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CASE COMMENTARY ON UNNI KRISHNAN V. STATE OF ANDHRA PRADESH (1993)

~ Mahek Zubeariya

Title	Unni Krishnan, J.P. & Ors. v. State of Andhra Pradesh & Ors.
Citation	1993 AIR 217, 1993 SCR (1) 594, 1993 SCC (1) 645
Court	Supreme Court of India
Bench	B. P. Jeevan Reddy, S. Mohan, A. M. Ahmadi, M. M. Punchhi, P. B. Sawant
Date of Judgment	4 February 1993

INTRODUCTION

The Judgment in *Unni Krishnan, J.P. & Ors. v. State of Andhra Pradesh & Ors.* marked a turning point in the right to education in India. This case arose because of a serious problem; the rapid spread of unaided private colleges during the early 1990s.

Many of these institutions demanded extremely high ‘Capitation Fees’. Students were asked to make large, single payments that were other than educational fees. This made higher education, a privilege for the wealthy, which directly prevented the deserving candidates from accessing professional courses due to their economically weaker background. The Supreme Court

recognized these cases and a five-judge bench was formed in *Unni Krishnan* to review the existing law and establish a clear constitutional system for private education.

FACTUAL BACKGROUND

The petitions leading to *Unni Krishnan* judgement came from several private institutions. They were mostly medical and engineering colleges located in Andhra Pradesh, Karnataka, Maharashtra, and Tamil Nadu. These educational institutions challenged various state laws and government orders enacted after the *Mohini Jain* judgement. These laws tried to control the collection of fees and completely prohibited capitation fees.³ The institutions argued that such restrictions made it impossible for the private institutions to remain financially stable and amounted to excessive interference in their right to carry on an occupation under Article 19(1)(g).

In essence, the dispute involved a conflict between the state's obligation to prevent the commercial exploitation of education and the right of private institutions to manage their affairs without reasonable interference. The institutions claimed that these regulations imposed excessive burden on their functioning and as a result, a direct constitutional conflict arose between the state authority and private institutions on the powers exercised by the state and the autonomy that private educational institutions are entitled to maintain.

The issue first came before the Supreme Court in *Mohini Jain v. State of Karnataka*, where the Court held that the right to education is included within the right to life under Article 21 of the Constitution and that charging capitation fees violates the guarantees provided under Article 14 and Article 21. Although the judgment was widely appreciated as progressive, it led to a practical difficulty because unaided private institutions argued that operating their institutions without adequate fees was financially impossible. The Supreme Court, recognizing the need for a more balanced and practical constitutional approach, constituted a five-judge bench in *Unni Krishnan* to reexamine the correctness of the *Mohini Jain* ruling and to frame a more suitable and workable framework.

ISSUES RAISED

The Court framed a series of constitutional questions:

- Whether the Mohini Jain judgment correctly established a fundamental right to education at all levels,
- The scope and content of the right to education under the Constitution,
- Whether this right extends to professional and higher education;
- Whether establishing and running educational institutions falls within the ambit of Article 19(1)(g); and
- The permissible extent of state regulation over private unaided educational institutions, particularly regarding admissions and fees.

CONTENTIONS OF THE PETITIONERS

The private institutions argued that running an educational institution constitutes an “occupation” protected under Article 19(1)(g), and therefore they are entitled to autonomy in matters such as admissions and fee structures. They also stated that the *Mohini Jain* judgment was economically unrealistic, as unaided colleges do not receive government funding and are dependent on higher fees to maintain proper educational standards. They further stated that merely receiving state recognition or affiliation does not transform “private colleges” into “state instrumentalities.” Compliance with regulatory requirements, it should not be treated as State’s constitutional duty to provide free education.

Finally, they also argued that the right to determine reasonable fees is an integral part of their freedom of occupation, subject only to “reasonable restrictions” under Article 19(6). According to them, a complete ban on charging higher fees was neither reasonable nor constitutionally valid. Ultimately, they challenged the state's authority to impose strict fee caps and regulatory measures, claiming that such controls are so severe as to threaten institutional autonomy and financial viability of private educational institutions.

CONTENTIONS OF THE RESPONDENTS

The State Governments and the Union of India argued that the regulations were constitutionally valid. They said that education is a noble, charitable function and it should not be treated like a trade or business. The state's primary duty, they maintained, is to prevent the education from being used to make money and ensure that everyone has an equal opportunity to study. Relying on Article 45, they stated that the State's obligation to provide free and compulsory education extends only to children up to the age of 14 years. They further explained that extending this duty to higher or professional education would impose an unsustainable financial burden on the State and could not be demanded from private institutions under the Constitution.

This reasoning introduced a careful balance; the State acknowledged that there is a limited right to education but also made a clear distinction between compulsory primary education and professional education that charged fees. The goal was to balance State's interests and regulatory duties with respect for the institutional independence but only with reasonable limits.

JUDGEMENT

Justice B.P. Jeevan Reddy delivered the opinion of the Constitutional Bench, which substantially redefined the contours of the right to education. The decision can be divided into four major aspects.

(1) Harmonious Construction of Parts III and IV

The Court reaffirmed the doctrine of harmony between Fundamental Rights (Part III) and Directive Principles of State Policy (Part IV), emphasizing that both sets of provisions must be read together. It held that the Directive Principles lend substance to fundamental rights, allowing the Court to interpret Article 21 considering Article 45 to infer a limited right to education.

(2) The Right to Education

The Court upheld the spirit of *Mohini Jain* but limited its scope. It held that every child has a fundamental right to free and compulsory education until the age of 14, derived from Articles 21

and 45. Beyond this age, the right becomes subject to the State's "economic capacity and development" under Article 41.

In doing so, the Court transformed a non-justiciable directive principle into an enforceable fundamental right for primary education, while recognizing practical limitations in extending it to higher levels.

(3) Education as "Occupation" under Article 19(1)(g)

The Court held that establishing and running an educational institution is considered an "occupation" under Article 19(1)(g) but it firmly held that education is not a trade or business. This classification meant that institutions could operate autonomously but not for profit. Therefore, state regulation to prevent commercialization and the collection of capitation fees was justified.

(4) The Unni Krishnan Scheme

To implement these principles, the Court designed a detailed framework known as the *Unni Krishnan Scheme*. According to this scheme, 50% of seats in private professional colleges were designated as "free seats," filled by government nominees based on merit at minimal fees, and the remaining 50% as "payment seats," to be filled by the management at fees determined by a state committee. The scheme explicitly prohibited capitation fees and management quotas.

CONSEQUENCES AND LATER DEVELOPMENTS

The *Unni Krishnan* scheme faced immediate practical challenges. Private institutions argued that the fixed fee structure was financially unsustainable and argued that the lack of autonomy limited their ability to function effectively. This rigid framework led to further more litigation, eventually resulting in the landmark eleven-judge decision in *T.M.A. Pai Foundation v. State of Karnataka* (2002), which overruled the *Unni Krishnan* scheme.

The *T.M.A. Pai* judgement restored significant autonomy to private unaided institutions, allowing them to generate a reasonable surplus for development and expansion, while

prohibiting profiteering and capitation fees. However, the core principle of *Unni Krishnan*—that the right to primary education is a fundamental right was expressly upheld.

This decision prompted an important constitutional development. In 2002, the Constitution (Eighty-Sixth Amendment) Act inserted **Article 21A**, explicitly guaranteeing the right to free and compulsory education for children aged six to fourteen. This amendment, followed by the enactment of Right of Children to Free and Compulsory Education Act, 2009, gave legislative effect to the principle first recognized in *Unni Krishnan*.

CONCLUSION

Unni Krishnan v. State of Andhra Pradesh stands as a landmark judgment in the development of socio-economic rights in India. The decision helped bridge the gap between the Directive Principles of State Policy and enforceable Fundamental Rights by recognizing education as essential for human dignity and national development.

Although the *Unni Krishnan Scheme* itself was later struck down as judicial overreach, the enduring legacy of the case lies in its constitutional philosophy. It successfully transformed a directive principle into a justiciable right, ultimately leading to the inclusion of Article 21A in the Indian Constitution and the establishment of a statutory framework for universal primary education.

The judgment hence embodies a dual legacy: it serves as a cautionary example against excessive judicial legislation while also marking a major step forward in the progressive expansion of fundamental rights. Its principle succeeded where its policy failed, ensuring that the right to education, once merely a moral aspiration became a constitutional reality for millions of Indian children in India.

REFERENCES

1. *Mohini Jain v. State of Karnataka* (1992) 3 SCC 666.
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4. Article 19(1)(g), Constitution of India.
5. Article 19(6), Constitution of India.
6. Article 45, Constitution of India.
7. *T.M.A. Pai Foundation v. State of Karnataka* (2002) 8 SCC 481.
8. Constitution (Eighty-Sixth Amendment) Act, 2002.