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THE ROLE OF THE NATIONAL COMMISSION FOR MINORITIES (NCM)

- *DIYA BABEL*

Abstract

People who face religious discrimination first approach the National Commission for minorities hoping for protection and relief. However, in practice, a large number of complainants eventually turn to the High Courts to actually resolve their grievances. This creates an important question: if a statutory body is specifically created to protect minority rights, why do people still depend on constitutional courts for real remedies?

Constitution foundation of minority rights

The origin of minorities rights does not originate from the National Commission of India but from constitution itself. Right to Equality Articles 14 and 15 prohibit inequality based on religion, while Articles 25 and 26 say about Right to freedom of religion. Moreover, Articles 29 and 30 speak about the protection of the interests of minorities and preserving their cultural and educational rights. This guarantees that the National Commission for Minorities Act, 1992, was established within the constitutional framework to monitor and safeguard these rights in practice.

Timeline

On 12.01.1978, a resolution was envisaged in the Ministry of Home Affairs for setting up a minority commission. Later, in 1984, the minorities commission was detached from the Ministry of Home Affairs and placed under the newly created Ministry of Welfare. Further on, in 1988, by ministry of Welfare resolution, excluded linguistic minorities from the commission's jurisdiction. In 1992, the National Commission was created. The First statutory national commission was set up on 17th May 1993, five religious communities, viz., the

Muslims, Christians, Sikhs, Buddhists, Zoroastrians (Parsis) were notified as minority community. Further, in 2014, Jains were also notified as a minority community. ¹

Composition structure of the commission

NCM consists of a chairperson, a vice-chairperson, and 5 members to be nominated by the central government from amongst persons within minority communities. A total of 7 persons to be nominated by the central government should be amongst persons of eminence, ability, and integrity.

Functions of the commission

Under section 9 of NCM the commission evaluate minority development, monitor and safeguard their interest, provide recommendations for effective implementation, to safeguard specific complaints, case studies to be carried out for discrimination against them and remedy, conduct studies, research, analysis for socio economic related issues, suggest appropriate measures on behalf of any minority undertaken by the central and state government, make reports on matters pertaining to minorities and difficulties confronted by them. ²

Nature of authority

The law says the Government must act transparently on the Commission's suggestions. The Central Government has to place its recommendations before Parliament with an action-taken report and reasons if any suggestion is rejected. If a matter concerns a State, it is sent to the State Government, which must present it before the State Legislature in the same way. While checking safeguards and complaints, the Commission also has powers like a civil court, it can summon people, take statements on oath, ask for documents and public records, and examine witnesses.

In practice, the limitation of the commission becomes visible after the inquiry is completed. Although the national commission for minorities may summon officials, examine records, and determine whether a minority right has been violated, it cannot issue binding directions. The act only authorises the commission to make recommendations to the concerned government or authority. It has no power to impose penalties, award compensation, or enforce compliance with its findings. Consequently, the outcome of proceedings before the commission depends upon the willingness of the executive to act upon its advice. Unlike a court or tribunal, its determinations are not executable. The commission can therefore acknowledge a violation, but it cannot itself provide a legal remedy.

Judicial interpretation

Judicial decisions further clarify this distinction between advisory and adjudicatory authority. In the case of *T. M. A. Pai Foundation and Others v. State of Karnataka and Others (2002) 8 SCC 481 (India)*, the Supreme Court clarified the scope of minority educational rights under Article 30 and emphasised institutional autonomy. This case shows that enforcement of minority rights has historically come from the judiciary. Similarly, in the case of *Bal Patil v Union of India (2005) 6 SCC 690 (India)*, the court discussed the identification of minorities and indicated that such matters fall within executive and judicial consideration, not solely the commission.

In many situations, the process before the commission does not conclude the dispute. Where the concerned authorities failed to act upon the recommendations of the NCM, aggrieved persons frequently approach High Courts u/a 226 of the Constitution. Unlike the commission, high courts exercise constitutional writ jurisdiction and may issue binding jurisdiction. This creates a clear distinction between the 2 forums: the commission provides a platform for inquiry and dialogue, whereas the HC provides enforceable adjudication.

A recent 2026 judgment of the Bombay High Court further clarifies the legal position. While examining an order of the Maharashtra state minority commission cancelling a public tender and directing a criminal investigation, the court held that the commission had exceeded its jurisdiction. The court observed that a minorities commission performs supervisory and recommendatory functions and does not possess adjudicatory powers comparable to a court or a tribunal.³

Conclusion

The core issue India does have minority commission and fundamental rights, yet still, people directly go to courts. Because there is no enforcement of power, according to The Hindu report, five members of the commission have retired since December 2024, but again re-elected as chairperson, with no new appointments having been made so far.^{4,5}

This leads lack of binding authority and administrative dependence. Protection without enforceability weakens access to justice.

The challenge, therefore, is not the absence of minority safeguards but the design of their enforcement. Granting reforms which will be beneficial for the commission's quasi-judicial powers, mandatory government response, time-bound action, power to award compensation,

follow up mechanism. Constitutional democracy demands institutions that do more than advise; they must be capable of securing compliance.

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