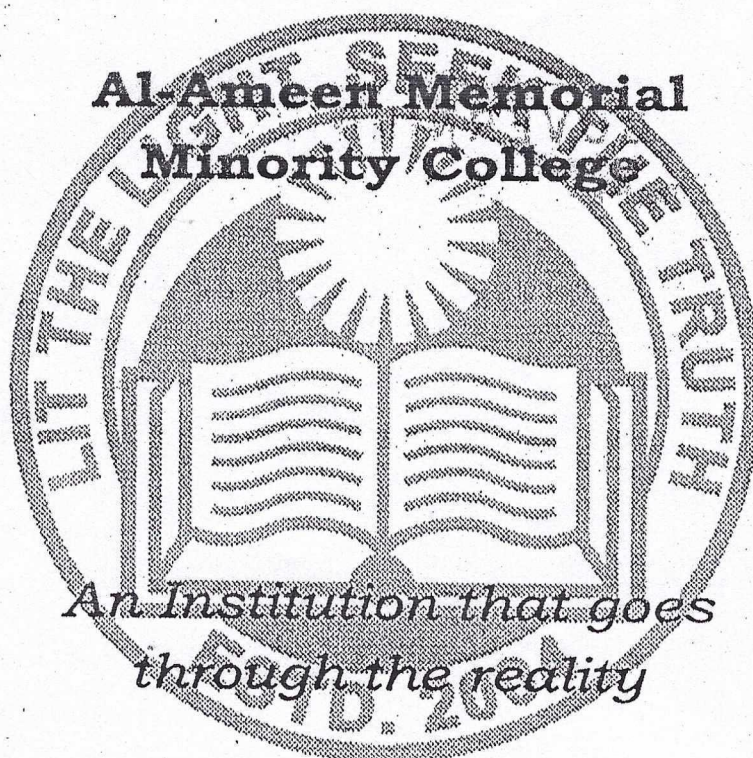


CONSTITUTION OF AI-AMEEN MEMORIAL MINORITY COLLEGE

(Prepared as per instruction of the DPI, vide Ref: Memo No. 298-UGC, Dt.19.02.2013)
OM-3UGC/2013



BARUIPUR, SOUTH 24 PARGANAS, WEST BENGAL

7. HEADS OF TEACHING DEPARTMENT

(A) Heads of Teaching Department shall be appointed by the Governing Body. All such posts, however, should be related among Teachers who have already attained the rank of, at least, a senior scale Lecturer, incumbent having a tenure of four years at a time.

(8) WARDEN & ASSISTANT WARDEN of Hostel/s of the College shall be appointed by the Governing Body on recommendation of the Principal, preferably from amongst the members of Teaching Staff for a period of two years at a time.

(a) They shall be responsible for maintenance of discipline and day to day administration of the Hostel and shall be responsible to the Principal.

(b) Shall see that the activities of the Hostel are so allotted among Boarders, that the Hostel be run in the most efficient manner and the Boarders are best looked after in an environment conducive for all round growth and development of the students under proper discipline.

(c) Shall keep (i) daily attendance register for the Boarders, (ii) an account of daily expenses made, (iii) a monthly Income Expenditure statement and shall submit the same to the Principal, when so required.

Assistant Warden shall be appointed in the same way as that of the Warden and he shall assist the Warden in the day to day functioning of the Hostel, and shall in the absence of the Warden, officiate as the Warden

8. ADMISSION/ENROLMENT OF STUDENTS

(a) The admission of students to this College shall be as per rules applicable to Minority institutions under Article 30 of the Constitutions of India.

(b) The College shall admit students adopting its own procedure and method of admission as well as selection of students-the kind of freedom usually enjoyed by Minority institutions, however it should be fair and transparent and should not tantamount to maladministration. It should preferably be on the basis of merit-the merit may be on the basis of an entrance test conducted by the College. Or, selection may be made through personal interview of students. **There shall be no reservation of seats in case of admission of students in this minority college as the Article 15(5) of the Constitution of India exempts the minority institutions from such reservation compulsions.**

(c) If any student is found to be misbehaving, or, having intention of getting admission in this College to harm the College, or having ulterior political motive to damage the image and nature of the College, he/she shall not be given admission or



Principal
Al-Ameen Memorial Minority College
Jogibattala, Banipur, Krl.-145



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Constitution Article

Article 15 in Constitution of India**15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth**

- (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
- (2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-
 - (a) access to shops, public restaurants, hotels and places of public entertainment; or
 - (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.
- (3) Nothing in this article shall prevent the State from making any special provision for women and children.

[Editorial comment- The Constitution (First Amendment) Act, 1951, made several changes to the Fundamental Rights Part of the Indian constitution. It made it clear that the right to equality does not preclude passing laws that give special consideration to society's most vulnerable groups. Article 15(3) was appropriately expanded to prevent any special provisions made by the State for the social, economic, or educational progression of any disadvantaged class of citizens from being contested based on discrimination. Also Refer [Also refer](#)]

- (4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.
- (5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or the Scheduled Tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30.

[The Constitution (Ninety-third Amendment) Act, 2005, adjoined a clause to Article 15 stating that the state has the authority to establish certain specific Provisions concerning accommodations for the progress of any sociologically and academically disadvantaged sectors of the society, as well as to the scheduled castes and scheduled tribes, with respect to their enrollment to academic institutions, including private academic institutions, whether assisted or unassisted by the state, except minority institutions. Also Refer]

- (6) Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making, -
 - (a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and
 - (b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of

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article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category.

Explanation.—For the purposes of this article and article 16, "economically weaker sections" shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage.

[Editorial Comment - Article 15 protects the citizens against various forms of discrimination based on religion and gender. The Constitution of India guarantees various rights to its citizens, including no discrimination on account of religion, race, caste, or place of birth. Article 15 restricts discrimination on the ground of:

Religion – It means that no person should be discriminated against on the basis of religion from accessing any public place or policy by the state or any group.

Race – Ethnic origin should not form a basis of discrimination. For example, a citizen of Afghan origin should not be discriminated against those of an Indian origin.

Caste – Discrimination on the basis of caste is also prohibited to prevent atrocities on the lower castes by the upper caste.

Sex – Gender of an individual shall not be a valid ground for discrimination in any matter.

Place of birth – A place where an individual is born should not become a reason for discriminating among other members of the country.

In the case of Kathi Raning Rawat v. State of Saurashtra, the state of Saurashtra set up special courts under Saurashtra State Public Safety Measures Ordinance 1949, to adjudicate on the matters of section 302, section 307 and section 392 read with section 34 of the Indian Penal Code, 1860. The contention brought before the court was that these provisions are discriminatory for the residents depending upon the territory.

The court stated that all kinds of legislative differentiation are not discriminatory. The legislation did not refer to certain individual cases but to offenses of certain kinds committed in certain areas and hence it is not discrimination.

In another significant case, John Vallamattom v. Union of India, AIR 2003 SC 2902 discussed that The Indian Succession Act 1925 prevented the petitioners from bequeathing property for religious and charitable purposes. The petitioner contended it to be discriminatory against the testamentary dispositions by a Christian.

The court stated that the Act was to prevent people from making injudicious death-bed bequests under religious influence, but had a great impact on a person desiring to dispose of his property upon his death. Hence, the legislation is clearly discriminatory as the properties of any Hindu, Muslim, Buddhist, Sikh, Jain or Parsi were excluded from the provisions of the Act. Further, no acceptable reasoning was provided to show why the provision regulates religious and charitable bequests of Christians alone.

Clause 1 of the Article prohibits the State from discriminating against citizens on five protected grounds only. This means that if the discrimination is only on the basis of these 5 points then it will be void.

One of the important points to remember under this clause is that the prohibition is against the state and not against any private individuals. This clause is used to give horizontal reservations like reservations for visually impaired people: The Supreme Court in D.P. Joshi v. State of Madhya Pradesh, AIR 1955 has made it clear that the place of birth and place of residence are two different things and States are allowed to differentiate on the basis of place of residence. In this case, the residents of the State were allowed exemption from paying the capitation fee. But the non-residents were asked to pay a capitation fee for admission in the medical college. This was held valid by the Supreme Court.

Clause 2 discussed Access to Public Places. This clause gives access to shops, public restaurants, hotels and places of public entertainment to all. This clause also makes wells, tanks, bathing Ghats, roads and places of public resort accessible for every citizen. This clause is applied not only to the state but also against the individuals. It is illegal and unjust to restrict or prevent access to a public place established by the state exclusively for public use.

Clause 3 discusses Special Provision for Women and Children. This clause is an exception to clause 1 and 2. This clause provides special preference to Women and Children as a matter of positive discrimination. It entails that nothing in this Article can stop the state from giving special preference to the Women and Children. In Revathi v. Union of India, AIR 1998 case, the court held that the word 'for' which is given under this clause means that states can give special

preference to Women and Children in legislation. Clause 4 discusses Special Provisions for Backward Classes. This is the second exception of clause 1 and 2 of Article 15. This clause was not part of the original Constitution and was included through the 1st Constitutional Amendment. This clause makes special provision for the advancement of any socially and educationally backward classes of citizens (SEBCs), Schedule Caste (SC) and Schedule Tribes (STs).

In Balaji v. State of Mysore, AIR 1963, the government of Mysore set up a reservation of 68% of the total seats in Engineering and Medical colleges. These seats were reserved in the favor of SEBCs, STs and SCs. The court held that this legislation breached the limit of reservation which should not be more than 50% of the total seats. The court also stated that the backwardness must be both Social and Economical. It can't be either social or economical alone.

It was also held by the Supreme Court in A. Periakaruppan v. State of Tamil Nadu that classifying socially and educationally backward classes on the basis of caste was in violation of Article 15(4). According to the Court, it was, however, necessary for the conditions of such a class of people to change as that was the main reason for providing them with a reservation.

Clause 5 discusses Reservation in Educational institutions. This is the 3rd Exception of Article 15. This exception was added by the 93rd Constitutional Amendment. This clause was added as a result of a Judgment of PA Inamdar and Ors. V. State of Maharashtra and Ors. In this judgment the court held that different states cannot impose its reservation policy on minority and non-minority unaided private colleges, including professional colleges. The validity of this act and 93rd Constitutional Amendment was challenged in Ashok Kumar Thakur v. Union of India (2008).

Clause 6 lays down the Special Provisions for EWS category. This provision was added by the 103rd Constitutional amendment Act, 2019. This is the latest exception that provides for special provisions for the Economically Weaker Section (EWS). Several states have implemented schemes to enforce reservations for Economically Weaker Sections (EWS) based on Clause (6). In 2021, the central government issued a notification to introduce EWS reservation in the medical postgraduate entrance exam. However, this decision was challenged in the Supreme Court. Multiple parties raised concerns about the constitutionality of the 103rd Amendment and brought the matter before the Supreme Court. They argued that it goes against the jurisprudence on reservations, which does not permit reservations solely based on economic criteria. On November 7, 2022, a five-judge bench of the Supreme Court of India, in the case of Janhit Abhiyan v. Union of India, ruled that the 103rd Amendment does not violate the fundamental structure of the Constitution. Justices Maheshwari, Trivedi, and Pardiwala delivered separate judgments in favor of the majority, while Justice Bhat expressed a dissenting opinion on behalf of himself and Chief Justice U.U. Lalit.

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[**Editorial comment-** The Constitution (One Hundred and Third Amendment) Act, 2019, introduces 10% reservation for Economically Weaker Sections (EWS) of society for admission to Central Government-run educational institutions and private educational institutions (except for minority educational institutions), and for employment in Central Government jobs. The Amendment does not make such reservations mandatory in State Government-run educational institutions or State Government jobs. However, some states have chosen to implement the 10% reservation for economically weaker sections. Currently, the quota can be availed by persons with an annual gross household income of up to ₹8 lakh (US\$10,000). Families that own over 5 acres of agricultural land, a house over 1,000 square feet, a plot of over 100-yards in a notified municipal area or over a 200-yards plot in a non-notified municipal area cannot avail the reservation. Persons belonging to communities that already have reservations such as Scheduled Castes, Scheduled Tribes and the "non creamy layer" of Other Backward Classes are also not eligible for reservation under this quota (creamy layer of OBC crosses 8 lakh limit). Also Refer]