

**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION**

**WRIT PETITION (C) NO. 95 OF 2022  
(UNDER ARTICLE 32 OF THE CONSTITUTION)**

**IN THE MATTER OF:**

FATHIMA BUSHRA

PETITIONER(s)

VERSUS

THE STATE OF KARNATAKA & ORS.

RESPONDENT(s)

**WITH**

**I.A. NO. OF 2022:  
APPLICATION FOR INTERIM DIRECTIONS**

**And**

**I.A. NO. OF 2022:  
APPLICATION FOR EXEMPTION FROM FILING OFFICIAL  
TRANSLATION**

**And**

**I.A. NO. OF 2022:  
APPLICATION SEEKING EXEMPTION FROM FILING  
ORIGINAL NOTARISED COPY OF THE AFFIDAVIT.**

**PAPER BOOK  
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**ADVOCATE FOR THE PETITIONERS: MR. JAVEDUR RAHMAN**

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1	Court's Order dated	
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**A1**  
**SECTION: X**

**PROFORMA FOR FIRST LISTING**

	Central Act: (Title)	<b>Constitution of India 1949</b>
<input type="checkbox"/>	Section:	<b>Article 14, 19(1)(a), 21, 25, 29</b>
<input type="checkbox"/>	Central Rule: (Title)	<b>NA</b>
<input type="checkbox"/>	Rule No(s):	<b>NA</b>
<input type="checkbox"/>	State Act(Title)	<b>NA</b>
<input type="checkbox"/>	Section:	<b>NA</b>
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<input type="checkbox"/>	Impugned Interim Order: (date)	<b>NA</b>
<input type="checkbox"/>	Impugned Final Order/Decree(Date)	
<input type="checkbox"/>	High Court: (Name)	
<input type="checkbox"/>	Names of Judges:	
<input type="checkbox"/>	Tribunal/Authority: (Name)	<b>NA</b>
<b>1.</b>	Nature of matter	<b>CIVIL</b>
<b>2. (a)</b>	Petitioner/appellant No.1:	
<b>(b)</b>	e-mail ID:	<b>NA</b>
<b>(c)</b>	Mobile phone number	<b>NA</b>
<b>3. (a)</b>	Respondent No. 1:	<b>STATE OF KARNATAKA &amp; ORS.</b>
<b>(b)</b>	e-mail ID	<b>NA</b>
<b>(c)</b>	Mobile phone number	<b>NA</b>
<b>4. (a)</b>	Main category classification	<b>3100</b>
<b>(b)</b>	Sub classification	<b>NA</b>
<b>5.</b>	Not to be listed before	<b>NA</b>
<b>6. (a)</b>	Similar disposed of matter with citation, if any, & case details	<b>NA</b>
<b>(b)</b>	Similar pending matter with case details:	<b>NA</b>
<b>7.</b>	<b>Criminal Matters</b>	
<b>(a)</b>	Whether accused/convict has surrendered	<b>NA</b>
<b>(b)</b>	FIR No. and date:	
<b>(c)</b>	Police Station	
<b>(d)</b>	Sentence Awarded	<b>NO</b>

(e)	Sentence Undergone	NO
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(c)	Date of Section 17 notification	NA
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10.	<b>Special Category</b> (first petitioner/appellant only):	NA
	<input type="checkbox"/> Senior citizen>65 years	NA
	<input type="checkbox"/> SC/ST	NA
	<input type="checkbox"/> Women/Child	NA
	<input type="checkbox"/> Disabled	NA
	<input type="checkbox"/> Legal Aid case	NA
	<input type="checkbox"/> In custody	NA
11.	Vehicle Number (in case of Motor Accident Claim matters):	NA

  
**MR. JAVEDUR RAHMAN**  
**ADVOCATE FOR THE PETITIONERS**  
**AOR CODE : 2949**  
**CONTACT NO. 9810644479**

New Delhi  
 Date : 10.02.2022

## **SYNOPSIS**

The Petitioner, Fathima Bushra, a student of Govt. PU College, Kundapura, Udupi District, State of Karnataka has been constrained to prefer this writ petition under Article 32 in extreme urgency raising issues of national importance insofar as they relate to the protection and enforcement of the fundamental rights of Muslims of the country, which constitute about 18% of the population, under Articles 14, 19(1)(a), 21, 25 and 29 of the Constitution of India. The issues raised in this petition are not only limited to the inhabitants of the State of Karnataka but also have pan India ramifications which necessitate the exercise of jurisdiction under Article 32 by this Hon'ble Court so as to authoritatively give a quietus to the matter and preserve the ethos of unity in diversity and tolerant and positive secularism envisaged in our Constitution.

The said fundamental rights of the Petitioner have been violated with impunity on one hand by the Respondent No.2 which has denied entry to the Petitioner into the college, thereby debarring her from attending her regular classes until the Petitioner and similarly situated girls remove their headscarf/hijab. The Petitioner also challenges the direction/order dated 05.02.2022 (**the impugned "G.O."**) issued by the Respondent No.1, State of Karnataka purportedly in exercise of its powers under Section 133(2) of the Karnataka School Education Act, 1993, whereby the State Government has directed/backed up the college development committees to prescribe school/college uniform for the students inter-alia highlighting therein that wearing of Hijab is not protected under Article 25 of the Constitution of India.

At the very outset it is submitted that though some matters have been filed before the Hon'ble Karnataka High Court, this Hon'ble Court ought to exercise its jurisdiction under Article 32 specially when something as innocuous as wearing of a Hijab by a Muslim girl student has been turned into a communal issue of such magnitude that the State Government has had to shut down schools and colleges across the State of Karnataka till the weekend.

Though the matters before the Hon'ble Karnataka High Court seems to have been argued at length over two days i.e. 8<sup>th</sup> and 9<sup>th</sup> of February, 2022, no relief seems to have come forth in the interim, though the Petitioner as well as thousands of similarly situated girls are being denied entry into schools/colleges for over a week now. This is all the more crucial since their final exams are only two months away and the action of the Respondents in preventing the Petitioner and similarly situated students from attending their regular classes, would dent their educational careers.

That apart, it is most respectfully submitted that the issues raised in the present petition are of such a nature that they are bound to have an impact on the rights of Muslim women across the country. The issues raised in any event invite the exposition of law insofar as Articles 14, 19, 21, 25 and 29 are concerned and it is therefore imperative that this Hon'ble Court, being the ultimate guardian of the Constitution, takes it upon itself to decide once and for all the extent of protection that a Muslim girl has under the Constitution of India.

it is pertinent to also note that while the impugned G.O. questions the "essential" nature of the practice of wearing a hijab/headscarf by



Muslim women, the issue of a religious practice satisfying the essentiality test is already pending consideration before a nine judge bench of this Hon'ble Court in *Kantaru Rajeevaru v. Lawyers' Association* (2020) 9 SCC 121, para 8 whereof records the issues to be decided as such:

“8. By an order dated 10.02.2020, we answered the preliminary point by holding that questions of law can be referred to a larger bench in a review petition. Reasons were to follow later. On the same day we had also re-framed the issues referred to this Bench as follows :

1. What is the scope and ambit of right to freedom of religion under Article 25 of the Constitution of India?
2. What is the inter-play between the rights of persons under Article 25 of the Constitution of India and rights of religious denomination under Article 26 of the Constitution of India?
3. Whether the rights of a religious denomination under Article 26 of the Constitution of India are subject to other provisions of Part III of the Constitution of India apart from public order, morality and health?
4. What is the scope and extent of the word ‘morality’ under Articles 25 and 26 of the Constitution of India and whether it is meant to include Constitutional morality?
5. What is the scope and extent of judicial review with regard to a religious practice as referred to in Article 25 of the Constitution of India?
6. What is the meaning of expression “Sections of Hindus” occurring in Article 25 (2) (b) of the Constitution of India?
7. Whether a person not belonging to a religious denomination or religious group can question a practice of that religious denomination or religious group by filing a PIL?”

In view of the pendency of the aforesaid issues before this Hon'ble Court, it is all the more necessary that the present matter also be decided by this Hon'ble Court especially in view of the extreme

urgency in view of the denial of the Petitioner and similarly situated students to enter their school/college premises.

It is further submitted that the essentiality test, which is itself under re-consideration by a 9-Judge Bench of this Hon'ble Court as stated above, is invoked where a competing right or State interest is involved and a balancing act is required by the Court. It is submitted that a Muslim girl pursuing her education wearing a hijab/headscarf offends no right of any person and militates against no State interest. Therefore, even the essentiality test is wrongly invoked in the present facts. Wholly without prejudice to the above, the Petitioner seeks to demonstrate that the Islamic practice of wearing a hijab/headscarf satisfies even this higher threshold of "essential religious practice".

**THE OBSERVANCE OF HIJAB IN PUBLIC IS ONE OF THE MOST ESSENTIAL PRACTICES OF A MUSLIM WOMAN**

It is most respectfully submitted that the Petitioner herein does not wear the Hijab as a form of any political symbolism or to intimidate, heckle or belittle her fellow classmates or any other person. The Petitioner, like many other Muslim girl students, is a religious practicing Muslim who takes pride in practicing her religion, not only in name but as a way of life which encompasses very many aspects including how one should carry herself both in private and public.

The observances in Islam, particularly when it comes to Muslim women's dress, contrary to perception in some circles, infact empowers a Muslim girl to move out of the confines of her home and participate in public life. As with any religious practice, the non-observance of the practice by some members of that religious community is irrelevant to its essentiality or binding nature. In this

regard, the Petitioner relies upon the highest source of law in Islam, i.e. the Holy Qur'an, which is undisputedly the primary source of legislation in Islam. Reference in this regard may be made to Surah Al-Noor, Ayat No.31 (Chapter 24 Verse 31 of the Holy Qur'an, as translated by renowned scholar M.A.S. Abdel Haleem, which commands/ordains as follows:

"And tell believing women that they should lower their glances, guard their private parts, and not display their charms beyond what [it is acceptable] to reveal; **they should let their headscarves fall to cover their necklines and not reveal their charms** except to their husbands, their fathers, their husbands' fathers, their sons, their husbands' sons, their brothers, their brothers' sons, their sisters' sons, their womenfolk, their slaves, such men as attend them who have no sexual desire, or children who are not yet aware of women's nakedness; they should not stamp their feet so as to draw attention to any hidden charms. Believers, all of you, turn to God so that you may prosper."

(emphasis added)

Similarly, at another place in the Quran, Surah Al-Ahzab Ayat No.59 (Chapter 33 Verse 59), Allah commands as follows:

"Prophet, tell your wives, your daughters, and women believers to make their outer garments hang low over them so as to be recognized and not insulted: God is most forgiving, most merciful."

(emphasis added)

The same verse is translated by Mufti Taqi Usmani, another widely accepted translator, in the following words:

"O prophet, tell your wives and your daughters and the women of the believers that they should draw down their shawls over them. That will make it more likely that they are recognized, hence not teased. And Allah is Most-Forgiving, Very Merciful."

(emphasis added)

The aforesaid verses clearly demonstrate a positive command to the womenfolk in Islam to observe what is called as Hijab and there is near unanimity amongst the scholars of Islam in this regard.

At this juncture it is pertinent to observe the judgment of this Hon'ble Court in *Bijoe Emmanuel v. State of Kerala*, (1986) 3 SCC 615 that, insofar as the practice of religion is concerned, the Secular Courts ought to defer to the genuine and conscientious beliefs of the community which practices the same and not substitute it with its own reason/sentiment/judgment. It may be so that the practice of a religious custom may look incongruous or even absolutely abhorrent to an outsider but the essentiality of the said practice can only be viewed through the prism of the religious community itself and the outsiders' view in respect of the same has to be eschewed.

**THE DIRECTION/ORDER DATED 05.02.2022 IS BEYOND THE PURVIEW OF THE POWERS OF THE STATE GOVERNMENT PRESCRIBED UNDER THE KARNATAKA EDUCATION ACT, 1983.**

It is submitted that though Section 133(2) empowers the State Government to inter-alia issue directions to carry out the purposes of the Act and a detailed examination of the Act would show that regulation of uniform/dress of students cannot be brought into the category of 'purposes of the Act' described in said Act itself.

Section 7, which the State Government purportedly relies upon to direct the 'college development committees' to prescribe students' uniforms is actually confined only to the prescription of curricula for any course of instruction, its duration, medium of instruction etc. The same has absolutely nothing to do with the prescription of uniforms. On the other hand ss. 7(2)(e), 7(2)(g)(v) and (vi) fosters national

integration, harmony and spirit of brotherhood amongst people of various religions, the renunciation of practices derogatory to the dignity of women as well as the preservation of the rich heritage of our composite culture.

It is astounding as to how the Respondent No.1, State of Karnataka has turned the aforesaid provision which fosters inclusivity and unity in diversity, and uses it as a tool to exclude one of the most vulnerable sections of the country from attending classes.

Infact, none of the judgments referred to in the impugned direction dated 05.02.2022 actually have any bearing on the issue at hand and manifest the non-application of mind of the State Government in issuing the impugned order.

**BY DEEMING MUSLIM GIRLS WEARING HIJAB AS A THREAT TO 'PUBLIC ORDER', THE STATE GOVERNMENT IS DELIBERATELY PERPETUATING INJUSTICE AND VIOLATION OF FUNDAMENTAL RIGHTS**

It is unfortunate that in the mayhem surrounding the debate around the right of a Muslim girl to wear Hijab to college/school, the most crucial thing that is being lost sight of and conveniently so by the State Government is the hooliganism and heckling of Muslim girl students by right-wing fringe elements of the society who in the recent past have been leaving no stone unturned to impose a majoritarian and supremacist intimidation of the Muslim minority in the country.

The Petitioner most respectfully submits that this Hon'ble Court, being the highest Court of law in the country should not deal with the present situation as a solitary incident. The present incident and impugned G.O. are the latest in a long line of events that have

threatened the secular fabric of our society and polity, a number of which are sub-judice before this Hon'ble Court and other Courts in the country. These events include the Citizenship (Amendment) Act, 2019 which provides different rules for acquiring citizenship based on religion and specifically excludes Muslims, incidents of violence and riots targeting those protesting against the said CA Act, virulent protests against Muslims, who on account of lack of adequate mosques in the city of Gurugram, were offering prayers/Namaaz in open areas duly demarcated by the government/authorities for this purpose, incidents of cow vigilantism, laws effectively prohibiting religious conversion, and blatant calls for economic boycott and even genocide against the Muslims of the country in events self-styled as 'Dharam Sansads'.

All of the said unchecked actions have resulted in the present situation when a thing as innocuous as a piece of cloth which is used by a Muslim girl to wrap around her head on account of her religious conviction is being sought to be portrayed as causing public disorder, while the right-wing saffron clad hooligans who have made it miserable for the Muslim girls to come out of their homes and attend colleges/schools are roaming around free since the State machinery is least bothered to act against them. In equating these acts of hooliganism with the right of the Petitioner to peacefully practice her religion in the manner of dress, the State has treated unequals equally, which has been held by this Hon'ble Court to be a violation of Article 14.

Already, other States under the same political dispensation are reported to be considering passing laws similar to the impugned G.O.

It is clear from this that the events that the present Petition seeks to bring before this Hon'ble Court have a pan-India character and require interference of this Hon'ble Court.

It is a bizarre situation where the victim of public disorder is being made to further suffer by the Respondent authorities while the ones who are actually causing the public disorder and pose a continuing threat to the hapless Muslim girls are being backed by the State machinery that has turned a Nelson's eye on them, thereby absolving itself of its obligation to ensure a conducive environment for Petitioner and similarly situated girls to exercise their fundamental rights..

**WEARING OF HIJAB ALSO QUALIFIES AS A CULTURAL RIGHT OF MUSLIM WOMEN TRACEABLE TO ARTICLE 29**

Apart from the fact that right to wearing of clothes of one's choice is an integral part of Article 19(1)(a) as well as can be traced to Article 21, the right of a muslim girl/women to wear hijab can also be traced to the rights guaranteed under Article 29 of the Constitution. This it is submitted is wholly without prejudice to the Petitioner's argument that the wearing of a Hijab has to receive the protection of Article 25 on account of it being an essential religious practice. It is submitted that wearing of a Hijab, being an age-old practice amongst Muslim women, has also become a part and parcel of Muslim culture and has thereby acquired the status of a cultural right under Article 29(1).

The denial of Muslim women/girls like the Petitioner herein from attending her college on account of wearing Hijab also tantamounts to violation of Article 29(2) which proscribes the denial of admission

into an educational institution run by the State or receiving State funds on grounds only of religion.

That apart, further segregating Muslim girls and forcing them to sit in a room other than their regular classroom, borders on the practice of 'religious apartheid' and at the same time is also an affront to the equal protection clause in Article 14.

It is clear that the attack on the Article 14, 19, 21 and 29 rights of the Petitioner and other similarly situated Muslim girls is on account of their religion, which only exacerbates the infraction and amounts to reducing the secular character of the Constitution to a dead letter. Secularism has been held by this Hon'ble Court to be a part of the basic structure of the Constitution, which cannot be diluted in any manner.

All of the aforesaid discussion shows the magnitude of the problem that a school/college going Muslim girl has to face when the State machinery reneges on its obligation to create a conducive environment for exercise of fundamental rights which culminate in the denial and exclusion of Muslim girls from even enjoying the basic right/freedom to acquire education, apart from the violation of various other fundamental rights as detailed herein, all of which are being trampled upon with the passing of each day, therefore necessitating this Hon'ble Court to invoke its powers under Article 32 and restore and enforce the fundamental rights of the Petitioner, in its role as the *sentinel on the qui vive*.



## LIST OF DATES

DATES	PARTICULARS
2020 - 2021	<p>Petitioner joined the Pre-University Course in the Respondent College which is a Government run institution imparting pre university level education (11<sup>th</sup> and 12<sup>th</sup> equivalent) in the Kundapura District of the State of Karnataka. Petitioner is a follower of Islam and follows practises including the hijab/wearing of head scarf which is an essential practise to their faith and belief.</p>
2021/2022	<p>The last two years, the country has borne the brunt of the COVID-19 pandemic, the likes of which has never been seen before. One of the most deleterious effects of the pandemic was the shutting down of schools and forcing students to obtain education from the confines of their homes in virtual mode. As the pandemic subsided one of the greatest reliefs for students including the Petitioner herein was to be able to physically attend her regular classes in her college.</p>
January, 2022	<p>Unfortunately however, when the Petitioner and many other Muslim girls like her, who from the time of their admission have been observing Hijab, became objects of vilification by right-wing hooligans who in troves started to pour down upon institute after institute in the</p>

State of Karnataka, threatening and violating with impunity the dignity of Hijab observing Muslim girls and threatening them to either return home or to remove their Hijabs if they wanted to attend college.

February, 2022      Succumbing to the pressure of such hooligans, the Petitioner and similarly situated students, in the first week of February, were not allowed to enter the school gate by the Respondent No.- School's authorities. Despite the Petitioner and similarly situated classmates registering protest against such inhumane, insensitive and unconstitutional action of the school authorities, they were not permitted to enter into the school.

February, 2022      On account of the indifference of the state machinery, the hooliganism of the right-wing saffron clad elements spread like wildfire across the State and like the Petitioner, suddenly thousands or more of Hijab observing minor Muslim girl students were denied entry into their respective schools.

February, 2022      On account of the inaction of the State machinery in taking the right-wing hooligans to task and ensuring that the Muslim girl students were permitted to attend their school, some of the similarly situated students approached the Hon'ble High Court of Karnataka seeking relief from the Hon'ble Court to direct the school authorities to permit them to enter their

respective schools.

- 05.02.2022 The State Government issued the impugned direction/order dtd.05.02.2022 purportedly in exercise of its powers under Section 133 of the Karnataka Education Act, 1983, inter-alia directing the college Development Committees to prescribe uniforms to be worn by students highlighting therein that wearing of a headscarf does not form a part of Article 25 rights.
- 07.02.2022 It is pertinent to bring to the notice of this Hon'ble Court that thereafter, a writ petition being W.P. No. 2880 of 2022 was filed before the Hon'ble High Court on 07.02.2022 challenging the said GO. The said though was heard on the 8<sup>th</sup> and 9<sup>th</sup> of February 2022, the Ld. Single judge despite elaborate submissions, has referred the matter to be heard by a larger bench.
- 07.02.2022 It is apt to note that when things stood as such some of the muslim girl students were allowed entry into the college premises, however, they were segregated from their non-muslim classmates and made to sit in a separate room other than their regular class.
- 08.02.2022 In view of the simmering communal discontent across the State the CM of Karnataka on 08.02.2022 directed all schools and colleges to be shut for three days.

10.02.2022    The Petitioner being left without any remedies pertaining to her continuance of education in the school when her final exams are only two months away has been left with no other remedy but to prefer the present writ petition under Article 32 of the constitution seeking not only protection but enforcement of her fundamental rights under Articles 14, 19, 21, 25 and 29 of the Constitution.

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**WRIT PETITION (C) NO.                      OF 2022**  
**(UNDER ARTICLE 32 OF THE CONSTITUTION)**

**IN THE MATTER OF:**

FATHIMA BUSHRA

D/o Mohammda Rafiq,  
R/o Janatha Colony, Kandlur,  
Kundapura Taluk, Udupi District

... PETITIONER

*Versus*

1. THE STATE OF KARNATAKA

Through Its Principal Secretary,  
Vidhana Soudha  
Dr. Ambedkar Road Bangalore -560 001  
KARNATAKA

... CONTESTING  
RESPONDENT NO. 1

2. THE PRINCIPAL,

Government PU College  
Kundapura, Udupi District 576201  
KARNATAKA

... CONTESTING  
RESPONDENT NO. 2

**WRIT PETITION UNDER ARTICLE 32 R/W ARTICLE 142 OF  
THE CONSTITUTION OF INDIA *INTER ALIA* SEEKING AN  
APPROPRIATE WRIT, ORDER OR DIRECTION**

**DECLARING AND QUASHING THE STATE GOVERNMENT DIRECTION / ORDER DATED 05.02.2022 AS ILLEGAL AND *ULTRA VIRES* THE CONSTITUTION BEING VIOLATIVE OF THE PETITIONER'S FUNDAMENTAL RIGHTS UNDER ARTICLES 14, 19(1)(a), 21, 25 AND 29; ALONG WITH A WRIT OF MANDAMUS TO DIRECT RESPONDENT NO. 2 TO PERMIT THE PETITIONER TO ATTEND CLASSES.**

**TO,**

**HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS  
COMPANION JUSTICES OF THE HON'BLE SUPREME  
COURT OF INDIA**

**THE HUMBLE PETITION OF  
THE PETITIONER ABOVENAMED**

**MOST RESPECTFULLY SHOWETH:**

1. The Petitioner, Fathima Bushra, a student of Govt. PU College, Kundapura, Udupi District, State of Karnataka, has been constrained to prefer this writ petition under Article 32 in extreme urgency raising issues of national importance insofar as they relate to the protection and enforcement of the fundamental rights of Muslims of the country, which constitute about 18% of the population, under Articles 14, 19(1)(a), 21, 25 and 29 of the Constitution of India. The issues raised in this petition are not only limited to the inhabitants of the State of Karnataka but also have pan India ramifications which necessitate the exercise of jurisdiction under Article 32 by this Hon'ble Court so as to authoritatively give a quietus to the matter and preserve the ethos of unity in diversity and tolerant and positive secularism envisaged in our Constitution. The said fundamental rights of the Petitioner have been violated with

impunity on one hand by the Respondent No.2 which has denied entry to the Petitioner into the college, thereby debarring her from attending her regular classes until the Petitioner and similarly situated girls remove their headscarf/hijab. The Petitioner also challenges the direction/order dtd. 05.02.2022 issued by the Respondent No.1, State of Karnataka purportedly in exercise of its powers under Section 133(2) of the *Karnataka Education Act, 1983*, whereby the State Government has directed/backed up the College Development Committees ('CDCs') to prescribe school/college uniform for the students inter-alia highlighting therein that wearing of Hijab is not protected under Article 25 of the Constitution of India. A true and translated copy of the State Government order/direction dated 05.02.2022 is annexed hereto and marked as the **ANNEXURE P-1 [pgs.]**

2. The Petitioner, Fathima Bushra, is a student of Govt. PU College, Kundapura, Udupi District, State of Karnataka, who has been denied entry into the college.
3. The Respondent No. 1 is the State of Karnataka which has issued the impugned direction dated 05.02.2022 (Annexure P-1).
4. The Respondent No. 2 is the college where the Petitioner has taken admission and which has denied the Petitioner entry unless she removes her hijab.

**BRIEF FACTS OF THE CASE:**

5. That the Petitioner herein belongs to the Islamic faith and out of her own personal conviction and belief, that observing Hijab is an essential tenet of Islam, practices the same whenever she is out in the public.
6. The last two years, the country has borne the brunt of the COVID-19 pandemic, the likes of which has never been seen before. One of the most deleterious effects of the pandemic was the shutting down of schools and forcing students to obtain education from the confines of their homes in virtual mode. As the pandemic subsided one of the greatest reliefs for students including the Petitioner herein was to be able to physically attend her regular classes in her college.
7. Unfortunately however, when the Petitioner and many other Muslim girls like her, who from the time of their admission have been observing Hijab, became objects of vilification by right-wing hooligans who in troves started to pour down upon institute after institute in the State of Karnataka, threatening and violating with impunity the dignity of Hijab observing Muslim girls and threatening them to either return home or to remove their Hijabs if they wanted to attend college.
8. Succumbing to the pressure of such hooligans, the Petitioner and similarly situated students, in the first week of February, were not allowed to enter the school gate by the Respondent No.- School's authorities. Despite the Petitioner and similarly



situated classmates registering protest against such inhumane, insensitive and unconstitutional action of the school authorities, they were not permitted to enter into the school.

9. While the Petitioner and similarly situated muslim girl students were not being allowed to enter the college premises, the State machinery, though duty bound to preserve and protect the fundamental rights of the Petitioners, watched as a silent spectator.
10. On account of the indifference of the state machinery, the hooliganism of the right-wing saffron clad elements spread like wildfire across the State and like the Petitioner, suddenly thousands or more of Hijab observing minor Muslim girl students were denied entry into their respective schools.
11. On account of the inaction of the State machinery in taking the right-wing hooligans to task and ensuring that the Muslim girl students were permitted to attend their school, some of the similarly situated students approached the Hon'ble High Court of Karnataka seeking relief from the Hon'ble Court to direct the school authorities to permit them to enter their respective schools.
12. Immediately thereafter, the State Government issued the impugned direction/order dtd.05.02.2022 purportedly in exercise of its powers under Section 133 of the Karnataka Education Act, 1983, inter-alia directing the college Development Committees to prescribe uniforms to be worn by

students highlighting therein that wearing of a headscarf does not form a part of Article 25 rights.

13. It is pertinent to bring to the notice of this Hon'ble Court that thereafter, a writ petition being W.P. No. 2880 of 2022 was filed before the Hon'ble High Court on 07.02.2022 challenging the said GO. The said though was heard on the 8<sup>th</sup> and 9<sup>th</sup> of February 2022, the Ld. Single judge despite elaborate submissions, has referred the matter to be heard by a larger bench.
14. It is apt to note that when things stood as such some of the muslim girl students were allowed entry into the college premises, however, they were segregated from their non-muslim classmates and made to sit in a separate room other than their regular class. A true copy of the article dated 07.02.2022 titled '*Udupi: Hijab Wearing Students Allowed Into College Made to sit in Separate Room*' reported in The Wire as available on <https://thewire.in/rights/udupi-hijab-wearing-students-allowed-into-college-made-to-sit-in-separate-room> is annexed hereto and marked as **ANNEXURE P-2** [pgs.
15. In view of the simmering communal discontent across the State the CM of Karnataka on 08.02.2022 directed all schools and colleges to be shut for three days. A true copy of the article dated 09.02.2022 titled '*Violent clashes over hijab ban in southern India force schools to close*' reported in The Guardian as available on <https://www.theguardian.com/world/2022/feb/09/violent->

[clashes-over-hijab-ban-in-southern-india-force-schools-to-close](#)

is annexed hereto and marked as **ANNEXURE P-3 [pgs.**

16. The Petitioner being left without any remedies pertaining to her continuance of education in the school when her final exams are only two months away has been left with no other remedy but to prefer the present writ petition under Article 32 of the constitution seeking not only protection but enforcement of her fundamental rights under Articles 14, 19, 21, 25 and 29 of the Constitution.
17. Though similar petitions have been filed before the Hon'ble Karnataka High Court, the Petitioner has not filed any other Petition on the same subject matter or seeking similar reliefs either in this Hon'ble Court or any other High Courts except this present petition.
18. That the Writ Petition has been filed without any delay or latches and there is no legal bar in entertaining the same. That the Petitioner has no other efficacious alternative remedy except to file the present Writ Petition before this Hon'ble Court by invoking Article 32 of the Constitution.
19. That the Annexures are true and correct copies of their respective originals.
20. That in the circumstances mentioned hereinabove this Writ Petition is being preferred by the Petitioners *inter alia* on the

following amongst other grounds without prejudice to each other:

### **GROUND**

- A. FOR THAT the issues raised herein are not only limited to the inhabitants of the State of Karnataka but also have pan India ramifications which necessitate the exercise of jurisdiction under Article 32 by this Hon'ble Court.
- B. FOR THAT the fundamental rights of the Petitioner under Articles 14, 19(1)(a), 21, 25 and 29 of the Constitution of India have been violated with impunity by the Respondents.
- C. FOR THAT something as innocuous as wearing of a Hijab by a Muslim girl student has been turned into a communal issue of such magnitude that the State Government has had to declare the school and colleges to be shut down.
- D. FOR THAT though matters before the Hon'ble Karnataka High Court have been argued at length over two days, no relief seems to have come forth in the interim while the Petitioner is being made to stay away from schools/colleges for over a week now.
- E. FOR THAT the final exams are only two months away and the action of the Respondents in preventing the Petitioner from attending her regular classes would dent her educational career.

- F. FOR THAT the issues raised in the present petition are of such a nature that they are bound to have an impact on the rights of Muslim women across the country.
- G. FOR THAT it is imperative that this Hon'ble Court take it upon itself to decide once and for all the extent of protection that a Muslim girl has under the Constitution of India.
- H. FOR THAT the impugned G.O. questions the "essential" nature of the practice of wearing a hijab/headscarf by Muslim women, which it is submitted is not permissible.
- I. FOR THAT a Muslim girl pursuing her education wearing a hijab/headscarf offends no right of any person and militates against no State interest.
- J. FOR THAT the Petitioner herein does not wear the Hijab as a form of any political symbolism or to intimidate, heckle or belittle her fellow classmates or any other person.
- K. FOR THAT the Petitioner, like many other Muslim girl students, is a religious practicing Muslim who takes pride in practicing her religion.
- L. FOR THAT the non-observance of the practice by some members of that religious community is irrelevant to its essentiality or binding nature.

- M. FOR THAT the Holy Qur'an, the primary source of legislation in Islam positively commands/ordains the womenfolk in Islam to observe what is called as Hijab.
- N. FOR THAT there is overwhelming authority to show that wearing of a Hijab is an essential religious practice and as such completely protected by Article 25(1).
- O. FOR THAT insofar as the practice of religion is concerned, the Courts ought to defer to the genuine and conscientious beliefs of the community.
- P. FOR THAT the essentiality of a religious practice can only be viewed through the prism of the religious community itself and the outsiders' view in respect of the same has to be eschewed.
- Q. FOR THAT a detailed examination of the *Karnataka Education Act, 1983*, would show that regulation of uniform/dress of students cannot be brought into the category of 'purposes of the Act' described in said Act itself.
- R. FOR THAT Section 7 relied upon by the State Government to direct 'prescription of students' uniforms is confined only to the prescription of curricula for any course of instruction, its duration, medium of instruction etc.
- S. FOR THAT that none of the decisions relied upon in the impugned GO at all support the case of the State and manifest the non-application of mind of the State.

- T. FOR THAT the present incident and impugned G.O. are the latest in a long line of events that have threatened the secular fabric of our society and polity.
- U. FOR THAT the hooliganism and heckling of Muslim girl students by right-wing fringe elements of the society is being lost sight of conveniently by the State Government.
- V. FOR THAT in equating acts of hooliganism with the right of the Petitioner to peacefully practice her religion in the manner of dress, the State has treated unequals equally, which is a violation of Article 14.
- W. FOR THAT the State machinery has absolved itself of its obligation to ensure a conducive environment for Petitioner and similarly situated girls to exercise their fundamental rights.
- X. FOR THAT the right to wearing of clothes of one's choice has already been held to be an integral part of Article 19(1)(a).
- Y. FOR THAT the right to choose to dress in the manner one wishes can also be traced to Article 21.
- Z. FOR THAT wearing of a Hijab being an age-old practice amongst Muslim women has also become a part and parcel of Muslim culture and has thereby acquired the status of a cultural right under Article 29(1).

- AA. FOR THAT the denial of Muslim women/girls like the Petitioner herein from attending her college on account of wearing Hijab also tantamounts to violation of Article 29(2).
- BB. FOR THAT segregating Muslim girls and forcing them to sit in a room other than their regular classroom is an affront to the equal protection clause in Article 14.
- CC. FOR THAT the attack on the fundamental rights of the Petitioner on account of her religion reduces the secular character of the Constitution to a dead letter.
- DD. FOR THAT the State machinery reneged on its obligation to create a conducive environment for exercise of fundamental rights culminating in the exclusion of the Petitioner from enjoying the basic right to acquire education.
- EE. FOR THAT the impugned actions are otherwise illegal, unconstitutional, malafide and deserve to be struck down

### **PRAYER**

In the facts and circumstances of the instant case, it is most respectfully submitted that this Hon'ble Court may be pleased to:

- a. Pass an appropriate writ / order or direction declaring the State Government's direction dated 05.02.2022 as illegal and *ultra vires*, being in contravention of Articles 14, 19(1)(a), 21, 25 and 29 of the Constitution as well as *ultra vires* the provisions of



the *Karnataka Education Act, 1983*, and consequently quash and set aside the same; and

- b. Pass an appropriate writ / order or direction in the nature of mandamus directing the Respondent No. 2 to permit the Petitioner to physically attend her classes; and
- c. Pass such other writ(s) / order(s) / direction(s) in the interests of justice which it may deem fit in the facts of the present case.

**AND FOR THIS ACT OF KINDNESS THE PETITIONER AS  
IN DUTY BOUND SHALL EVER PRAY**

**DRAWN BY:**

**MR. MOHD. NIZAM PASHA, ADV.  
MR. JAVEDUR RAHMAN, ADV.  
MR. RAJESH INAMDAR**

**FILED BY:**



**MR. JAVEDUR RAHMAN  
ADVOCATE FOR THE PETITIONER**

**Place : NEW DELHI  
Drawn on : 10.02.2022  
Date : 10.02.2022**



**IN THE SUPREME COURT OF INDIA**  
**(CIVIL ORIGINAL JURISDICTION)**

**WRIT PETITION (CIVIL) NO.**

**OF 2022**

**IN THE MATTER OF:**

MISS. FATHIMA BUSHRA

... PETITIONER

VERSUS

STATE OF KARNATAKA & ORS.

... RESPONDENTS

**AFFIDAVIT**

I, Noor Jaham, W/o Rafiq ,Aged About 48 years, Janatha Colony Road ,Kandlur ,Kundapura ,Udupi District ,Karnataka State, now at Bangalore do hereby state on solemn affirmation as under:

1. That I am the Mother and Legal guardian of the Petitioner in the above mentioned Writ Petition and as such I am well conversant with the facts of the present case and competent to swear the present affidavit.
2. I say that I have read and understood the contents of the Synopsis and List of Dates at pages B to O and the contents of the Writ Petition as contained in paras 1 to 20 at pages 1 to 7 including the grounds and the prayer clause at pages 8 to 13 and the connected miscellaneous applications at pages 33 to 42 and state that the facts stated therein are true to the best of my knowledge and belief.
3. That Annexures P-1 to Annexure P-3 at pages 17 to 32 filed along with the Writ Petition are true copies of their respective originals.
4. That the contents of the above affidavit are true and correct and no part of it is false and nothing material has been concealed therefrom.

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**VERIFICATION**

I, the deponent above named do hereby verify that the contents of paras 1 to 4 of the present affidavit are true and correct to the best of my knowledge and belief and that no part of it is false and nothing material has been willfully concealed therefrom.

Verified at Bangalore on this the 9<sup>th</sup> day of February, 2022,

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**DEPONENT**

CONSTITUTION OF INDIA

**14. Equality before law.**—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

**19. Protection of certain rights regarding freedom of speech, etc.**—  
(1) All citizens shall have the right—

(a) to freedom of speech and expression;

**21. Protection of life and personal liberty.**—No person shall be deprived of his life or personal liberty except according to procedure established by law.

**25. Freedom of conscience and free profession, practice and propagation of religion.**—(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

*Explanation I.*—The wearing and carrying of *kirpans* shall be deemed to be included in the profession of the Sikh religion.

*Explanation II.*—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

**29. Protection of interests of minorities.**—(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.



TRUE COPY

### ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ನಡವಳಿಗಳು

ವಿಷಯ: ರಾಜ್ಯದ ಎಲ್ಲಾ ಶಾಲಾ ಕಾಲೇಜುಗಳಲ್ಲಿ ವಿದ್ಯಾರ್ಥಿಗಳ ವಸ್ತ್ರ ಸಂಹಿತೆ ಕುರಿತು.

ಓದಲಾಗಿದೆ: 1) ಕರ್ನಾಟಕ ಶಿಕ್ಷಣ ಕಾಯ್ದೆ 1983.

2) ಸರ್ಕಾರದ ಸುತ್ತೋಲೆ ಸಂಖ್ಯೆ: 509 ಎಸ್‌ಹೆಚ್‌ಹೆಚ್ 2013,

ದಿನಾಂಕ: 31-01-2014.

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ಪ್ರಸ್ತಾವನೆ:-

ಮೇಲೆ ಓದಲಾದ ಕ್ರಮ ಸಂಖ್ಯೆ:1ರಲ್ಲಿ ಕರ್ನಾಟಕ ಸರ್ಕಾರವು 1983ರಲ್ಲಿ ಜಾರಿಗೆ ತಂದಿರುವ ಶಿಕ್ಷಣ ಕಾಯ್ದೆ 1983ರಲ್ಲಿ (1-1995) ಕಲಂ 7 (2) (5)ರಲ್ಲಿ ವಿವರಿಸಿರುವಂತೆ ಕರ್ನಾಟಕ ರಾಜ್ಯದ ಎಲ್ಲಾ ಶಾಲೆಗಳ ವಿದ್ಯಾರ್ಥಿ-ವಿದ್ಯಾರ್ಥಿನಿಯರು ಒಂದೇ ಕುಟುಂಬದ ರೀತಿಯಲ್ಲಿ ನಡೆದುಕೊಳ್ಳಬೇಕೆಂದು ಮತ್ತು ಯಾವುದೇ ಒಂದು ವರ್ಗಕ್ಕೆ ಸೀಮಿತವಾಗಿರದೇ ಸಾಮಾಜಿಕ ನ್ಯಾಯದ ಪರವಾಗಿ ನಡೆದುಕೊಳ್ಳಬೇಕು. ಪ್ರಸ್ತುತ ಕಾಯ್ದೆ ಕಲಂ-133ರ ಅಡಿಯಲ್ಲಿ ಶಾಲಾ ಮತ್ತು ಕಾಲೇಜುಗಳಿಗೆ ಈ ಬಗ್ಗೆ ಸೂಕ್ತ ನಿರ್ದೇಶನಗಳನ್ನು ನೀಡುವ ಅಧಿಕಾರವು ಸರ್ಕಾರಕ್ಕೆ ಪ್ರದತ್ತವಾಗಿರುತ್ತದೆ.

ಮೇಲೆ ಓದಲಾದ ಕ್ರಮ ಸಂಖ್ಯೆ:(2)ರಲ್ಲಿನ ಸುತ್ತೋಲೆಯಲ್ಲಿ ಪದವಿ ಪೂರ್ವ ಶಿಕ್ಷಣವು ವಿದ್ಯಾರ್ಥಿಗಳ ಜೀವನದಲ್ಲಿ ಪ್ರಮುಖ ಘಟ್ಟವಾಗಿರುತ್ತದೆ. ಸರ್ಕಾರ ನೀಡುವ ಸೂಚನೆಗೆ ಅನುಗುಣವಾಗಿ ಮತ್ತು ಬಿಡುಗಡೆ ಮಾಡುವ ಅನುದಾನವನ್ನು ಸರಿಯಾಗಿ ಉಪಯೋಗಿಸಿಕೊಳ್ಳುವ ನಿಟ್ಟಿನಲ್ಲಿ ಹಾಗೂ ಮೂಲಭೂತ ಸೌಕರ್ಯಗಳನ್ನು ಅಭಿವೃದ್ಧಿಪಡಿಸುವ, ಶೈಕ್ಷಣಿಕ ಗುಣಮಟ್ಟವನ್ನು ಕಾಪಾಡುವ ದೃಷ್ಟಿಯಿಂದ ರಾಜ್ಯದ ಎಲ್ಲಾ ಶಾಲಾ ಮತ್ತು ಕಾಲೇಜುಗಳಲ್ಲಿ ಅಭಿವೃದ್ಧಿ ಸಮಿತಿಗಳನ್ನು ರಚಿಸಲಾಗಿದ್ದು, ಆಯಾ ಶಾಲಾ ಮತ್ತು ಕಾಲೇಜು ಅಭಿವೃದ್ಧಿ ಸಮಿತಿಯ ನಿರ್ಣಯಗಳ ಪ್ರಕಾರ ಕಾರ್ಯನಿರ್ವಹಿಸಲು ಸೂಚಿಸಲಾಗಿದೆ.

ಯಾವುದೇ ಶಿಕ್ಷಣ ಸಂಸ್ಥೆಯ ಮೇಲ್ವಿಚಾರಣಾ ಸಮಿತಿಯು (ಸರ್ಕಾರಿ ಶಾಲಾ ಕಾಲೇಜುಗಳಲ್ಲಿ- ಎಸ್.ಡಿ.ಎಂ.ಸಿ, ಖಾಸಗಿ ಶಾಲಾ ಕಾಲೇಜುಗಳಲ್ಲಿ-ಪೋಷಕರು ಮತ್ತು ಶಿಕ್ಷಕರ ಸಮಿತಿ ಹಾಗೂ ಆ ಸಂಸ್ಥೆಯ ಆಡಳಿತ ಮಂಡಳಿ) ಮೇಲಿನಂತೆ ಸುಗಮ ಶೈಕ್ಷಣಿಕ ವಾತಾವರಣವನ್ನು ವಿದ್ಯಾರ್ಥಿಗಳಿಗೆ ಕಲ್ಪಿಸುವ ಸದಾಶಯದಿಂದ ಸೂಕ್ತ ನೀತಿ ಸಂಹಿತೆಗಳನ್ನು ಆಯಾ ಶಾಲಾ ಕಾಲೇಜುಗಳಲ್ಲಿ ಸರ್ಕಾರದ ನೀತಿಗಳಿಗೆ ಅನುಸಾರವಾಗಿ ನಿರ್ಣಯಿಸಿ ಅಳವಡಿಸಿಕೊಳ್ಳಬಹುದಾಗಿದೆ. ಅಂತಹ ಸಮಿತಿಯ ನಿರ್ಣಯವು ಆಯಾ ಶಾಲಾ ಕಾಲೇಜುಗಳಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಇರುತ್ತದೆ.

ರಾಜ್ಯದ ಎಲ್ಲಾ ಶಾಲಾ ಕಾಲೇಜುಗಳಲ್ಲಿ ವಿದ್ಯಾರ್ಥಿ-ವಿದ್ಯಾರ್ಥಿನಿಯರು ಏಕರೂಪ ಕಲಿಕಾ ಕಾರ್ಯಕ್ರಮದಲ್ಲಿ ಭಾಗವಹಿಸಲು ಅನುಕೂಲವಾಗುವಂತೆ ಎಲ್ಲಾ ಶಾಲಾ ಕಾಲೇಜುಗಳಲ್ಲಿ ಕಾರ್ಯಕ್ರಮಗಳನ್ನು ಹಮ್ಮಿಕೊಳ್ಳಲಾಗಿದೆ. ಆದರೆ, ಕೆಲವು ವಿದ್ಯಾ ಸಂಸ್ಥೆಗಳಲ್ಲಿ ವಿದ್ಯಾರ್ಥಿ ವಿದ್ಯಾರ್ಥಿನಿಯರು ತಮ್ಮ ಧರ್ಮದ ಅನುಸಾರ ಆಚರಣೆಗಳನ್ನು ಪಾಲಿಸುತ್ತಿರುವುದು ಕಂಡುಬರುತ್ತಿದ್ದು ಇದರಿಂದ ಶಾಲಾ ಕಾಲೇಜುಗಳಲ್ಲಿ ಸಮಾನತೆ ಮತ್ತು ಏಕತೆಗೆ ಧಕ್ಕೆ ಬರುತ್ತಿರುವುದು ಶಿಕ್ಷಣ ಇಲಾಖೆಯ ಗಮನಕ್ಕೆ ಬಂದಿರುತ್ತದೆ.

-2-

ವೈಯಕ್ತಿಕ ವಸ್ತ್ರ ಸಂಹಿತೆಗಿಂತ ಏಕರೂಪ ವಸ್ತ್ರ ಸಂಹಿತೆಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ರಾಷ್ಟ್ರದ ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯ ಮತ್ತು ವಿವಿಧ ರಾಜ್ಯಗಳ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯಗಳ ಮುಂದೆ ದಾಖಲಾದ ಪ್ರಕರಣಗಳಲ್ಲಿ ಈ ಕೆಳಕಂಡಂತೆ ತೀರ್ಪು ನೀಡಲಾಗಿರುತ್ತದೆ:

1) ಕೇರಳ ರಾಜ್ಯದ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು W.P(C) No. 35293/2018ರ ದಿನಾಂಕ:04-12-2018ರಂದು ನೀಡಲಾದ ಆದೇಶದ ಕಂಡಿಕೆ-9ರಲ್ಲಿ ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯವು ಹೇಳಿರುವ ತತ್ವವನ್ನು ಈ ಕೆಳಕಂಡಂತೆ ವಿವರಿಸಿರುತ್ತದೆ:

“9. The Apex court in Asha Renjan & others v/s State of Bihar & others [(2017) 4 SCC 397] accepted the balance test when competing rights are involved and has taken a view that individual interest must yield to the larger public interest. Thus, conflict to competing rights can be resolved not by negating individual rights but by upholding larger right to remain, to hold such relationship between institution and students.”

2) ಫಾತಿಮಾ ಹುಸೇನ್ ಸೈಯದ್ ವಿರುದ್ಧ ಭಾರತ್ ಎಜುಕೇಷನ್ ಸೊಸೈಟಿ ಮತ್ತು ಇತರರು, (AIR 2003 Bom 75) ಪ್ರಕರಣದಲ್ಲಿ ಇದೇ ರೀತಿಯಲ್ಲಿ ವಸ್ತ್ರ ಸಂಹಿತೆಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಕಾರ್ತಿಕ್ ಇಂಗ್ಲೀಷ್ ಸ್ಕೂಲ್, ಮುಂಬೈನಲ್ಲಿ ಸಮಸ್ಯೆ ಉದ್ಭವಿಸಿದ್ದು, ಸದರಿ ಸಮಸ್ಯೆಯ ವಿಚಾರಣೆಯನ್ನು ಬಾಂಬೆ ಉಚ್ಚ ನ್ಯಾಯಾಲಯ, ಪರಿಶೀಲಿಸಿದ್ದು, ಈ ಶಾಲೆಯ ಪ್ರಾಂಶುಪಾಲರು ಅರ್ಜಿದಾರರಿಗೆ ಶಿರವಸ್ತ್ರ(Head scarf) ಹಾಕಿಕೊಂಡು ಅಥವಾ ತಲೆಯನ್ನು ಮುಚ್ಚಿಕೊಂಡು ಶಾಲೆಗೆ ಬರದಂತೆ ನಿರ್ದೇಶಿಸಿರುವುದು ಸಂವಿಧಾನದ ಅನುಚ್ಛೇದ 25ರ ಉಲ್ಲಂಘನೆ ಅಲ್ಲವೆಂದು ಅಂತಿಮವಾಗಿ ತೀರ್ಪು ನೀಡಿರುತ್ತದೆ.

3) ಮೇಲೆ ಹೇಳಲಾದ ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದ ತೀರ್ಪನ್ನು ಅವಲೋಕಿಸಿ ಮಾನ್ಯ ಮದ್ರಾಸ್ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ಸಹ ವಿ. ಕಮಲಮ್ಮ ವಿರುದ್ಧ ಡಾ.ಎಂ.ಜಿ.ಆರ್. ಮೆಡಿಕಲ್ ಯುನಿವರ್ಸಿಟಿ, ತಮಿಳುನಾಡು ಮತ್ತು ಇತರರು. ಈ ಪ್ರಕರಣದಲ್ಲಿ ಸದರಿ ವಿಶ್ವವಿದ್ಯಾಲಯವು ಮಾರ್ಪಾಡು ಮಾಡಿ ನಿಗದಿಪಡಿಸಿದ ವಸ್ತ್ರ ಸಂಹಿತೆಯ ನಿರ್ಧಾರವನ್ನು ಎತ್ತಿ ಹಿಡಿದಿದೆ. ಇದೇ ತರಹದ ವಿಷಯವು ಮಾನ್ಯ ಮದ್ರಾಸ್ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಶ್ರೀ ಎಂ.ವೆಂಕಟಸುಬ್ಬರಾವ್ ಮೆಟ್ರಿಕ್ಯುಲೇಷನ್ ಹೈಯರ್ ಸೆಕೆಂಡರಿ ಸ್ಕೂಲ್ ಸ್ಟಾಫ್ ಅಸೋಸಿಯೇಷನ್ ವಿರುದ್ಧ ಶ್ರೀ ಎಂ.ವೆಂಕಟಸುಬ್ಬರಾವ್ ಮೆಟ್ರಿಕ್ಯುಲೇಷನ್ ಹೈಯರ್ ಸೆಕೆಂಡರಿ ಸ್ಕೂಲ್ ಎಂಬ ಮತ್ತೊಂದು (2004) 2 MLJ 653 ಪ್ರಕರಣದಲ್ಲಿ ಸಹ ಪರಿಗಣಿತವಾಗಿದೆ.

ಮೇಲೆ ಪ್ರಸ್ತಾಪಿಸಲಾದ ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯ ಹಾಗೂ ವಿವಿಧ ರಾಜ್ಯಗಳ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯಗಳಲ್ಲಿನ ತೀರ್ಪುಗಳನ್ವಯ ಶಿರವಸ್ತ್ರ(Head scarf) ಹಾಕಿಕೊಂಡು ಅಥವಾ ತಲೆಯನ್ನು ಮುಚ್ಚಿಕೊಂಡು ಶಾಲೆಗೆ ಬರದಂತೆ ನಿರ್ದೇಶಿಸಿರುವುದು ಸಂವಿಧಾನದ ಅನುಚ್ಛೇದ 25ರ ಉಲ್ಲಂಘನೆ ಅಲ್ಲವೆಂದಿರುವುದರಿಂದ ಹಾಗೂ ಕರ್ನಾಟಕ ಶಿಕ್ಷಣ ಕಾಯ್ದೆ 1983 ಮತ್ತು ಅದರಡಿ ರಚಿತವಾದ ನಿಯಮಗಳನ್ನು ಕೂಲಂಕಷವಾಗಿ ಪರಿಶೀಲಿಸಿ ಸರ್ಕಾರವು ಈ ಕೆಳಕಂಡಂತೆ ಆದೇಶಿಸಿದೆ.

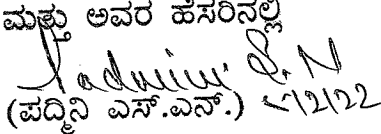


-3-

ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ:ಇಪಿ 14 ಎಸ್‌ಹೆಚ್‌ಹೆಚ್ 2022 ಬೆಂಗಳೂರು, ದಿನಾಂಕ:05.02.2022.

ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ವಿವರಿಸಿರುವ ಅಂಶಗಳ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಕರ್ನಾಟಕ ಶಿಕ್ಷಣ ಕಾಯ್ದೆ 1983 ಕೆಲವು 133 ಉಪ ಕಂಡಿಕೆ (2)ರಲ್ಲಿ ಪ್ರದತ್ತವಾಗಿರುವ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ ರಾಜ್ಯದ ಎಲ್ಲಾ ಸರ್ಕಾರಿ ಶಾಲೆಗಳಲ್ಲಿ ಸರ್ಕಾರ ನಿಗದಿ ಪಡಿಸಿರುವ ಸಮವಸ್ತ್ರವನ್ನು ಕಡ್ಡಾಯವಾಗಿ ಧರಿಸತಕ್ಕದ್ದು. ಖಾಸಗಿ ಶಾಲೆಗಳು ತಮ್ಮ ಆಡಳಿತ ಮಂಡಳಿಗಳು ನಿರ್ಧರಿಸಿರುವಂತಹ ಸಮವಸ್ತ್ರವನ್ನೇ ಧರಿಸತಕ್ಕದ್ದು.

ಪದವಿ ಪೂರ್ವ ಶಿಕ್ಷಣ ಇಲಾಖೆಯ ವ್ಯಾಪ್ತಿಯಲ್ಲಿನ ಕಾಲೇಜುಗಳಲ್ಲಿ ಆಯಾ ಕಾಲೇಜಿನ ಕಾಲೇಜು ಅಭಿವೃದ್ಧಿ ಸಮಿತಿ (CDC) ಅಥವಾ ಆಡಳಿತ ಮಂಡಳಿಯ ಮೇಲ್ವಿಚಾರಣಾ ಸಮಿತಿಯು ನಿರ್ಧರಿಸುವಂತಹ ಸಮವಸ್ತ್ರಗಳನ್ನು ಧರಿಸತಕ್ಕದ್ದು. ಆಡಳಿತ ಮಂಡಳಿಗಳು ಸಮವಸ್ತ್ರಗಳನ್ನು ನಿಗದಿಪಡಿಸದೇ ಇದ್ದಲ್ಲಿ, ಸಮಾನತೆ ಮತ್ತು ಐಕ್ಯತೆಯನ್ನು ಕಾಪಾಡಿಕೊಂಡು ಹಾಗೂ ಸಾರ್ವಜನಿಕ ಸುವ್ಯವಸ್ಥೆಗೆ ಭಂಗ ಬರದಂತೆ ಇರುವ ಉಡುಪುಗಳನ್ನು ಧರಿಸಿಕೊಳ್ಳತಕ್ಕದ್ದೆಂದು ಆದೇಶಿಸಿದೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶನುಸಾರ  
ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ  
  
(ಪದ್ವಿನಿ ಎಸ್.ಎನ್.) 12/22

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ  
ಶಿಕ್ಷಣ ಇಲಾಖೆ(ಪದವಿ ಪೂರ್ವ)

ಇವರಿಗೆ:

1. ಸರ್ಕಾರದ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿ, ಕರ್ನಾಟಕ ಸರ್ಕಾರ, ವಿಧಾನಸೌಧ, ಬೆಂಗಳೂರು.
2. ಸರ್ಕಾರದ ಅಪರ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿ, ಗ್ರಾಮೀಣಾಭಿವೃದ್ಧಿ ಮತ್ತು ಪಂಚಾಯತ್ ರಾಜ್ ಇಲಾಖೆ, ಬೆಂಗಳೂರು.
3. ಸರ್ಕಾರದ ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿ, ಸಮಾಜ ಕಲ್ಯಾಣ ಇಲಾಖೆ, ಬೆಂಗಳೂರು.
4. ಸರ್ಕಾರದ ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿ, ಅಲ್ಪಸಂಖ್ಯಾತರ ಕಲ್ಯಾಣ ಇಲಾಖೆ, ಬೆಂಗಳೂರು.
5. ಸರ್ಕಾರದ ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿ, ಮಹಿಳಾ ಮತ್ತು ಮಕ್ಕಳ ಅಭಿವೃದ್ಧಿ ಇಲಾಖೆ, ಬೆಂಗಳೂರು.
6. ಮಾನ್ಯ ಮುಖ್ಯಮಂತ್ರಿಗಳ ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿ, ವಿಧಾನಸೌಧ, ಬೆಂಗಳೂರು.
7. ಆಯುಕ್ತರು, ಸಾರ್ವಜನಿಕ ಶಿಕ್ಷಣ ಇಲಾಖೆ, ಬೆಂಗಳೂರು.
8. ನಿರ್ದೇಶಕರು, ಪದವಿ ಪೂರ್ವ ಶಿಕ್ಷಣ ಇಲಾಖೆ, ಬೆಂಗಳೂರು.
9. ರಾಜ್ಯದ ಎಲ್ಲಾ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು ಮತ್ತು ಜಿಲ್ಲಾ ದಂಡಾಧಿಕಾರಿಗಳು.
10. ರಾಜ್ಯದ ಎಲ್ಲಾ ಜಿಲ್ಲಾ ಪಂಚಾಯತ್ ಮುಖ್ಯ ಕಾರ್ಯನಿರ್ವಹಣಾಧಿಕಾರಿಗಳು.
11. ಅಪರ ಆಯುಕ್ತರು, ಸಾರ್ವಜನಿಕ ಶಿಕ್ಷಣ ಇಲಾಖೆ, ಕಲಬುರಗಿ/ಧಾರವಾಡ.
12. ರಾಜ್ಯದ ಎಲ್ಲಾ ಜಂಟಿ/ಉಪನಿರ್ದೇಶಕರು, ಸಾರ್ವಜನಿಕ ಶಿಕ್ಷಣ ಇಲಾಖೆ.
13. ಎಲ್ಲಾ ಜಂಟಿ / ಉಪನಿರ್ದೇಶಕರು, ಪದವಿ ಪೂರ್ವ ಶಿಕ್ಷಣ ಇಲಾಖೆ.
14. ಮಾನ್ಯ ಪ್ರಾಥಮಿಕ ಮತ್ತು ಪ್ರೌಢಶಿಕ್ಷಣ ಹಾಗೂ ಸಕಾಲ ಸಚಿವರ ಆಪ್ತ ಕಾರ್ಯದರ್ಶಿ, ವಿಧಾನಸೌಧ.
15. ಸರ್ಕಾರದ ಅಪರ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿರವರ ಆಪ್ತ ಕಾರ್ಯದರ್ಶಿ, ಉನ್ನತ ಶಿಕ್ಷಣ ಇಲಾಖೆ,
16. ಸರ್ಕಾರದ ಪ್ರಧಾನ ಕಾರ್ಯದರ್ಶಿರವರ ಆಪ್ತ ಕಾರ್ಯದರ್ಶಿ, ಪ್ರಾಥಮಿಕ ಮತ್ತು ಪ್ರೌಢಶಿಕ್ಷಣ ಇಲಾಖೆ.
17. ಸರ್ಕಾರದ ಅಪರ/ಉಪ ಕಾರ್ಯದರ್ಶಿಗಳು-1, 2 ಆಪ್ತ ಸಹಾಯಕರು.
18. ಹೆಚ್ಚುವರಿ ಪ್ರತಿಗಳು.

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**Proceedings of the Government of Karnataka**

Subject - Regarding a dress code for students of all schools and colleges of the state

Refer - 1) Karnataka Education Act 1983

2) Government Circular : 509 SHH 2013, Date : 31-01-2014

Preamble:-

As mentioned in the above at reference No.1, the Karnataka Education Act 1983 passed by the government of Karnataka (1-1995) Section 7 (2) (5) stipulates that all the school students studying in Karnataka should behave in a fraternal manner, transcend their group identity and develop an orientation towards social justice. Under the Section 133 of the above law, the government has the authority to issue directions to schools and colleges in this regard.

The above mentioned circular at reference No.2 underlines how Pre-university education is an important phase in the lives of students. All the schools and colleges in the state have set up development committees in order to implement policies in line with the policies of the government, utilize budgetary allocations, improve basic amenities and maintain their academic standards. It is recommended that the schools and colleges abide by the directions of these development committees.

Any such supervisory committee in schools and colleges (SDMC in Government Institutions and Parents-Teachers' Associations and the management in private institutions) should strive to provide a conducive academic environment and enforce a suitable code of conduct in accordance with government regulations. Such a code of conduct would pertain to that particular school or college.

Various initiatives have been undertaken to ensure that students in schools and colleges have a standardized learning experience.



However, it has been brought to the education department's notice that students in a few institutions have been carrying out their religious observances, which has become an obstacle to unity and uniformity in the schools and colleges.

The question relating to a uniform dress code over individual dressing choices has come up in several cases before the honourable Supreme Court and High Courts, which have ruled as below.

- 1) In Para 9 of the Hon'ble High Court of Kerala's ruling in W.P (C) No. 35293/2018, date : 04-12-2018, it cites a ruling by the Hon'ble Supreme Court :

“ 9. The Apex Court in *Asha Renjan and others v/s State of Bihar and others* [(2017) 4 SCC 397] accepted the balance test when competing rights are involved and has taken a view that individual interest must yield to the larger public interest. Thus, conflict to competing rights can be resolved not by negating individual rights but by upholding larger right to remain, to hold such relationship between institution and students.”

- 2) In the case of *Fatima Hussain Syed v/s Bharat Education Society and ors.* (AIR 2003 Bom 75), in a similar incident regarding the dress code, when a controversy occurred at Kartik High School, Mumbai, The Bombay High Court appraised the matter, and ruled that it was not a violation of Article 25 of the Constitution for the principal to prohibit the wearing of head scarf or head covering in the school.
- 3) Subsequent to the Hon'ble Supreme Court's abovementioned ruling, the Hon'ble Madras High Court, in *V. Kamalamma v/s Dr. MGR Medical University, Tamil Nadu and Ors* upheld the modified dress code mandated by the university. A similar issue has been considered by the Madras High Court in the *Shri. M*

Venkatasubbarao Matriculation Higher Secondary School Staff Association v/s Shri M. Venkatasubbarao Matriculation Higher Secondary School (2004) 2 MLJ 653 case.

As mentioned in the abovementioned rulings of the Hon'ble Supreme Court and various High Courts, since the prohibition of a headscarf or a garment covering the head is not a violation of Article 25 of the constitution. Additionally, in terms of the Karnataka Education Act 1983 and its rules, the government has decreed as below -

**Government Order No: EP14 SHH 2022 Bengaluru, Dated :  
05.02.2022**

In the backdrop of the issues highlighted in the proposal, using the powers granted by Karnataka Education Act Section 133 (2), all the government schools in the state are mandated to abide by the official uniform. Private schools should mandate a uniform decided upon by their board of management.

In colleges that come under the pre-university education department's jurisdiction, the uniforms mandated by the College Development Committee, or the board of management, should be worn. In the event that the management does mandate a uniform, students should wear clothes that are in the interests of unity, equality, and public order.

By the Order of the Governor of Karnataka,

And in his name

Padmini SN

Joint Secretary to the Government

Education Department (Pre-University)



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RIGHTS

# Udupi: Hijab Wearing Students Allowed Into College, Made to Sit in Separate Room

The decision has sparked concerns about segregation.



A photo of the Udupi college. Credit: Twitter@KeypadGuerilla

THE WIRE

## Udupi: Hijab Wearing Students Allowed Into College, Made To Sit In Separate Room

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The Wire Staff



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EDUCATION RIGHTS 07/FEB/2022

**New Delhi:** The Government PU College in Kundapur in Udupi on Monday allowed students in hijab to enter the college, but were asked to go to a “separate room”, sparking concerns about segregation.

Several government schools in Udupi have barred students wearing the hijab or burqa from entering the college. Recently, the BJP government has passed an order asking students to wear only uniforms, despite the fact that many Muslim girl students have been wearing hijab (headscarves) for many years.

According to news agency PTI, the principal of the Government PU College in Kundapur spoke to the Muslim girl students who came wearing hijabs and explained to them the government’s order. The students insisted on wearing the headscarves, after which they were asked to go “to a separate room arranged for them”.

According to reports, the principal said this was to “prevent crowding near the gate” and they would not be allowed to

THE WIRE

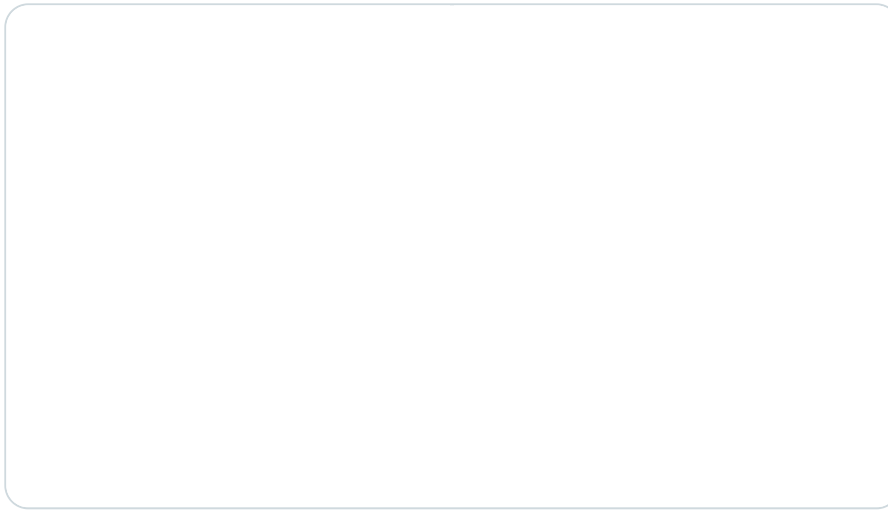
## Udupi: Hijab Wearing Students Allowed Into College, Made To Sit In Separate Room

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@ANI

Karnataka: Students wearing hijab allowed entry into the campus of Government PU College, Kundapura today but they will be seated in separate classrooms. Latest visuals from the campus.



9:59 AM · Feb 7, 2022

[Read the full conversation on Twitter](#) 8.2K  Reply  Share[Read 2K replies](#)

Hindu students have been wearing saffron shawls to ‘protest’ against Muslim students who were wearing hijabs. A group of students studying at Venkataramana College in Kundapur came in a procession to the college on Monday wearing saffron shawls. They were prevented from entering the premises by the college principal and the police personnel present there.

The students said they will wear the shawls if hijab-wearing girls were allowed in classes. They agreed to enter the classes

At the Kalavara Varadaraj M Shetty Government First Grade College in Kundapur, students in hijab were sent home, **according to NDTV**.

The TV channel reported that with the Karnataka high court set to hear a plea on the issue on Tuesday, two colleges declared Monday a holiday. Five women from a government pre-university college in Udupi have filed the plea, questioning the restriction on hijab.

The issue began last month at the Government Girls PU college in Udupi district, when six students were barred from classes for wearing the hijab. Right-wing groups in the region have long objected to wearings hijabs in school.

Former Karnataka chief minister Siddaramaiah, a Congress leader, has slammed the BJP and Rashtriya Swayamsevak

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## Udupi: Hijab Wearing Students Allowed Into College, Made To Sit In Separate Room

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“The constitution has given the right to practice any religion which means one can wear any clothes according to their religion. Prohibiting ‘Hijab-wearing students from entering school is a violation of fundamental rights,” he said.

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**India**

## Violent clashes over hijab ban in southern India force schools to close

**Unrest triggered when Karnataka state came down in favour of rightwing Hindu demands for headscarf ban**

**Hannah Ellis-Petersen** *South Asia correspondent*

Wed 9 Feb 2022 14.44 GMT

The Indian state of Karnataka has shut its schools for three days after the regional government backed schools imposing a ban on hijabs, leading to widespread protests and violence.

The issue began in January, when six female Muslim students staged a weeks-long protest after they were told to either remove their headscarves or stop attending class at a government college in the district of Udupi.

Last week, other colleges in the state began to enforce bans after some Hindu students, backed by rightwing Hindu groups, protested that if hijabs were allowed in classrooms, they should be allowed to wear saffron shawls. Saffron is the colour that has become commonly associated with Hindu nationalism.



On Saturday, in an apparent backing of schools' right to impose a ban, the Karnataka state government directed colleges to ensure that "clothes which disturb equality, integrity and public law and order should not be worn".

Muslim students have argued that their right to freedom of religion is being violated, and have taken the issue to state high court. The students have argued that "religious apartheid" is being imposed in some colleges where women in a hijabs are being allowed to enter but are being kept in separate classrooms.

The issue has proved highly inflammatory. At some colleges, Muslim students have been aggressively heckled, while in others the protests between students turned violent, prompting police to charge at crowds and fire into the air.

On Tuesday, the state chief minister Basavaraj S Bommai suspended schools and colleges for three days and urged students and teachers to "maintain peace and harmony".

Karnataka is run by the Hindu nationalist Bharatiya Janata party (BJP), which governs at a national level too. Under its watch there has been a rising tide of anti-Muslim violence and sentiment across India, where 12% of the population is Muslim. The BJP state chief in Karnataka, Nalin Kumar Kateel, has said banning the hijab would ensure that classrooms did not become "Taliban-like".

Rahul Gandhi, leader of the opposition Indian National Congress party, was highly critical. "By letting students' hijab come in the way of their education, we are robbing the future of the daughters of India," he said. "Prohibiting hijab-wearing students from entering school is a violation of fundamental rights."

The situation also drew condemnation from the Nobel peace prize winner Malala Yousafzai, who said the situation was "horrificing" and called on Indian leaders to stop the "marginalisation of Indian women".

Muslim students at Dr BB Hegde College in Udupi described how they had turned up to classes last Thursday and found they were barred entry by a large group of men, including fellow students, who were wearing saffron shawls. The group had demanded the Muslim students remove their hijabs.

**Love jihad: India's lethal religious conspiracy theory**



principal informed the women that it was a government order and that they must go to the bathroom to remove their hijabs or they could not attend class.

After the girls refused to remove their headscarves, the gates of the school were locked to prevent them entering and several police officers were called.

Rabiya Khan, a student at the college, said the school's leadership had come under pressure from rightwing Hindu groups. "The Hindutva [hardline Hindu nationalism] elements don't have a problem with the hijab, they have problem with our whole religious and cultural identity," she said.

Even though many Hindu students in their classes had privately voiced support for their right to wear a hijab, they were keeping quiet because they were fearful of the actions of vigilante groups, said Khan.

As the row erupted and she was sent home from school, Khan's parents told her to remove the hijab so at least she could still continue getting an education, with her crucial exams just two months away.

"But I told them that if we give up, it will boost the morale of communal elements and create problems for the Muslim students in the future," Khan said. "We have to make sacrifices and stay strong." Khan emphasised that the Muslim students had never voiced any objection to Hindu students wearing saffron shawls.

Saniya Parveen, 20, another Muslim student at the college, said she had worn a hijab to

college for three years with no objections, and that Muslims and Hindus had always studied together side-by-side peacefully. Parveen said she and her fellow Muslim

students were anxiously waiting for the outcome of the court order to find out whether they would be able to return to their studies.

“I hope we will be allowed to attend classes in hijab,” she said. “It is our religious compulsion and a constitutional right; we are not going to surrender.”

In Bhandarkars’ Arts and Science College in Udupi district, where a hijab ban was also enforced, one student spoke of her despair at Muslim students being made to feel like “beggars at the college gates”.

“It is humiliating,” she said. “We used to feel so safe inside the campus and never felt we were in any way different from our Hindu classmates. Suddenly we are being made to feel like outsiders. For the first time we were made to realise that we were Muslims and they are Hindus.”

In a statement, the Karnataka spokesperson for Vishva Hindu Parishad, one of the rightwing groups at the forefront of the anti-hijab protests, termed the hijab row “a conspiracy to propagate jihadi terrorism” and said that Muslim students were attempting “hijab jihad” in college campuses.

Apoorvanand, a professor of Hindi at the University of Delhi, said the controversy was part of a larger project whereby “Muslim identity markers are being declared as sectarian and undesirable in public spaces”.

“It is telling Muslims and non-Hindus that the state will dictate their appearance and their practices,” he said.

On Monday, some students in hijabs were allowed into the government pre-university college in Udupi but were forced to sit in segregated classrooms. “We were made to sit in a separate room and no teacher came to teach us,” said one student. “We were just sitting there like criminals.”

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**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION**

**I.A NO.                      OF 2022  
IN  
WRIT PETITION (CIVIL) NO.                      OF 2022**

**IN THE MATTER OF:**

FATHIMA BUSHRA

PETITIONER

Versus

STATE OF KARNATAKA & ORS.

RESPONDENT

**APPLICATION FOR INTERIM DIRECTIONS**

**TO,  
HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS OTHER  
COMPANION JUSTICES OF THE HON'BLE SUPREME COURT  
OF INDIA**

**THE HUMBLE APPLICATION OF THE  
APPLICANTS ABOVENAMED**

**MOST RESPECTFULLY SHOWETH:**

1. The Petitioner has been constrained to prefer the present writ petition under Article 32 in extreme urgency raising issues of national importance insofar as they relate to the protection and enforcement of the fundamental rights of Muslims of the country, which constitute about 18% of the population, under Articles 14, 19(1)(a), 21, 25 and 29 of the Constitution of India. The issues raised in this petition are not only limited to the inhabitants of the State of Karnataka but also have pan India ramifications which necessitate the exercise of jurisdiction under Article 32 by this Hon'ble Court so as to authoritatively give a quietus to the matter and preserve the ethos of unity in diversity and tolerant and positive secularism envisaged in our Constitution. The said

fundamental rights of the Petitioner have been violated with impunity on one hand by the Respondent No. 2 which has denied entry to the Petitioner into the college, thereby debarring her from attending her regular classes until the Petitioner and similarly situated girls remove their headscarf/hijab. The Petitioner also challenges the direction/order dtd. 05.02.2022 issued by the Respondent No.1, State of Karnataka purportedly in exercise of its powers under Section 133(2) of the *Karnataka Education Act, 1983*, whereby the State Government has directed/backed up the College Development Committees ('CDCs') to prescribe school/college uniform for the students *inter-alia* highlighting therein that wearing of Hijab is not protected under Article 25 of the Constitution of India. The contents of the accompanying writ petition may be referred to and relied upon for the purposes of the present writ petition and the same is not being repeated herein *brevitatis causa*.

2. That the Petitioner has demonstrated a *prima facie* case in her favour in as much as she has been observing hijab, which is an essential part of her Islamic identity, right from when she took admission in the college and as such there was no issue. It is only recently under pressure from right wing saffron hooligans that the Respondent authorities are forcing the Petitioner to make a choice between her hijab and her education when in reality there is absolutely no conflict between the two.
3. The *balance of convenience* also lies in favour of the Petitioner in as much as her year end exams are scheduled in about 2 months from now and denuding her from attending classes will result in depriving her from revising the syllabus as well.

4. It is most respectfully submitted that unless and until this Hon'ble Court passed the interim prayers as prayed for the Petitioner would further be denuded from even appearing in her year end exams which will cause *irreparable injury to her* in as much as her education career would be severely dented. Furthermore, unless directions are issued to the Respondent No. 1 to ensure adequate security for the Petitioner and action against the hooligans creating a law and order problem, the Petitioner is open to bodily harm in the foreseeable future.
5. That the instant application has been filed bona fide and in the interests of justice.

### PRAYER

In view of the facts and circumstance narrated herein above, it is most respectfully submitted that this Hon'ble Court may be pleased to:

- a. pass an *ad-interim ex-parte* order staying the operation of the impugned G.O. i.e. the order/direction dated 05.02.2022 issued by the State of Karnataka u/s 133(2) of the Karnataka Education Act, 1983; and
- b. pass an appropriate order restraining the Respondent no. 2 from denying the Petitioner entry into premises in order to attend her classes wearing her hijab; and/or
- c. *alternatively*, pass an appropriate order directing the Respondent No. 2 to permit the Petitioner herein to attend classes wearing hijab matching the colour of the school uniform; and

- d. pass an appropriate order or direction directing the Respondent No. 1 to immediately take action under criminal law against the hooligans who have been disturbing law and order in the State of Karnataka and threatening muslim girl students of consequences if they came to school with their hijab; and
- e. pass appropriate order or direction directing the Respondent No. 1 to deploy adequate police personnel around the colleges in order to prevent the occurrence of any untoward incident on account of the simmering communal tension in the State of Karnataka; and
- f. Pass such other further order(s)/direction(s) as it may deem fit in the facts and circumstances of the present case

**AND FOR THIS ACT OF KINDNESS THE  
APPLICANT(s)/PETITIONER(s) AS IN DUTY BOUND SHALL  
EVER PRAY**

**FILED BY**



**MR. JAVEDUR RAHMAN  
ADVOCATE FOR THE PETITIONER(s)**

**PLACE:** New Delhi  
**FILED On:** 10.02.2022



**I.A NO.                      OF 2022**  
**IN**  
**WRIT PETITION (CIVIL) NO.                      OF 2022**

FATHIMA BUSHRA PETITIONER  
Versus  
STATE OF KARNATAKA & ANR. RESPONDENT(s)

TO,

HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS OTHER  
COMPANION JUSTICES OF THE HON'BLE SUPREME  
COURT OF INDIA

THE HUMBLE APPLICATION OF THE  
APPLICANTS ABOVENAMED

**MOST RESPECTFULLY SHOWETH:**

1. The Petitioner has been constrained to prefer the present writ petition under Article 32 in extreme urgency raising issues of national importance insofar as they relate to the protection and enforcement of the fundamental rights of Muslims of the country, which constitute about 18% of the population, under Articles 14, 19(1)(a), 21, 25 and 29 of the Constitution of India. The issues raised in this petition are not only limited to the inhabitants of the State of Karnataka but also have pan India ramifications which necessitate the exercise of jurisdiction under Article 32 by this Hon'ble Court so as to authoritatively give a quietus to the matter and preserve the ethos of unity in diversity and tolerant and positive secularism envisaged in our Constitution. The said fundamental rights of the Petitioner have

been violated with impunity on one hand by the Respondent No. 2 which has denied entry to the Petitioner into the college, thereby debarring her from attending her regular classes until the Petitioner and similarly situated girls remove their headscarf/hijab. The Petitioner also challenges the direction/order dtd. 05.02.2022 issued by the Respondent No.1, State of Karnataka purportedly in exercise of its powers under Section 133(2) of the *Karnataka Education Act, 1983*, whereby the State Government has directed/backed up the College Development Committees ('CDCs') to prescribe school/college uniform for the students *inter-alia* highlighting therein that wearing of Hijab is not protected under Article 25 of the Constitution of India. The contents of the accompanying writ petition may be referred to and relied upon for the purposes of the present writ petition and the same is not being repeated herein *brevitatis causa*.

2. That **Annexure P-1** along with the Writ Petition is in the vernacular. Due to the urgency in filing the present Petition, a competent person conversant with legal phraseology has translated the said original document into English. It is in the interest of justice that the English Translation filed by the Applicant/Petitioner be taken on record and the Applicant/Petitioner be exempted from filing the official translation of the **Annexure P-1** along with the present Writ Petition in the interests of justice.
3. The instant application is being made *bona fide* and in the interests of justice.

**PRAYER**

In these circumstances the Petitioners most respectfully pray that this Hon'ble Court may be pleased to:

- a. Permit the present application and exempt the Applicant/Petitioner from filing official translations of **Annexure P-1**, annexed along with the present petition; and
- b. Pass any other order(s) as it deems fit and appropriate in the facts and circumstances of the case.

**AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.**

**FILED BY**



**MR. JAVEDUR RAHMAN**  
ADVOCATE FOR THE PETITIONER(s)

**Place:** New Delhi

**Filed on:** 10.02.2022

**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION**

**I.A. NO.                      OF 2022**

**IN**

**WRIT PETITION (C) NO.                      OF 2022**

**(UNDER ARTICLE 32 OF THE CONSTITUTION)**

**IN THE MATTER OF:**

**FATHIMA BUSHRA**

**... PETITIONER**

**VERSUS**

**THE STATE OF KARNATAKA & ANR.**

**... RESPONDENT(s)**

**APPLICATION SEEKING EXEMPTION FROM FILING  
ORIGINAL NOTARISED COPY OF THE AFFIDAVIT.**

**TO,**

**HON'BLE THE CHIEF JUSTICE OF INDIA AND HIS  
COMPANION JUDGES OF THE HON'BLE SUPREME  
COURT OF INDIA**

**THE HUMBLE APPLICATION OF  
THE APPLICANT HEREINABOVE**

**MOST RESPECTFULLY SHOWETH THAT:**

1. The Petitioner has been constrained to prefer the present writ petition under Article 32 in extreme urgency raising issues of national importance insofar as they relate to the protection and enforcement of the fundamental rights of Muslims of the country, which constitute about 18% of the population, under Articles 14, 19(1)(a), 21, 25 and 29 of the Constitution of India.

The issues raised in this petition are not only limited to the inhabitants of the State of Karnataka but also have pan India ramifications which necessitate the exercise of jurisdiction under Article 32 by this Hon'ble Court so as to authoritatively give a quietus to the matter and preserve the ethos of unity in diversity and tolerant and positive secularism envisaged in our Constitution. The said fundamental rights of the Petitioner have been violated with impunity on one hand by the Respondent No. 2 which has denied entry to the Petitioner into the college, thereby debarring her from attending her regular classes until the Petitioner and similarly situated girls remove their headscarf/hijab. The Petitioner also challenges the direction/order dtd. 05.02.2022 issued by the Respondent No.1, State of Karnataka purportedly in exercise of its powers under Section 133(2) of the *Karnataka Education Act, 1983*, whereby the State Government has directed/backed up the College Development Committees ('CDCs') to prescribe school/college uniform for the students *inter-alia* highlighting therein that wearing of Hijab is not protected under Article 25 of the Constitution of India. The contents of the accompanying writ petition may be referred to and relied upon for the purposes of the present writ petition and the same is not being repeated herein *brevitatis causa*.

2. It is submitted that on account of the Covid 19 situation as well as the pressing urgency in the instant matter, the notarized Affidavit in support of this Petition could not be obtained. The petitioners shall file a notarised copy of the Affidavit as soon as it becomes possible.

3. This application is made bona fide and would be in the interest of justice to allow the same.

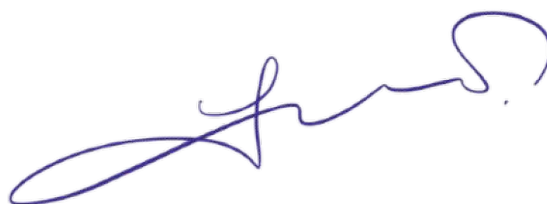
**PRAYER:**

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- (a) Exempt the Petitioners from filing the Notarized Affidavit in Support of the Accompanying Writ Petition; and
- (b) Pass such further and other orders as this Hon'ble Court may deem fit in the interest of justice.

**AND FOR THIS ACT OF KINDNESS THE PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY.**

**Filed by:**



**(MR. JAVEDUR RAHMAN)**

**ADVOCATE FOR THE PETITIONERS**

**PLACE: NEW DELHI**

**DATED: 10.02.2022**

**JAVEDUR RAHMAN**Advocate-on-Record  
Supreme Court of IndiaF-13, Green Park Main  
New Delhi – 110 016  
Mob.+91-9810644479  
P. 91-11-46052567**LETTER OF URGENCY****DATE: 10.02.2022**

To,

The Registrar,  
Supreme Court of India,  
Tilak Marg, New Delhi – 110001**Sub:** Fathima Bushra *v. State of Karnataka & Anr..*

Dear Sir,

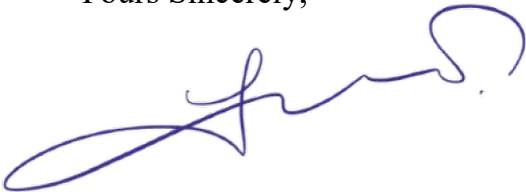
The captioned writ petition is being filed in utmost urgency in view of the simmering communal tension in the State of Karnataka on account of right wing hooligans holding the state to ransom by demanding that muslim girls like the Petitioner herein be thrown out of schools and colleges unless they relented to nefarious demands of removing their hijabs.

The grave urgency in the matter can be gauged from the fact that assessing the situation in the state to be spiraling out of control the Chief Minister of Karnataka has announced the shutting down schools and colleges this entire week.

In view of the grave nature of the matter and the urgency, it is requested that the matter be listed before the Hon'ble Court at the earliest.

Thanking you,

Yours Sincerely,

**JAVEDUR RAHMAN**  
(AoR for the Petitioner)

Mr. Gaurav I CARD NO. \_\_\_\_\_,



**...PETITIONER**

## VERSUS

## ... RESPONDENTS

# VAKALATNAMA

I BELOW MENTIONED in the above W.P./Appeal/Petition Reference do hereby appoint and return **Mr. JAVEDUR RAHMAN**, Advocate, Supreme Court of India, to act and appear for me/us in the above W.P./Appeal/Petition/Reference and on my/our behalf to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or Order passed therein, including proceedings, taxation and application for review, to file and obtain return of documents and to deposit and receive money on my/our behalf in the W.P./Appeal/ Reference and in application for review to represent me/us and to take all necessary steps on my/our behalf in the above matter. I/we agree to ratify all acts done by the aforesaid Advocate in pursuance of the authority.

Dated this the 9<sup>th</sup> day of February, 2022

Accepted, Identified, verified, Certified and satisfied.

**MR. JAVEDUR RAHMAN**  
**ADVOCATE**

Petitioner(s)/Respondent/Appellant(s)

## MEMO OF APPEARANCE

To  
The Registrar  
Supreme Court of India  
New Delhi

Sir,

Please enter my appearance on behalf of the Petitioner(s)/  
Appellant(s)/Intervenors/Respondent(s) in the above matter.

Dated : 10.02.2022

The address for service of the said Advocate is: MR. **JAVEDUR RAHMAN**  
Advocate

New Delhi  
Tele : Off: 9810644479