

Leave Religion Alone

Govind Bhattacharjee¹

“They knew that to put God in the constitution was to put man out..... They intended to found and frame a government for man and for man alone. They wished to preserve the individuality of all to prevent the few from governing the many and the many from persecuting and destroying the few.”

— Robert G. Ingersoll, “Individuality”

Clash between religion and a secular society has been pretty commonplace all over the world. A secular state does not promote the cause of religion nor allows ecclesiastical authorities to exercise public authority. While a secular state does not wish the demise of any religion, it treats religion as something personal to the individual and not to be used as a determinant of public policy. The dominant values of a society may spring from religious roots, but secularization of society replaces religious mores with secular ethics, which holds as sacrosanct the freedom of religion and the dignity and rights of an individual which also includes his right not to believe in religion. A secular state does not concern itself with the good or bad of religion, its only interest being that religion is not to be mixed with the affairs of the state. A non-secular society, in contrast, does not allow its people to ignore religion, religion forms a part, often being a determinant, of its public policy.

Constitution of India declares our nation as secular, but our practices thoroughly belie that claim. We drag religion and its illegitimate child, casteism, into every public debate, from politics to terrorism and into every domain of public policy - from imparting of education to delivery of justice. No discourse or policy issue today can be settled in India without bringing religion or caste into it- be it framing the syllabus of our state run institutions or making appointments to various positions - from ministers to heads of reputed institutions. Political parties that solely depend on religious or caste-based vote banks for their growth and survival are the ones that loudly and brazenly proclaim themselves as secular. We see the re-politicization of religion with concomitant de-secularization of society all around all the time; these processes manifest themselves in various forms in public life. The latest instance of this was witnessed in the recent retest of the All India Pre-Medical Test (AIPMT) conducted by CBSE on 25th July, which was followed by lots of high-voltage drama and tohubohu.

To recap the events leading to it, the AIPMT examination was initially held on 3rd May, in which more than 6 lakh students had appeared. It was marred by reports of large scale cheating by students, who smuggled various gadgets into the examination hall like bluetooth devices and SIM cards, some of these stitched onto their clothing. The test was cancelled by orders of the Hon’ble Supreme Court, which also ordered a retest on 25 July. For this retest, CBSE took no chances and issued a strict dress code making it difficult for students to hide any chits or gadgets. The code, which many found bizarre, barred students from wearing full-sleeved shirts or metallic items like hairpins and hairbands. It mandated all students to wear open shoe and

¹ The author is a senior civil servant. Opinions expressed are strictly personal.

half-sleeved clothes without big buttons and prohibited headscarves. These restrictions, especially the one barring headscarves, was perceived as violation of religious freedom by some Islamic organisations. Three Muslim students and a little-known organisation called Students Islamic Organization of India took the matter to the Kerala High which allowed the girls to wear the hijab during the retest.

Buoyed by this order, they now took it to the Supreme Court for granting similar relaxation to all Muslim girls – seeking permission for them to wear full-sleeved dress with hijab. The Supreme Court was not in the least amused by the antics of flaunting religious beliefs to seek immunity from the requirements of examination prescribed universally for all students. It firmly rejected the petitioners' contention by saying: "The CBSE has come out with a dress code for the sake of keeping the examination fair and proper. It is a matter of three hours. You observe the dress code mandated by the CBSE for three hours and then wear the scarf as long as you want." It advised them to go and appear in the test and not to waste time in the court, asserting that no disrespect will be shown to religion by appearing at the test without a headscarf. To the argument that students were ready to come to the examination centre well before the scheduled time to subject themselves to a thorough check, the Court asked: "If all the students come dressed similarly, how would the invigilator examine their religion and determine whether they were entitled to claim relaxation in dress code?" In the face of such tough questioning, the counsel of the petitioners had himself sought and obtained Court's permission to withdraw the petition. The Court rightly stressed that, "Faith is something different from wearing some kind of cloth".

It is not unusual for the State to impose dress codes even in the most liberal of countries for cogent reasons. The first school dress code law was established in 1969 by the US Supreme Court in the case of *Tinker vs. Des Moines Independent School District*, when high school students wore black armbands in school protesting against the Vietnam War. In a far-reaching decision, the Court ruled that schools may limit student expression like enforcing dress codes if there was a legitimate concern that such expression would be disruptive to the learning environment or violated the rights of others. Countries like France, Belgium, Canada and China have banned headscarves; even Islamic countries like Syria, Tunisia and Turkey had banned it for many years together.

On 25th July, while girls from all communities abided by the dress code, a 20-year-old Muslim student in Lucknow opted out as she did not want to take off her abaya. A 19-year-old Catholic nun in Thiruvananthapuram also opted out after refusing to remove her veil and the Cross attached to it, when the Mother Superior of her religious order disapproved of this. It was the girls' personal choice which they exercised and there was nothing wrong or objectionable in this; some Sikh students also had to leave their articles of faith - like 'kirpans' and 'karas' - outside, to be allowed entry into the exam hall. Most other societies would have ignored such trivialisation of religion, but in the secular country that we live in, these incidents became a major governance issue, providing opportunity to the clergy as well as the laity to jump into the fray.

The Cardinal of a Catholic church in Kerala held the incident as disturbing and raised questions regarding the rights of a citizen, wondering what was being targeted — religious symbols or exam malpractices? President of a Gurdwara management committee said they would challenge the decision of a school not to allow a baptized Sikh student without 'kara' and 'kirpan' into the exam hall. The Court verdict had expectedly angered the Islamic clergy. A Muslim organisation asserted that wearing headscarves was the fundamental rights of Muslim girls, while the president of a foundation held that it was 'a gross interference in the personal affairs of Muslims'. Muslim intellectuals also chipped in; a university professor thundered that it was 'like asking them (*the girls*) to strip', while a vice chancellor affirmed that religious questions are best left to religion and that the 'court shouldn't play clergy'.

As spring inevitably follows winter, political parties were not to squander such an opportunity to play up religious sentiments to extract maximum political mileage in such an impassioned scenario. The ruling Congress and its major coalition partner Indian Union Muslim League (IUML) in Kerala now entered the arena. Kerala PCC President said the decision of the authorities not to allow the nun to write the examination was 'unfortunate' and 'against the Constitutional right given to citizens', urging the government to take steps to avoid moves 'that would hurt the sentiments of the faithful'. Echoing similar sentiments, IUML National Secretary said that the Supreme Court decision on the 'hijab' that involved issues of faith was not right. No one bothered to remember the underlying ethos of a secular nation that faith should not mixed with affairs of the state, which includes the conduct of an examination for entry to medical education in the country.

In a secular nation, there exists a clear distinction between religion, politics and law. While the reasonableness of the dress code can, of course, be questioned, it is too far-fetched to suggest that it was devised with particular a religion or denomination in mind. There is need for the people of faith to recognise that there cannot always be straightjacketed either-or situations in such matters. In any case, administrative requirements in a secular society are essentially religion-neutral; it is unfair to expect the needs of different religions to be reckoned while determining such requirements.

Citizens of a secular state should know where to draw the boundary. The line between bigotry and logic is too thick to be ignored except for those whose vision has been rendered short-sighted by religion or reasons of political expediency. Liberties guaranteed in the Constitution are not absolute; they also often collide with each other. Right to freedom of religion does not supersede other fundamental rights. Like all fundamental rights in our Constitution, religious freedom too is subject to reasonable restrictions imposed by the State. A secular nation is under no obligation to respect the norms or commandments of religion, just as it does not have the liberty to violate such norms without reason. There is need to balance any liberty with the outcomes the restriction placed upon it is intended to beget to a society. To quote Sir Thomas Moore, "No man shall be blamed for reasoning in the maintenance of his own religion."