to extend right to education to children by these institutions with minority status not just deprives the children of their most important fundamental right to education but this exclusion/denial of these children snowballs into depriving them of their fundamental right to Equality before law (Article 14); prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15(1)); that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment (Article 39(f)) and also interrupts States' responsibility under Article 13 (2) to not make any law which takes away or abridges the rights conferred under the fundamental rights and any law made in contravention of this shall, to the extent of the contravention, be void.
10. In the light of the above, it is humbly submitted that the Act, instead of an enabling tool, becomes a depriving tool for the children studying in minority institutions. In addition, such institutes are also providing Islamic Religious Education to Non-Muslims which is further in violation of Article 28 (3) of the Constitution of India.
11. That it is most respectfully submitted that following the 86th Amendment to the Constitution, the Constitution (Eighty-sixth Amendment) Act, 2002, was

passed to implement the "Right of Children to Free and Compulsory Education for Children in the Age Group of 6 to 14 Years," which provides for free and compulsory education of all children in the age group of six to fourteen years as a Fundamental Right in a manner that the State may, by law, determine. Consequently, with the objective of providing full time elementary education of satisfactory and equitable quality in a formal school with satisfactory norms and standards and a complete and free education, The Right of Children to Free and Compulsory Education Act, 2009 was passed. The legislation is anchored in the belief that the values of equality, social justice and democracy and the creation of a just and humane society can be achieved only through provision of inclusive elementary education to all.

12. Further it is to be stated that the Right to Education Act which flows from the Right to Life under Article 21 of the Constitution of India makes it an obligation on the State to provide free and compulsory education to all children between 6-14 years of age, without any discrimination or prejudice and ensure that children go to neighborhood schools for availing formal education as per Section 6 of the RTE Act, 2009.

13. That it is most respectfully submitted that the Right to Education Act which flows from the Right to Life under Article 21 of the Constitution of India makes it an obligation on the State to provide free and compulsory education to all children group of 6-14 years without any discrimination or prejudice and ensure that children go to neighborhood schools for availing formal education as per Section 6 of the RTE Act, 2009. The Act also prescribes regulations regarding minimum physical infrastructure, staff and facilities that all schools are required to provide, as well as educational benefits such as the requirement for students to be taught in age-appropriate classes, for students that are out-of-school to be placed in a special training center before enrolment in schools, barring schools from charging capitation fee or using screening procedure in admission, and prohibit corporal punishment etc.

14. That it is humbly submitted that Article 29 of the Constitution grants autonomy to the religious and linguistic minority groups to establish educational institutions for imparting religious education related to their culture and tradition. Article 21A of the Constitution of India guarantees children the right to education which therefore makes it the responsibility of the State to provide education to children aged 6 to 14 years in schools. Thus, in pursuance of the aforesaid constitutional provision, the Right to Education Act, 2009 was passed by the Parliament which came into force with effect from the year 2012. In the year 2012, the Right to Education Act, 2009 was amended thereby excluding Madrasas from the purview of the Right to Education Act under Section - 1. The same is reproduced below:

“ Sections 1(4) and 1(5) of the 2009 Act:

- Section 1(5) of the Act states: Nothing contained in this Act shall apply to madrasas, Vedic pathshalas and educational institutions primarily imparting religious instruction.
- Section 1(4) : Subject to the provisions of Articles 29 and 30 of the Constitution, the provisions of this Act shall apply to conferment of rights on children to free and compulsory education.

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In view of the above, it is humbly submitted that this Hon'ble Court in the case titled as “Pramati Educational & Cultural Trust ® & Others vs. Union of India & Others WP (C) No.416 of 2012” while appreciating the spirit of the provisions under the Constitution of India exempted Madrasas from the ambit of the Right to Education Act, 2009, however, the children studying in the Madrasas have never been exempted from the ambit of Article 21A of the Constitution of India in any judicial decision or constitutional interpretation. Article 15 of the Constitution of India ensures that all children have equal rights and therefore, attending a madrasa for religious education does not exempt these children from

the protection and rights as outlined under Article 21A, which mandates free and compulsory education for children aged 6 to 14. Articles 29 and 30 refer to the rights of specific communities to conserve their culture and establish educational institutions, while Article 21A specifically addresses the educational rights of children. Article 21 states right to life, it is clear that there can be no other right over the right to life of a human being. It is pertinent to mention here that the Commission has highlighted that all those children who are not in formal schooling system are deprived of their fundamental right to elementary education including the entitlements such as Midday Meal, uniform, trained teachers etc. and since Madrasas are exempted from the purview of the RTE Act, 2009, all children studying in the Madrasas are deprived of not only formal education in schools but also benefits as provided under RTE Act, 2009. Further, it is also humbly submitted that merely teaching a few NCERT Books in the curriculum is a mere guise in the name of imparting education and does not ensure that the children are receiving formal and quality education. Pramati case is a reference judgment which has decided two questions of law. While adjudicating upon the second issue, the discussion was merely on the right of the educational institutions under Article 19(1)(g) as to whether the State can ensure admission of children belonging to the weaker section of the society in 'unaided' private educational institutions and while doing so, whether there will be an abrogation of the right guaranteed under Article 19(1)(g) and Article 30(1). Therefore, it is to be noted that the right of a child to receive conventional elementary education under Article 21A and subsequently under the Act of 2009 was not in issue before this Hon'ble Court in the "Pramati Case" and therefore not decided. The judgment in "Pramati Case" does not deal with the interplay between Article 21A and Article 19(1)(g) or Article 30(1) with reference to children and their educational rights. Therefore, the judgment in the "Pramati Case" is not applicable to the issue that has been raised by the Applicant in the present case as this Hon'ble Court held that Madrasa is exempted from RTE Act on the ground that if the provisions of RTE Act are made applicable on minority institutions, it will amount to abrogation of right guaranteed under Article 30(1)

and 19 (1) (g).

15. That it is submitted that NCPCR in order to examine the impact of exemptions provided under Article 15(5) of the Constitution on the education of children studying in Minority Institutions across the country, initiated a study to examine and further published a report titled “IMPACT OF EXEMPTION UNDER ARTICLE 15(5) W.R.T. ARTICLE 21A OF THE CONSTITUTION OF INDIA ON EDUCATION OF CHILDREN OF MINORITY COMMUNITIES”. The said study concluded the following findings :

1. With respect to categorization of Madrasas: Madrasas can be categorized into the following types:

- i.** Recognized Madrasas: Madrasas who are imparting religious education and may be imparting formal education to some extent which is not as per Right to Education Act, 2009 and is recognized by State Madrasa Board and having a UDISE code. In 2015-16, there were 10,064 recognized madrasas in India. However, only these madrasas are taken into consideration in the Sachar Committee Report (2006) that, thus assumes that a mere 4% children attend madrasas. Further, only these recognized madrasas are eligible to avail funding from Government
- ii.** Unrecognized Madrasas: Madrasas found ineligible for recognition by the State Government are grouped under this category. They may be ineligible for a variety of reasons including, but not limited to, not imparting formal education, having non-compliant infrastructure, appointing unsuitable teachers, etc.
- iii.** Unmapped Madrasas: Madrasas that have never applied for recognition are grouped under this category. The UDISE does not take into consideration these madrasas that are established traditionally, which have not applied for recognition to the State

Government. These unmapped madrasas may or may not be attached to any religious or government organization and maybe sing their own set of norms or guidelines. It is extremely difficult to ascertain their specific number and the number of children going to these institutions since they have never been mapped formally. However, this is the common type of Madrasas in India, having largest number of children enrolled.

2. With respect to Enrolments in Madrasas:

Based on U-DISE Data 2021-22

Total enrolment in 2021-22 (class I-VIII)	18.86 crore
Percentage enrolment of Muslim Children	15.2 %
Enrolment of Muslim children in numbers	2.86 crore (15.2% of 18.86 crore)
Total number of Muslim children in India in the age 6-13 years (estimate)	4.11 crore
Number of Muslim children that are out-of-school	1.2 crore (4.11 – 2.86 crore)

Sachar Committee Report

4 percent Muslim children attend Madrasa	16.44 lakh (4% of 4.11 crore, estimate)
Remaining Muslim children in other institutions or are out-of-school	3.94 crore (4.11 crore- 16.44 lakh)
Enrolment as per UDISE	2.86 crore
Not enrolled	1.1 crore (3.94-2.86= 1.1 approx.)

Based on Census

Total number of children not attending any educational institutions (out-of-school) in India in the age 6-13 years	3.81 crore
Total number of children in India in the age 6-13 years	20.83 crore
Percentage of out-of-school children	18.2%
Total number of Muslim children in India in age 6-13 years (estimate)*	4.11 crore
Total number of Muslim Children Out of School Children	75 lakh

* The census provides religion wise population data in age-groups and not by specific year of age. So, the required Muslim population data is available in two groups 5-9 years and 10-14 years. The total muslim population for 5-14 years is 4,29,29,978. Total population in 5-14 years is 25,96,37,338. To draw the estimate for Muslim population in the age group of 6-13 years, following calculation is made-

Total population in 5-14 years is 25,96,37,338

Total muslim population for 5-14 years is 4,29,29,978

Total population of 5 years old- 2,60,54,230 (which is 2.15 % of total 5-14 years population)

So, the estimate Muslim population of 5 years of age- 2.15% of 4,29,29,978= 9,22,994

Total population of 14 years old- 2,52,58,169 (which is 2.08 % of total 5-14 years population)

Therefore, the estimate Muslim population of 14 years of age- 2.08% of 4,29,29,978= 8,92,943

Total number of Muslim children in India in the age 6-13 years (estimate)=
(Total muslim population for 5-14 years) minus (estimate Muslim population of 5 years of age +
estimate Muslim population of 14 years of age)

That is, (4,29,29,978)- (9,22,994 + 8,92,943)= 4,11,14,041 = 4.11 crore (approx..)

16. It is stated there are a large number of children attending Institutions that are not recognized. Children also attend such institutions that are unrecognized as these are unmapped and number of such institutions is not known. Therefore,

whether these institutions provide quality education and the information on the environment these institutions provide to children also remains unknown. Children attending all such institutions (unrecognised and/or unmapped schools) are to be treated as Out of School, even if they provide regular education.

17. That it is submitted that it cannot be overlooked that a child getting education in such an Institution will be devoid of basic knowledge of school curriculum which is provided in a school. It is important to highlight the definition of a school which is defined under Section 2(n) of the RTE Act, 2009, which means “any recognised school imparting elementary education”. The State cannot facilitate such activity beyond the RTE Act which is in violation to Article 21A of the Constitution of India. Madrasa’s being out of this definition have no right to compel children or their families to receive Madrasa’s education. A Madrasa is not only a unsuitable place to receive ‘fundamental’ education but also in absence of entitlements as provided under Section 19, 21,22, 23, 24, 25, and 29 of the RTE Act. Furthermore, Madrasa do not only render an unsatisfactory and insufficient model for education but also have an arbitrary mode of working which is wholly and in absence of a curriculum and evaluation procedure as laid down under Section 29 of the Right to Education Act, 2009. The same is reiterated below:

“ Section 29: Curriculum and evaluation procedure.

(1) The curriculum and the evaluation procedure for elementary education shall be laid down by an academic authority to be specified by the appropriate Government, by notification.

(2) The academic authority, while laying down the curriculum and the evaluation procedure under sub-section (1), shall take into consideration the following, namely:

(a) conformity with the values enshrined in the Constitution;

(b) all round development of the child;

- (c) building up child's knowledge, potentiality and talent;
- (d) development of physical and mental abilities to the fullest extent;
- (e) learning through activities, discovery and exploration in a child friendly and child-centered manner;
- (f) medium of instructions shall, as far as practicable, be in child's mother tongue;
- (g) making the child free of fear, trauma and anxiety and helping the child to express views freely;
- (h) comprehensive and continuous evaluation of child's understanding of knowledge and his or her ability to apply the same.

”

18. That it is respectfully submitted that the State has Constitutional duty/responsibility to provide education in schools which are duly defined under Section 2(n) of the RTE Act. The 86th Constitutional Amendment Act not only provides a Fundamental Right to the children to get elementary education, but it also obliges the State through Directive Principles of State Policy. The State being the guardian of all and also through the doctrine of “parens patrie” is liable under a duty to provide education through the mandate of Article 51(k). However, the fact of getting education in Madrasa through State fund instead of getting enrolled in a proper school obstructs the aforementioned Constitutional mandate.

19. That it is most respectfully submitted that from the aforementioned issues of curriculum, teacher eligibility, non-transparency/funding, and violations of the law of land, the Madrasa also fails to provide holistic environment to the children. Majority of Madrasa’s have no idea as to how to plan social events or extracurricular activities, like field trips, that could provide students with some level of experiential learning. In light of the same it is most respectfully submitted that many children in the country attend Madrasas, however, they

provide by and large, religious teaching with very little participation in the national mainstream education system.

20. That it is most respectfully submitted that Teachers who are appointed at Madrasas are appointed through the individual management of Madrasas failing to uphold the standards laid down under the Schedule of RTE Act stating the Norms and Standards for a school. In some cases, it has been observed that teachers don't even possess a Bachelor of Education/Diploma in Education or even meet the necessary qualification. The teachers appointed in madrasas are largely dependent upon the conventional methods used in learning Quran and other religious texts. This scanty and unregularized working in Madrasas creates a haywire system which just stands alone on the conventional ground of religion. The Right to Education Act of 2009, on the other hand, establishes extrinsic requirements and standards for teacher eligibility and obligations. The RTE, 2009 under Section 23 to Section 25 lays down the Qualification, Duties and Pupil-Teacher ratio for the teachers, which makes it a comprehensive model for the teachers. Further, it is pertinent to mention here that the fact that these provisions have not been adequately provided in the UP Board of Madrasa Education leaves the children in the hands of unskilled teachers. Further, the RTE Act, 2009, in its Schedule lay down Norms and Standards which gives details about Number of teachers, structure of building, Minimum number of working days, Teacher learning equipment, Library and a provision for co-curricular activities, which are absent in the UPBMEA. This absence not only limits the growth of the child, but also limits the available opportunities which could have given them a good career opportunity.

21. It is to be stated that the fact that these provisions have not been adequately provided or are absent in the State Madrasa Board Acts and therefore leaving the children in the hands of unskilled teachers. Further, the RTE Act, 2009, in its Schedule lay down Norms and Standards which gives details about Number

of teachers, structure of building, Minimum number of working days, Teacher learning equipment, Library and a provision for co-curricular activities etc. This not only limits the growth of the child, but also limits the available opportunities which could have given them a good career opportunity.

22. The RTE, 2009 provides for an institutional mechanism for protection of rights of the child through the National/ State Commissions for Protection of Child Rights. Section 31 of RTE Act, 2009 (Clarification on Provisions) provides for monitoring of several issues as mentioned in the said provision, such as mentioned in clause (iv) of the same. Education being the fundamental Right is not just limited to rendering education to children, but it also includes giving various 'Entitlements' which enable a child to get education in a sustainable manner. Right to free and compulsory education could not have existed in isolation. Providing a mere right to get education needs various modes which allow every child to get the same without any hindrance. The RTE Act, in the abovementioned provision provides for the same, which is reproduced herein below:

“Clause (iv) Entitlements:

- a. Textbooks
- b. Uniforms
- c. Library with books, newspapers, magazines
- d. Sports equipment
- e. Play material
- f. Mid-day Meal
- g. Special Training for age-appropriate education
- h. Transfer Certificates
- i. Completion Certificates ”

The Madrasa's, however, do not have any provisions for any of the above-mentioned entitlements. Madrasa's education is neither all-encompassing nor

thorough. It isn't helping children advance since it lacks so many crucial components of learning. The Madrasa's are infringing on children's fundamental right to a good education by failing to provide these basic requirements. Children are denied not only a suitable education but also a healthy atmosphere and improved opportunities for growth. To elaborate, it is most respectfully submitted that the RTE Act, 2009 aims to address the issue of Out-of-School children by ensuring their enrollment and retention in schools through various provisions and safeguards through the following provisions:

- a) **Compulsory Education:** It is mandatory for the Government to provide free and compulsory education to all children in the specified age group, including those out of school, ensuring they can enroll and complete their elementary education.
- b) **Provision for Special Training Centres for Out of School Children:** Special Training Centres (hereafter referred as STCs) for Out of School Children (hereafter referred to as OoSC) are set up under section 4 of the RTE Act, 2009. Special Training shall be based on especially designed/developed curriculum, syllabus and text Material- as per the age appropriate and approved by the academic authorities i.e. SCERT.
- c) **Non-Discrimination:** Prohibits discrimination in admission, retention, and completion of education based on various factors such as gender, socio-economic background, caste, or religion. This is to ensure that all Out-of-School children have equal access to education without any barriers.
- d) **Special Provisions for Disadvantaged Groups:** Provisions for implementing special measures to facilitate enrollment, retention, and success in schools, including additional support, scholarships, and other interventions to ensure their inclusion.
- e) **Monitoring & Grievance Redressal:** The RTE Act establishes mechanisms for monitoring the implementation of the Act and addressing grievances related to the denial of admission or any violation of the rights

provided under the Act. These mechanisms play a crucial role in identifying and addressing the challenges of Out-of-School children.

- f) Infrastructure & Resources: It emphasizes adequate infrastructure, teaching staff, and learning materials to provide quality education which includes provisions for additional classrooms, trained teachers, libraries, and other resources to create a conducive learning environment for Out-of-Schoolchildren.

23. That it is must respectfully submitted that Section 29 of the RTE Act, 2009, defines 'Curriculum and education procedure', wherein it says that academic authority should be specified by the appropriate government, which further will decide the curriculum, course and evaluation procedure for the children. Section 29 RTE Act is herein reproduced below:

“Section 29- Curriculum and evaluation procedure: - (1) The curriculum and the evaluation procedure for elementary education shall be laid down by an academic authority to be specified by the appropriate Government, by notification.

(2) The academic authority, while laying down the curriculum and the evaluation procedure under sub-section (1), shall take into consideration the following, namely:-

- (a) conformity with the values enshrined in the Constitution;
- (b) all round development of the child;
- (c) building up child's knowledge, potentiality and talent;
- (d) development of physical and mental abilities to the fullest extent;
- (e) learning through activities, discovery and exploration in a child friendly and child-centered manner;
- (f) medium of instructions shall, as far as practicable, be in child's mother tongue;
- (g) making the child free of fear, trauma and anxiety and helping the child to express views freely;

(h) comprehensive and continuous evaluation of child's understanding of knowledge and his or her ability to apply the same.”

For example, the definition of Education in UPBMEA is itself separate from the definition of education in RTE Act. The UPBMEA in its Section 2(h) defines Madrasa Education as “education in Arabic, Urdu, Parsian, Islamic-studies, Tibb Logic, Philosophy and includes such other branches of learning as may be specified by the board from time to time”, whereas the RTE Act, 2009 defines education in its Section 2 (f) as “elementary education means the education from first class to eighth class” which is further elaborated in the statute. It is important to note that the fundamental notion of education in the UPBMEA does not correspond to the requirements of Indian education, and that this curriculum in India is out-of-date and requires careful examination if it is to serve as a tool for the development of children. It is important to emphasize that religious education serves as the foundation of Madrasa education and that, in the absence of fundamental education, Madrasas are depriving children from their fundamental rights.

Although Section 9 of the UPBMEA provides a separate curriculum, it does not in any way take into account the basics of Section 29 of the RTE Act of 2009. Additionally, the UPBME Act of 2004's curriculum prescribes an intrinsically Islamic course and curriculum that only concentrates on Tahtania, Munshi, Maulvi, Alim, Kamil, Fazil, and other courses. The following is a reproduction of Section 9 of UPBMEA:

“Section 9- Functions of the Board - Subject to the other provisions of this Act the Board shall have the following functions, namely-

- (a) to prescribe course of instructions text-books, other books and instructional material, if any, for Tahtania, Fauquania, munshi, Maulavi, Alim, Kamil, Fazil and other courses;

(b) prescribe the course books, other books and instruction material of courses of Arbi, Urdu and Pharsi for classes upto High School and Intermediate standard in accordance with the course determined there for by' the Board of High School and Intermediate Education;

(c) to prepare manuscript of the course books other books and instruction material referred to in clause (b) by excluding the matters therein wholly or partiality or otherwise and to publish them;

(d) prescribe standard for the appointment of Urdu translators in the various offices of the State and ensure through the appointing authority necessary action with respect to filling up of the vacant posts;

(e) to grant Degrees, Diplomas, Certificates or other academic distinctions to persons, who-

(i) have pursued a course of study in an institution admitted to the privileges or recognition by the Board;

(ii) have studied privately under conditions laid down in the regulations and have passed an examination of the Board under like conditions;

(f) to conduct examinations of the Munshi, Maulavi, Alim and of Kamil and Fazil courses;

(g) to recognize institutions for the purposes of its examination;

(h) to admit candidates to its examination;

(i) to demand and receive such fee as may be prescribed in the regulations;

(j) to publish or withhold publication of the result of its examinations wholly or in part;

(k) to co-operate with other authorities in such manner and for such purposes as the Board may determine;

(l) to call for reports from the Director on the condition of recognized institutions or of institutions applying for recognition;

(m) to submit to the State Government its views on any matter with which it is concerned;

(n) to see the schedules of new demands proposed to be included in the budget relating to institutions recognized by it and to submit if it thinks fit, its views thereon for the consideration of the State Government;

(o) to do all such other acts and things as may be requisite in order to further the objects of the Board as a body constituted for regulating and supervising Madarsa-Education upto Fazil;

(p) to provide for research or training in any branch of Madarsa Education viz, Darul Uloom Nav Uloom, Lucknow, Madarsa Babul Ilm, Mubarakpur, Azamgarh, Darul Uloom Devband, Saharanpur, Oriental College Rampur and any other institution which the State Government may notify time to time.

(q) to constitute a committee at district level consisting of not less than three members for education upto Tahtania or Faukania standard, to delegate such committee the power of giving recognition to the educational institutions under its control it.

(r) to take all such steps as may be necessary or convenient for or as may be incidental to the exercise of any power, or the performance or discharge of any function or duty, conferred or imposed on it by this Act.”

24. That it is most respectfully submitted that the Board of Madrasa Education should not be regarded as an academic authority because it is merely a body with the power to conduct exams. While an academic authority is specified

under Section 29 of the RTE Act and must be notified by the Central Government at the National Level and the State Government at the State Level, the Board of Madrasa is performing all the activities of an academic authority under this Board. The exams administered by the Board of Madrasa Education is completely at odds with the curriculum created by NCERT and SCERT, keeping the students of Madrasas behind those who fall within the purview of RTE. Furthermore, it is a flagrant violation of a child's fundamental constitutional right to education to impart instruction that is entirely in the context of religion and that does not adhere to the requirements of the RTE Act, 2009, or any other applicable laws. Innocent children suffer as a result of the religious subject of education becoming institutionalized in Madrasas.

25. That it is most respectfully submitted that a Madrasa works in an arbitrary manner and runs in an overall violation of the Constitutional mandate, RTE Act and the Juvenile Justice Act, 2015. It cannot be overlooked that a child getting education in such an Institution will be devoid of basic knowledge of school curriculum which is provided in a school. A school is defined under Section 2(n) of the RTE Act, 2009, which means any recognised school imparting elementary education. A Madrasa being out of this definition have no right to compel children or their families to receive Madrasa education. A Madrasa is not only a unsuitable/unfit place to receive 'proper' education but also in absence of entitlements as provided under Section 19, 21,22, 23, 24, 25, and 29 of the RTE Act. Further, Madrasa do not only render an unsatisfactory and insufficient model for education but also have an arbitrary mode of working which is wholly in absence of a standardized curriculum and functioning. Further, due to the absence of provisions of RTE Act, 2009, the Madrasas are also deprived of entitlement as in Section 21 of the Act of 2009 pertaining to School Management Committee due to which Madrasas lack Committee for the purpose of monitoring its working because of which the parents are deprived of information regarding the progress of their children.

26. Further, it was also observed by the Commission that Madrasa are getting Unified District Information System for Education (UDISE) Codes despite not fulfilling the norms and standards as per the RTE Act, 2009. It is pertinent to mention here that the UDISE+ is a Management Information Systems initiated by Department of School Education and Literacy, Ministry of Education, GoI covering more than 14.89 lakhs of schools, 95 lakhs of teachers and 26.5 crores of children. (Schools, Teachers and Students Statistics As Per Academic Year 2021-22). UDISE+ has a mandate of collecting information from all recognized schools imparting formal education from Pre-primary to XII. UDISE+ collects data for recognised and unrecognised Madrasa. According to UDISE, recognised Madrasa are those that are recognised either by waqf board or madrasa board. However, it has also been observed that the recognised Madrasa do not comply with the norms and standards of RTE Act, 2009. It is also pertinent here that the Commission in this regard has written to the Secretary, Department of School Education & Literacy, Ministry of Education to issue necessary directions to all States/UTs to conduct inspections of the existing Madrasas with UDISE Code and thereafter the recognition and UDISE Code of Madrasa that do not comply with the norms under RTE Act, 2009 may be withdrawn with immediate effect. Through the said letter, it has also been requested that as the UDISE system is the source of data for the school education system with respect to schools, the same may not be extended to Madrasas and a separate category of UDISE may be created to collect information of Madrasa including recognised, unrecognised and unmapped Madrasas. The Department of School Education & Literacy, Ministry of Education in this regard has also issued a letter to Education secretaries of all States/UTs to share reports on NCPCR's letter. A reminder email has also been issued by the Department. (A True Copy of letter dated 25.06.2024 written by the Applicant Commission to Ministry of Education is being marked herewith and Annexed As Annexure A-1 (pg. _____ to _____) & A True Copy of corresponding Response by Ministry of Education is enclosed as Annexure – A-2 (pg. ____ to _____)

27. That it is most respectfully submitted that Article 28(1) and Article 28(2) cannot be read in isolation and it has to be read in light of Article 21A. A conjoint reading of Article 21 with Article 28 makes it mandatory for the State to make all the possible efforts to provide education to the children in Schools as defined under section 2(n) of the Act. The fact of children getting education in Government funded Madrasa including unmapped madrasas which are receiving funds from the State Government is a clear cut violation of the law of land and such an education which is devoid of basic curriculum, eligibility and holistic environment cannot be furthered on the expenses of the State.
28. That it is most respectfully submitted that Section 1(5) of the RTE Act excludes the Madrasa from the purview of the statute. It is humbly submitted that the Board of Madrasa Education contains various anomalies and flaws as being beyond the scope of the RTE Act. This irregular/incompetent curriculum out rightly leaves an impact on the academic and mental growth of the child which further leads a generation into a stagnant and underdeveloped future. It is also pertinent to mention here that even though Madrasas are running across the country in all States/UT, but on the basis on the information available, only States namely Bihar, Chhattisgarh, Odisha, Uttar Pradesh, West Bengal, Madhya Pradesh, Rajasthan, Uttarakhand have Madrasa Board. It is also pertinent to highlight here that the Commission have found various abnormalities in the curriculum published by these Madrasas Boards. Further, the Commission on perusal of the list of books available on the website of the Madrasa Board have also found objectional content in Diniyat books being included in their curriculum. It is humbly submitted that on perusal of the Diniyat books as available on the website, it has been observed that as per the prescribed curriculum, the Madrasa Board through the books, are teaching texts that professes about Supremacy of Islam. In this regard, it is humbly submitted that as per the information made available to the Commission by the States, it has been informed that children practicing religion other than Islam are also studying

in Madrasas in the State of Bihar, Madhya Pradesh, West Bengal, Uttar Pradesh, & Uttarakhand. The Commission in this regard is also in the process of seeking information from other States/UT's. A detailed brief of these States Madrasas Education Board is stated below-

- 1.1. Bihar State Madrasa Education Board Act, 1981 defines Madarsa as an educational institution providing instruction in Arabic, Persian and Islamic studies and recognized as such by the Board. As per Section 7 of the Act, the Powers and functions of the Board include to grant recognition to Madarsa; to prescribe by regulation the syllabi, the courses of studies to be followed and the books to be studied in Madarsa and for examination conducted by the Board; to undertake the preparation, publication or sale of text books and other reference books for use in Madarsa within the resources available for the purpose; to maintain and publish from time to time lists of books approved for use in Madarsa and for examinations conducted by the Board and to remove such books from any such lists. However, these provisions are in violation with Section 29 of the RTE Act, 2009 which mandates the academic authorities i.e. NCERT and NCTE to deal with matters related to curriculum including books and related to teachers and teacher training, respectively. Further, the Commission on perusal of the list of books available on the website of the Madrasa Board have also found objectional content in Diniyat books namely Taleem-ul-Islam-urdu-by Shaykh Mufti Kifayatullah r.a, Imamia Deenyat Part-01 (for Shia). It was also observed that some books which were published in Pakistan were also a part of Diniyat Books being taught by the Board. Excerpts from the books are reproduced in para 34.

- 1.2. West Bengal Board of Madrasa Education Act 1994 defines Madrasa as an educational institution imparting instruction in Madrasah Education. Further, Madrasa Education means a system of education

in which instruction is imparted in Arabic, Islamic history and culture, and theology, and includes—

(i) High Madrasa Education System which, in addition to covering Arabic language and Islamic history and culture, imparts general education above primary education stage with a view to qualifying students for admission to a certificate, diploma or degree course instituted by a university or by a Government or by any statutory authority, and includes such other type of education as the State Government may, in consultation with the Board, specify;

(ii) Senior Madrasa Education System which imparts instruction in Arabic language and literature, Islamic theology, history, culture and jurisprudence and some general education with a view to qualifying students for a certificate, diploma or degree of the Board or a University or a Government or any other statutory authority.;

The Act also outlines role and functions of the Board including to grant or refuse recognition to Madrasa; to provide by regulations, after considering the recommendations of the Syllabus Committee, if any, the curriculum, syllabus, courses or studies to be followed and books to be studied in recognized Madrasas for examinations instituted by the Board; to undertake, if necessary, with the approval of the State Government, the preparation, publication or sale of text- books and other books for use in recognized Madrasas; to maintain and publish, from time to time, list of books approved for use in recognized Madrasahs and for examinations instituted by the Board and to remove the name of any such book from any such list; to institute various Madrasah Examinations and such other similar examinations as it may think fit and to make regulations in this behalf.

As per the website of West Bengal Board of Madrasa Education (<https://wbbme.org/about-us/>) there are two types of Education system in West Bengal. One is School Education system and other is Madrasa Education system. In Madrasa Education system two categories of institutions are functioning: one is recognized by the West Bengal Board of Madrasa Education and aided by the Govt. of West Bengal with entire liability of Salary, Retirement and other benefits (Gratuity, Pension, Leave etc.) of teaching and non-teaching staff. The Govt. also bear financial liabilities for infrastructure development, incentives and other facilities i.e. free textbooks, sanitation, and drinking water etc. The other category of Madrasas are established, run and maintained by the individual or by community or by organization etc. and those are called Muktab or Khariji Madrasas.

- 1.3. Madhya Pradesh Madarsa Board Adhiniyam, 1998 defines Madarsa as an educational institution providing instructions in Arabic and Islamic studies and recognised as such by the Board. The powers of the board include granting recognition to Madarsas; to prescribe the syllabus for primary and middle level Madarsa Education and to arrange for the conduct of the examination of Class V and VIII and to award certificates.
- 1.4. Chhattisgarh Madarsa Board Adhiniyam, 1998 is same as that of Madhya Pradesh. It defines Madarsa as an educational institution providing instructions in Arabic and Islamic studies and recognised as such by the Board. Additionally, the Chhattisgarh Madarsa Board (Sanshodhan) Act, 2007 includes in the powers of the Board- To prescribe the syllabus for primary (Class I to V), middle (Class VI to VIII) standard, Urdu Adeeb, Urdu Mahir, Urdu Moallim, Moulvi, (High School), Aalim (Higher Secondary) High School and Higher Secondary correspondence courses or Madarsa Education, and to arrange for the conduct of their examinations and to award certificates.

- 1.5. Uttarakhand Madarsa Education Board Act, 2016 defines Madarsa-Education as education in Arabic, Urdu, Persian, Islamic-studies, Tibb, logic, Philosophy and includes such other branches of learning as may be specified by the Board from time to time. The functions of the board includes- to prescribe course of instructions, text-books, other books and instructional material, if any, for Tahtania (primary), Fauquania (junior high school), Munshi (high school-persian), Maulavi (high school-arabic), Alim (intermediate), Kamil (graduation), Fazil (postgraduation) and other courses; prescribe the course books, other books and instruction material of courses of Arbi, Urdu and Pharsi for classes up to High School and Intermediate standard in accordance with the course determined there for by the Board of High School and Intermediate Education; to prepare manuscript of the course books other books and instruction material; prescribe standard for the appointment of Urdu translators and Basic Urdu Teachers in the various offices of the State and ensure through the appointing authority necessary action with respect to filling up of the vacant posts.
- 1.6. Uttar Pradesh Board of Madarsa Education Act, 2004 defines Madarsa-Education as education in Arbic, Urdu, Parsian, Islamic-studies, Tibb Logic, Philosophy and includes such other branches of learning as may be specified by the Board from time to time. The functions of the Board include to prescribe course of instructions, text-books, other books and instructional meterial, if any, for Tahtania, Fauquania, munshi, Maulavi, Alim, Kamil, Fazil and other courses; prescribe the course books, other books and instruction material of courses of Arbi, Urdu and Pharsi for classes upto High School and Intermediate standard in accordance with the course determined there for by the Board of High School and Intermediate Education; to prepare manuscript of the course books, other

books and instruction material referred to in clause (b) by excluding the matters therein wholly or partially or otherwise and to publish them.

- 1.7. Rajasthan Madarsa Board Act, 2020 defines Madarsa as an educational institution registered with the Madarsa Board and imparting instruction in Madarsa Education. Further, Madarsa Education means a system of education which includes studies in Islamic history and culture, and theology, and also includes general education which prepares the student to appear for exams conducted by Central Board of Secondary Education, Council for the Indian School Certificate Examinations, Rajasthan Board of Secondary Education or Secondary Education Boards of other States;

- 1.8. The Odisha State Board of Madrasa Education (OSBME) was formed by the Government of Odisha in the year 1971, before the formation, the Madrassa students' examination in the state was conducted by the Bihar Madrasa Board. Government of Odisha established the Odisha State Board of Madrasa Education (OSBME) in the year 1971 by passing resolution under the State Government Education Rules (Resolution No. 33931 dated 31.08.1971), since then till now the Odisha State Board of Madrasa Education (OSBME) is continuously working for the promotion of education. Initially the Odisha State Board of Madrasa Education (OSBME) was constituted for 3 years, after that it was renewed from time to time by the government, and now, under the aegis of DSE (O), the Odisha State Board of Madrasa Education (OSBME) is constantly engaged in the task of taking education to the masses. Directorate of Secondary Education serves as a bridge between elementary and higher education and prepares younger generation between the age group of 14-18 years for entry into higher education. The Directorate of Secondary Education, Odisha has been set up in the year 1983 to look into the Secondary Education in the State. The Director, Secondary Education, Odisha is the Administrative Authority for Odisha State Board of Madrasa

Education (OSBME) under the School and Mass Education Department, Government of Odisha. Functions of Odisha State Board of Madrasa Education (OSBME):

- i. To conduct examinations of the courses being taught in the affiliated Madrasas of the state on the basis of the syllabus prescribed by the Madrasa Examination Board.
- ii. To determine the course of study and recommended books for the different stages of madrasa education.
- iii. To conduct the examination on the basis of rules prescribed by the Board.
- iv. To admit the candidates to the examinations as per the rules framed by the Board.
- v. To publish the results of the examination.
- vi. To grant recognition to Madrasas on the basis of rules made by the Board.
- vii. To perform the functions entrusted by the Government to the Madrasa Board in the interest of Madrasa Examinations.
- viii. To bring proposal on necessary policies and decisions to strengthen the Madrasa Board and to present the proposal through the Secretary to the Director for approval.

29. In light of the above, it is most respectfully submitted that the issue being raised in the instant petition is not and infact cannot be confined to only the State of Uttar Pradesh or the Madrasas functioning therein. Since the elementary and core issue arising in the instant petition is found to be prevalent in large number of States having Madrasa Boards or running Madrasas, it is prayed that any decision of this Hon'ble Court involving right to education of children shall have pan India ramification and hence due notice must also be served to all the States concerned. Further, it is also pertinent to mention here that a large number of States having Madrasa Boards or running recognized Madrasas across the States are providing Islamic religious education and

instructions to Non-Muslims and Hindus which is also a blatant violation of Article 28 (3) of the Constitution of India.

30. That it has been observed via numerous complaints that Madrasa works in an arbitrary manner and that it runs in an overall violation of the Constitutional mandate, RTE Act and the Juvenile Justice Act, 2015. It is submitted that in the matter of Darul Uloom Deoband, the screenshots from the website highlighted a serious concern in regard to definite practices pertaining to syllabus and teaching-learning materials in schools (Screenshot 1), sex ratio of the teachers in schools (Screenshot 2) and inclusive education (Screenshot 4). A true copy of screenshot obtained from Applicant Commission Report titled Impact of Exemption Under Article 15(5) W.R.T. Article 21A of the Constitution Of India on Education of Children of Minority Communities at pg. 80 is annexed herewith as Annexure A- 3 (Pg. _____to _____)
31. That it is also submitted that on the basis of the analysis of the aforesaid screenshots it was observed that these inquiries were among the many questions which had been put forward by parents regarding their concerns with respect to religious education being imparted to their children by the scholars at the Darul Uloom. In response to the query raised by a parent regarding an incident where the child was hit on face by the teacher (Screenshot 3) clearly shows the disregard for the rights of the child. Though the incident is pertaining to another country, but as Madrasas under Darul Uloom Deoband is also functional in India which further raises concern that the same philosophy of permitting corporal punishment to the children studying in Madrasas also exist in India, whereas inflicting of corporal punishment to children in schools is strictly prohibited under the RTE Act, 2009. Further, the same is violation of Section 17 RTE Act, 2009, which is reproduced hereinafter:

“17. Prohibition of physical punishment and mental harassment to child. –

(1) No child shall be subjected to physical punishment or mental harassment.

(2) whoever contravenes the provisions of sub-section (1) shall be liable to disciplinary action under the service rules applicable to such person.

”

Further, while examining the answers provided by the scholars, it was observed that the children were completely imparted education relying on religious scriptures. In the absence of the RTE Act, the students studying in Madrasas are also deprived of the facilities and entitlements which are provided to students studying in regular schools. Thus, denying access to the fundamental right of the children which were protected by the RTE Act of 2009.

32. That it is also humbly submitted that even through Darul Uloom Deoband Madrasa was founded in Deoband in district Saharanpur, Uttar Pradesh but it has been impacting people professing Islamic culture and practices across the country and many countries abroad. According to the information available the Deoband Madrasa fanned out across South Asia and has also set up seminaries, or madrasahs, teaching an austere version of Islam, particularly along the Pakistan-Afghanistan border. Further, it is also humbly submitted that according to the information available¹, it has also been alleged by Taliban extremists groups to have been influenced by the religious and political ideologies of Darul Uloom Deoband Madrasa.²

Further, it is also humbly submitted that the Deoband Madrasa, issues fatwas online as well as offline and have a very strict and conservative interpretation of Sharia, as evidenced by its issuance of roughly 250,000 fatwas (legal

¹ <chrome-extension://efaidnbmninnbpcajpcglclefindmkaj/https://aissonline.org/Uploads/PublicationEnglishFiles/an-inquiry-into-taliban-theology-english-7368.pdf>

² <https://www.npr.org/2021/09/08/1034754547/taliban-ideology-roots-deobandi-islam-india>

pronouncements), which restrict followers in terms of faith, life, and many other aspects.³ The same has also been highlighted in the book namely -

“ Bastions of the Believers by Author Yoginder Sikand wherein he writes –

Pg.73 The founders of the Deoband Madrasa did not see themselves as simply managing a school. Rather, along with the later Deobandis, they took a leading role in community affairs, seeking to transmit the Islamic reformist message to a wider society using novel means such as publishing tracts and tomes, training missionaries to debate with theologians of other religions and other Muslim groups , working among local Muslim communities. Another means that the Deoband madrasa used in this regard was the fatwa, through which it sought to provide guidance to individual Muslim in ‘correct’ belief , ritual practice and social behaviour in the light of the classical texts of the Hanafi school. In 1892 the madrasa launched a full-fledged department of fatwas (dar ul-ifta). Requests for fatwas came from Muslims from all over India and abroad, from countries such as Afganistan and Burma. ”

A true copy of excerpt at page 73 from the book titled Bastions of the Believers by Author Yoginder Sikand marked herewith as Annexure A-4 (Pg. no _____ to _____)

In light of the above, it is also humbly submitted that the Commission has been in receipt of complaints regarding the fatwas issued by Darul Uloom Deoband which contained references from a book titled ‘Bahishti Zewar’. It is pertinent to mention here that the said book contained content which is not only improper but is also objectionable and illegal regarding children as the same contains text regarding

³ chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://mideast.shisu.edu.cn/_upload/article/files/0a/b4/0c8b82df4b6882d3bc654c97852e/17372d78-2f78-457c-96d5-a1f4f2856c19.pdf

engaging in a sexual relationship with a minor, the book is also alleged to be taught to children in madrasas, and further fatwas containing such objectionable information is accessible for all. Some excerpts from the book is reproduced below: -

“ Mas’ala 5. If anyone has sexual intercourse with a minor girl, then bath is not obligatory for her, but in order to make her used to bath she may be required to take bath. ”

“ Conditions : When Bath is obligatory or Non- Obligatory -
Mas’ala 4. If a man indulges in sexual intercourse with a minor girl, bath will not be obligatory if there is no seminal discharge.
”

“ Breaches of Fast :
Mas’ala 4. If anyone committed sexual intercourse with a dead woman or with a minor girl who does not excite passion or with an animal or embraced or kissed anyone or masturbated and in all such cases semen came out, then the fast will be disrupted but recompensation will not be due. ”

A true copy of complaint received by the Applicant Commission and Notice issued by the Applicant Commission is marked herewith as Annexure A- 5 (Pg. no _____ to _____)

33. It is also humbly submitted that the Commission has come across various objectional content on the website of Darul- Uloom- Deoband wherein one of fatwas was issued regarding establishing of physical relationship with a minor girl which is not only misleading but is also in violation of the provisions under the POCSO Act, 2012. Another fatwa was issued on the website of the Darul Uloom Deoband wherein a question was asked by an individual from Pakistan

regarding suicide attack on non-Muslims forces wherein a statement of “Consult your local Scholar” is made by the Darul Uloom Deoband instead of responding that the query is invalid or illegal in nature. Such statements by Darul Uloom Deoband are reinforcing the belief towards legitimizing intentional homicide, terrorist attack among non-Muslims and further is also highly terrorizing for the country as well as a matter of national security. A True Copy of Notices Issued by the Applicant Commission is annexed herewith as Annexure A-6 (Pg. no ____ to _____)

34. Further, the Commission has also taken cognizance of another objectional content on website of Darul Uloom Deoband wherein a fatwa talks about the invasion of India (Ghazwa-e-Hind) and how whoever will be martyred in it shall be a great martyr. In this regard, it is humbly submitted that Darul Uloom Deoband being an academic body of Islamic education and affiliating Madrasas across South Asia has been issuing fatwas which are exposing children to hatred against one’s own country and eventually causing them unnecessary mental and physical suffering. A True Copy of Notice Issued by the Applicant Commission is annexed herewith as Annexures A-7 (Pg.no. _____ to _____)

35. Further, the Commission has also taken cognizance of books prescribed for Madrasas through the fatwas issued by Darul-Uloom-Deoband. For instance, a fatwa from Darul-Uloom-deoband (Fatwa: 1165=884/H) answering a question, says that Taqwiyat-ul-Iman is an authentic book. Taqwiyat-ul-Iman (Strengthening of the Faith) was written in the 1820s by Indian Islamic preacher Shah Ismail Shaheed. Interestingly, Ismail was a great grandson of Islamic preacher Shah Waliullah Dehlvi whose father, Shah Abdur Rahim, played a lead role in compiling Fatwa-e-Alamgiri, a book on puritan Islamic law commissioned by Aurangzeb. The book is being taught at the Darul Uloom Deoband and Ahle Hadees madrasas and is also held in high esteem by the Tablighi Jamaat movement.

Further, another book titled Taleem-ul-Islam-English-By Shaykh Mufti Kifayatullahr which is a book on fundamentals of Islam, its basic tenets and laws of shariah has also made part of the curriculum prescribed by Bihar Madrasa Board for Class II.⁴ On perusal of the said book on the Madrasa board website, the list contained the said book in Urdu of a publisher in Pakistan⁵. However, on perusal of its English translation⁶ it was observed that the book was originally published in Pakistan and the discusses regarding supremacy of Islam. Some of the excerpts from the book are reproduced below –

“Taleem-ul-Islam Book I- Lessons in Islam - Page 6

Q. Who created you ?

Ans. Al-lāh created us, our parents, the heavens, the earth and all other things.

Q. How did Al-lāh create the world ?

Ans. He created it by His might and decree.

Q. What do we call those who do not believe in Al-lāh ? #

Ans. They are called Kafirs (unbelievers).

Q. Some people worship objects other than Al-lāh or believe in two or three gods. What are such people called ?

Ans. Such people are called Kafirs (unbelievers) or Mushriks (polytheists).

Q. Will the polytheists attain Salvation ?

Ans. The polytheists shall never attain salvation. They shall, instead, be doomed to eternal punishment and affliction.

.....”

“.....Taleem-ul-Islam -Book II- Section (I) Requirements of Faith - Pg.4

⁴ <https://www.bsmeb.org/books/class-2>

⁵ <https://drive.google.com/file/d/1hKDmzsfL9RKgsnCRJzLZk0S4AUdTVmye/view>

⁶ (<https://archive.org/details/Taleem-ul-Islam-EnglishByShaykhMuftiKifayatullahr.a>)

LĀ-ILĀHA -IL- LAL-LĀH MUHAM-MA-DUR-RASŪLUL –
LĀH.

It means: None but Al-lāh is worthy of worship and Muham-mad is the messenger of Al-lāh.⁷

.....”

A true copy of Screenshots obtained from the website is marked herewith as Annexure A- 8 (Pg. no _____ to _____)

Similarly, in another book prescribed by the Bihar Madrasa Board for Class II namely, Imamia Deeniat Part -01 (For Shia), which is a book of Islamic Education being taught in these Madrasas under the category of Diniyat books. Further, on perusal of the book from the link available, it was observed that the same was in urdu. However, on perusal of the English translation as available online⁸, it was observed that the said book contains texts which talks about supremacy of Islam. Some excerpts from the book are reproduced below:

“*Lesson Two – Tawheed (Unity)*

Is the creator of the whole world one and only one?

Of course, yes.

Why can't there be two Gods?

Because if there were two Gods, they will be dependent on each other. And one who is dependant is created; he cannot be the creator (Allah).

.....”

A true copy of Screenshots obtained from the website is marked herewith as Annexure A- 9 (Pg. no _____ to _____)

Further, it is also humbly submitted that although Darul Uloom Deoband was founded in Saharanpur, Uttar Pradesh, and since its foundation, the Deoband

⁷ <https://archive.org/details/Taleem-ul-Islam-English-ByShaykhMuftiKifayatullahr.a/page/n19/mode/2up>

⁸ <https://archive.org/details/imamia-deeniyat/page/n23/mode/2up>

Madrassa has been claiming to not be get itself registered under the UP Madrassa Board or in any State Board and hence has been an unregistered Madrassa. However, the Deoband Madrassa has been seen affiliating many unregistered Madrasas and Yateemkhanas across the country. Furthermore, all these unregistered Madrasas are teaching curriculum which widely lacks uniformity in terms of the things being taught and also lack basic entitlements which the child maybe benefitted with otherwise further depriving the child of the benefit of their educational rights or even basic fundamental rights as guaranteed by the Constitutional of India.

36. It is also humbly submitted that the Commission took Suo-moto cognizance of a newspaper report wherein a minor boy was recovered after eight years with changed name and religion. The minor boy was recovered from an Adhaar Card Centre where he was sent to change his name from Rahul to Mohammad Azhar (Name changed for the purpose of protecting the identity of minor) in Adhaar Card. In order to further inquire the matter, a team from the Commission visited the Madrassa, in the district of Uttar Pradesh which the child was attending after he went missing eight years ago. As per the information received from the District Department of Minority Welfare, Uttar Pradesh, the said Madrassa was recognized. A True Copy of letter dated 30.10.2023 is annexed herewith as Annexure A- 10 (Pg. ____ to ____)

37. That it is most respectfully submitted that on perusal of various complaints received by the Commission from different sources, it is noted that children belonging to non-Muslim community are attending Government funded/Recognized Madrasas and are receiving religious education and instructions. The Commission has received complaints alleging that the Madrasas Education Council is pressuring parents of Madrasas employees to compel their children to attend Madrasas education. It is pertinent to highlight that this is a clear-cut violation and contravention of Article 28(3) of the Constitution of India that prohibits educational institutions from obligating the

children to take part in any religious instruction, without the consent of parents. It is to be highlighted that this grave misconduct and negligence of providing Madrasa education to non-Islamic children is done under the veil of Article 29(2) of the Constitution of India. That it is humbly submitted that Madrasas serve as the primary institutions for teaching Islamic studies is undeniable. Furthermore, the Madrasa Board is depriving children from their Fundamental Right by imparting religious and Islamic education to children studying in Madrasa.

38. That it is most respectfully submitted that the Commission has also been in receipt of a complaint regarding open school run by Jamiat Ulama-i-Hind with support from National Institute of Open Schooling (NIOS). Taking cognizance of the same, on examination of the details provided, the Commission has found that the Jamiat Ulama-i-Hind has established Jamiat Open School on lines of NIOS for Madrasa Students enabling them to pursue 'mainstream' education. However, on the basis of the document available on the website of Jamait Open School, it was stated that "In the Private Madarsa system any attempt to change the syllabi, curriculum or Govt. interference in the name of so-called modernization is apprehended to downgrade their religious educational standard or cause digression in their focus of attention and disturb their moral upbringing". Looking into the same, the Commission issued a letter vide F.No. 99-06/2023/NCPCR(PD) dated 13.03.2023 to the Chairperson, NIOS seeking a detailed Report. On the basis of the information received an Interim Report on the basis of the findings have been prepared by the Commission. A True Copy Interim Report based on the findings of the Applicant Commission is Annexed herewith as Annexure A- 11(Pg.no. _____ to _____)

39. That it is respectfully submitted that in these conditions, keeping child professing any other religion apart from Muslim shall amount to violation of section 75 of the Juvenile Justice Act 2015 (JJ Act 2015). Not only are children's fundamental rights being infringed through grants, but the Juvenile Justice Act 2015 (JJ Act 2015) is also being disregarded. Any provision to exclude children from the

benefits of the right to education is to be considered as against the spirit of the Constitutional principles with which the Constitution was adopted by the people for ourselves. It is also submitted that protection of the children Right to Education is of utmost importance as the same has been found its place in Article 21 of the Constitution of India and therefore it is necessary that all children up to the age of 14 years be provided with formal schooling as mandated by the Constitution and the States be directed to be obligated to provide such schooling wherein children upto class 5 attends school for 4 hours and children from classes 6th to 8th attend school for 6 hours and therefore any violation of the said provisions is not only against the welfare of the children and but the same is also against our constitutional ethos and principles.

PLACE :

DATED :

