

BRAMCHARI SIDHESWAR BHAI AND ORS. ETC.

A

v.

STATE OF WEST BENGAL ETC.

JULY 2, 1995

[KULDIP SINGH, N. VENKATACHALA AND
S. SAGHIR AHMAD, JJ.]

B

Constitution of India, 1950:

Article 30—Minorities—Right to establish and administer educational Institutions—Ramakrishna Mission—Followers of—Citizens residing in West Bengal—Professing, Practising and propagating the religious teachings of Swami Vivekananda—Held not a religious minority—Held not a separate and distinct religion from Hindu religion.

C

Article 26(a)—Freedom to manage religious affairs—Religious denomination—Test for determination—Ramakrishna Mission—Held a religious denomination of Hindu Religion and thus entitled to protection of Article 26(a).

D

Religious denomination—Right to establish institutions—Imparting of religious education and general education.

E

Ramakrishna Mission—Establishment of College at Rahra—State Government allowing college to have its own Governing Body instead of a standard body as required for other sponsored colleges—Held direction to State Government to constitute its own governing body on standard pattern for Ramakrishna College held would not be in the interests of justice.

F

The Government of West Bengal approved the setting up of a three years degree college at Rahra under the auspices of Ramakrishna Mission which was to function as a sponsored college with financial assistance from the State and the Union Government. The Calcutta University granted affiliation to the college and also accorded approval to the Governing body of the College as constituted by the Ramakrishna Mission. Therefore, Ramakrishna Mission did not have a governing body modelled on the common pattern of governing bodies of sponsored colleges. The memo dated 16.1.1971 conveying approval of the Government regarding composi-

G

H

A tion of the governing bodies of the sponsored colleges did not include governing bodies of sponsored colleges run by Missionary Societies on the basis of agreement with respective Missions. On resignation of the Principal of College, the then Head of the Ramakrishna Mission, Bellurmath, Swami Shivmoyananda was appointed as Principal. However, Teachers Council of the Ramakrishna Mission College was agitated by new Principal's appointment. Therefore, they resorted to strike; took over the management of the College and not only prevented the newly appointed Principal from functioning as Principal but also made Prof. A.R. Das Gupta to function as the In-charge Principal of that College. Consequently, the Ramakrishna Mission and the Secretary of the Governing Body of the College instituted a civil suit seeking a declaration that the functioning of Shri Das Gupta as Principal was illegal.

D The appellants filed a writ petition in the High Court for a direction to the Government of West Bengal to reconstitute the Governing Body of the Ramakrishna Mission College according to standard pattern for Governing Bodies of sponsored Colleges as per Government Memo No. 752-Edn. (CS)/C.S. 30-3/77 dated 18th April, 1978; (ii) a declaration that the Ramakrishna Mission College was governed by West Bengal Act of 1975 and West Bengal Act of 1978; and (iii) an order restraining Swami Shivmoyanand from acting as Principal of Ramakrishna Mission College.

F A Single Judge of the High Court dismissed the petition holding that the Colleges established and administered by Ramakrishna Mission comprised of the followers of Ramakrishna religion, being protected under Article 30(1) of the Constitution, the provisions in West Bengal Act of 1975 and 1978 did not apply. However, the claim that Article 26(a) of the Constitution enabled the Ramakrishna Mission to establish educational institutions as a religious denomination was not apply. However, the claim that Article 26(a) of the Constitution enabled the Ramakrishna Mission to establish educational institutions as a religious denomination was not accepted. Against the order of Single Judge a writ appeal was preferred. G The State of West Bengal and Calcutta University also filed separate writ appeals. A Division Bench of the High Court, dismissed all the writ appeals expressing its agreement with the Single Judge that the Ramakrishna Mission comprised of followers of Ramakrishna, being a minority based on religion was protected under Article 30(1) of the Constitution. the H Division Bench also expressed its disagreement with the view that Article

26(a) of the Constitution did not protect the Ramakrishna Mission from establishing educational institutions as a religious denomination. It further held that since both the West Bengal Acts of 1975 and 1978 did not contain any express provision including their application to educational institutions established and maintained by the Ramakrishna Mission, those Acts would be inapplicable, to the Ramakrishna Mission College and other colleges of Ramakrishna Mission for to hold otherwise would amount to infringement of the rights enjoyed by the Ramakrishna Mission under Article 26(a) and 26(b) of the Constitution.

In appeals to this Court on the questions whether:

1. Can the citizens of India residing in the State of West Bengal who are professing, practising or propagating the religious doctrines and teachings of Ramakrishna and have become his followers, claim to belong to a minority based on Ramakrishna religion which was distinct and different from Hindu religion and as such entitled to the fundamental right under Article 30(1) of the Constitution of India, of establishing and administering educational institutions of their choice through Ramakrishna Mission or its branches in that State?

2. Do persons belonging to or owing allegiance to Ramakrishna Mission belong to a religious denomination or any section thereof as would entitle them to claim the fundamental rights conferred on either of them under Article 26 of the Constitution?

3. If persons belonging to or owing allegiance to Ramakrishna Mission is a religious denomination or a section thereof, have they a fundamental right of establishing and maintaining institutions for a charitable purpose under Article 26(a) of the Constitution of India?

4. If Ramakrishna Mission as a religious denomination or a section thereof establishes and maintains educational institutions, can such institutions be regarded as institutions established and maintained for charitable purpose within the meaning of Article 26(a) of the Constitution of India?

5. Is Ramakrishna Mission College at Rahra established and maintained by Ramakrishna Mission and if so, will the constitution of its governing body by the Government of West Bengal amounts to infringe-

A ment of Ramakrishna Mission's fundamental right to establish and maintain an educational institution under Article 26(a) of the Constitution of India?

B 6. Can the court direct the West Bengal Government because of West Bengal Act, 1975 and West Bengal Act 1978, to constitute governing body on 'standard pattern' of sponsored college envisaged under its Memo dated 18th April, 1978 in respect of Ramakrishna Mission College when that memo itself says that colleges established and maintained by Missions on the basis of agreements cannot be treated as sponsored colleges for the purpose of constituting governing bodies for them on a 'standard pattern':

C Dismissing the appeals, this Court

D HELD : 1. The citizens of India residing in the State of West Bengal, who are professing, practising or propagating the religious doctrines and teachings of Ramakrishna and have become his followers, cannot claim to belong to a minority based on Ramakrishna religion which was distinct and different from Hindu religion and as such are not entitled to the fundamental right under Article 30(1) of the Constitution of India, of establishing and administering educational institutions of their choice through Ramakrishna Mission or its branches in that State. [788-G-H]

E 2. The view of the High Court that Ramakrishna religion exists apart and distinct from the Hindu religion and it is a minority religion which has the protection of Article 30(1) of the Constitution of India are unsustainable. [796-E]

F 3. The views that Shri Ramakrishna brought into existence, during his life time, by his practices and teachings a religion distinct and different from Hindu religion and it was Ramakrishna universal religion, indeed, go against the philosophy of Hindu religion as expounded, practiced and preached by Shri Ramakrishna himself and latter propagated to the whole world by his principal disciple Swami Vivekananda and other disciples.

G [785-G]

H 4. The peculiar circumstances which led Ramakrishna Mission to make a claim that Ramakrishna religion was a distinct and separate religion from Hindu religion and, therefore, a minority religion having the protection of Article 30(1) of the Constitution, to save the Ramakrishna Mission College for Ramakrishna Mission and all other educational in-

stitutions established and administered by Ramakrishna Mission or its branches from being taken away under one pretext or the other by the State Government, should not have found favour with the High Court for declaration that Ramakrishna religion as a minority religion entitled to protection under Article 30(1) of the Constitution of India, when such claim made on behalf of Ramakrishna Mission was based not on the sayings, teachings, preachings or practices of Ramakrishna and Swami Vivekananda pertaining to Hinduism not tied-down to any definite philosophic concepts, but on supposed statements made by Swami Vivekananda without indicating context or place and time in which they were made. Even otherwise those statements, as they stands, do not indicate that Ramakrishna brought into existence his own religion and called it Ramakrishna religion. [784-G-H, 785-A-B]

5. What is said by Ramakrishna of Hindu religion and what is said by Swami Vivekananda of Vedanta, the very soul of Hindu religion and its message that 'service to man is service to God' makes it abundantly clear that Ramakrishna brought into existence no religion of his own which was called as universal religion, but gave the message of Vedanta of 'service to man is service to God' as the universal principle basic to all religions and it being the message which was preached by Swami Vivekananda as the message given by his master based on Vedanta philosophy of Hindu religion, it would be a travesty of truth to say that Ramakrishna created a religion independent, distinct and apart from Hindu religion and called it a universal religion. Indeed, Hindu philosophy by Ramakrishna could be regarded as that expounded by him to serve humanity of the changing world. Shri Ramakrishna is, therefore, rightly regarded by Hindus, great philosophers and thinkers of the word, who have studied the lives and works of Shri Ramakrishna and his disciples and others as the incarnation of Rama - the truth and Krishna - the love, born in Dakshineswar as great saint, not only to save Hindu religion from its extinction, but to rejuvenate it with the message of Vedanta that 'service to man is service to God', calls for our acceptance without any hesitation. [787-F-H, 788-A]

6. That Swami Vivekananda changed his views on religion in his latter years, having been influenced by the West, even if true, it is inconceivable that the same can have the effect of Shri Ramakrishna himself bringing up a religion of his own according to the subsequent thinking of Swami Vivekananda. On the contrary, what becomes obvious and evident

A from the exhortations of Swami Vivekananda himself; what he proclaimed
to the world was that it is Vedanta and Vedanta alone that can become the
universal religion of man and it is Hindu religion alone that is fitted to
that role, in that, Hindu religion being inclusive and broad enough to
include all the ideals of all religions in the world was indeed, the universal
B religion. Hence, to say that there came into existence Ramakrishna religion
- a universal religion, apart and distinct from Hindu religion would, again
be travesty of truth and reality. [788-D-F]

C *Shastri Yagnapurushdasji and Ors. v. Muldas Bhandardas Vaishya and
Anr.*, AIR (1966) SC 1119 and *Commissioner, Hindu Religion Endowments,
Madras v. Sri Lakshmindra Thirtha Swaminar of Sri Shirur Mutt*, [1954] SCR
1005, relied on.

Davis v. Benson, 133 US 342, cited.

D G.M. Jagtiani, *Hinduism by Swami Vivekananda and His Call to the
Nation*, referred to.

7. The persons belonging to or owing allegiance to Ramakrishna
Mission or Ramakrishna Math as followers of of Ramakrishna, form a
religious denomination in Hindu religion. As a necessary concomitant
thereof, they have a fundamental right of establishing and maintaining
E institutions for a charitable purpose under Article 26(a) of the Constitu-
tion of India, subject, of course, to public order, morality and health
envisaged in that very Article. [791-C]

8. Persons who claim to belong to religious denomination envisaged
F under Article 26 of the Constitution can succeed in such claim only when
they fulfil or satisfy the tests viz. (i) a collection of individuals who have a
system of belief with regard to their conducive spiritual well-being; (ii) a
common organisation; and (iii) a definite name. No good reason is shown
for not accepting the view of the Division Bench on the point that Ramak-
G rishna Mission of Ramakrishna Math is 'a religious denomination'.
Hence, it has rightly been held by the Division Bench of the High Court
that followers of Ramakrishna, who are a collection of individuals, who
adhere to a system of beliefs as conducive to their spiritual well-being, have
organised themselves collectively and who have an organisation of definite
name as Ramakrishna Math or Ramakrishna Mission could be regarded
H as a religious denomination within Hindu religion. [789-F-G, 790-B, G]

Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Math, [1954] SCR 1005 and *Acharya Jagdishwaranand Avadhuta Etc. v. Commissioner of Police, Calcutta & Anr.*, [1984] 1 SCR 447, relied on. A

9. The High Court should not have decided on the general question whether educational institutions established and maintained by religious denomination including those established and maintained by Ramakrishna Mission for general education get the protection of Article 26(a) of the Constitution when that question in a general form, was not really at issue before them. Therefore, the views expressed on the question shall, ought to be treated as *non est* and the question is left open to be decided in proper case, where such question really arises and all the parties who might be concerned with it are afforded adequate opportunity to have their say in the matter. So also, question of directing the West Bengal Government because of the West Bengal Act of 1975 and the West Bengal Act of 1978, to constitute governing body in 'standard pattern' of sponsored college envisaged under its Memo dated 18th April, 1978 in respect of Ramakrishna Mission College, cannot arise. [792-E-F, 796-C] B C D

10. The State Government has excepted the Ramakrishna Mission College at Rahra in the matter of constituting of a Governing Body on standard pattern for the obvious reason that constituting such a governing body for a college like Ramakrishna Mission College which was all through allowed to have a governing body constituted by Ramakrishna Mission which had built the College on its land conceding to the request made in that behalf by the State Government itself on the initiation of Central Government, may not be just. Thus when Ramakrishna Mission College had come to be built, established and managed by the Ramakrishna Mission, it is difficult to think that the High Court was not right in holding that the Government should not be directed by issue of a mandamus, to constitute a governing body for the Ramakrishna Mission College on standard pattern taking recourse to the West Bengal Act of 1975 and the West Bengal Act of 1978 although for its own reasons. Therefore, in the peculiar facts and circumstances in which Ramakrishna Mission College at Rahra was established on Ramakrishna Mission's land and allowed to be administered by the Ramakrishna Mission through its own Governing Body, it is felt that interests of justice may suffer by directing the State Government to constitute its own governing body on standard pattern of E F G H

A the usual sponsored colleges, as prayed for by the writ petitioners. However, the views expressed by this Court in the matter shall not come in the way of the State Government to change their earlier arrangement with the Ramakrishna Mission in the matter of governance of the Ramakrishna Mission College, if no objective considerations such change becomes necessary in the larger interests of students, teachers and other employees of that College and is so permitted by law. [795-D-H, 796-A]

Siddarajbhai v. State of Gujarat, AIR (1963) SC 540, referred to.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 4434A-34D of 1986 Etc. Etc.

From the Judgment and Order dated 28.8.85 of the Calcutta High Court in F.M.A.T. Nos. 13, 42, 270 & 490 of 1984.

D Shanti Bhushan, Tapas Ray, A.K. Ganguli, P.P. Rao, Dhruv Kr. Mukherjee, H. Puri, S.K. Puri, Raj Kumar Gupta for Rajesh, Dilip Sinha, J.R. Das for Sinha and Das, Indra Makwana, V.B. Joshi, Umesh Bhagwat, Alok Singh, Rathin Das, Abhijit Sengupta, A.D. Sikri, A.K. Chakravarti, A. Mariarputham, Ms. Aruna Mathur, Chakravarty, Bijan Kumar Ghosh, P.P. Choudhary and R.K. Gupta for the appearing parties.

E The Judgment of the Court was delivered by

VENKATACHALA, J. The sustainability of the common judgment of Division Bench of the Calcutta High Court rendered in appeals preferred against the order of dismissal of a Writ Petition by a learned single Judge of the same High Court by which the claim of the followers of Ramakrishna that an educational institution established and administered by their Ramakrishna Mission receives protection under Article 30(1) of the Constitution of India being an educational institution established and administered in exercise of their fundamental right as a minority based on religion and under Article 26(a) of the Constitution of India being an educational institution established and maintained in exercise of their fundamental right as a religious denomination or a section thereof, is upheld, since arises for our consideration in the present appeals filed against that judgment, all of them could be disposed of by this judgment.

H As the writ petition filed in the High Court, which has led to the present appeals related to Ramakrishna Mission Vivekananda Centenary

College at Rahra - 'Ramakrishna Mission College', established and administered by Ramakrishna Mission, it would be advantageous to refer to material facts relating to establishment and administration of that College and the controversies thereto which led to the filing of the writ petition, and ultimately the present appeals, for a proper appraisal and appreciation of the points arising for our consideration in deciding the present appeals. Such facts are briefly these:

By letter dated 19th July, 1961, the Secretary, Education Department of Government of West Bengal informed Swami Punnyananda Maharaj of Ramakrishna Mission Boys' Home of Ramakrishna Mission at Rahra of the willingness of Government of India for granting rupees two lakhs for construction of a college building on a suitable site at Rahra to be made available by Ramakrishna Mission and of the willingness of the Chief Minister to meet the additional cost of construction of such college building from funds of State Government, requested him to communicate the acceptance by Ramakrishna Mission of the proposal and further prepare plans and estimated cost of college building early. On Ramakrishna Mission's acceptance of the said proposal Government of West Bengal, issued Memo dated 27th October, 1961, intimating its Director of Public Instruction of Governor's approval for setting up a three year degree college under the auspices of Ramakrishna Mission Boys' Home at Rahra at its site at an estimated cost of Rs. 7,25,000 to be borne by the State Government and Government of India. Thereafter, by a letter dated 25th April, 1962 the Deputy Secretary to Government of West Bengal addressed to Registrar, Calcutta University intimated him of the three year degree college to be set up at Rahra under the auspices of Ramakrishna Mission and its readiness to manage the college through a Governing Body to be constituted by it. In turn, by another letter dated 29th August, 1962, the Director of Public Instruction intimated to the Registrar, Calcutta University that the said college was being inaugurated under the auspices of Ramakrishna Mission Boys' Home and will function as a sponsored college with financial assistance from the State Government and Union Government and requested for obtaining University's affiliation of the college upto B.A/B.Sc. courses and approval of College Governing Body constituted by the Ramakrishna Mission. Calcutta University being of the view, that it was quite fitness of thing that the college was being ushered into existence in commemoration of the birth centenary of Vivekananda, who contributed so much to uplift the down-trodden and the building up of national character

A

B

C

D

E

F

G

H

- A and education, not only granted affiliation to the proposed College, but also accorded approval to Governing Body of that College as constituted by Ramakrishna Mission. Thereafter, Governing Body of the College as constituted by Ramakrishna Mission from time to time with special approval obtained from the State Government and the University, continued to administer the affairs of that College. Ramakrishna Mission College did not, therefore, have a Governing Body which was modelled on the common pattern of governing bodies of sponsored colleges as becomes clear even from Government Memo dated 16th January, 1971 conveying approval of Governor for common pattern of Governing bodies of sponsored colleges, for it said, that the approval given by Governor regarding composition of the governing bodies of the sponsored colleges, did not include Governing Bodies of sponsored colleges run by Missionary Societies on the basis of agreement with respective Missions. Indeed, the letter of Deputy Secretary to Government referring to the said Memo had clarified that the Memo in its application to specially sponsored colleges such as colleges managed by Ramakrishna Mission, Christian Order Missionary Society, Brahma Samaj, Trust Deed etc. would be modified by Government according to exigencies by mutual agreement with Mission/Society/parties concerned. In his Memo dated 18th April, 1978, the Deputy Secretary to Government of West Bengal also clearly stated that the Government had been feeling the necessity of revising the existing pattern for composition of Governing Bodies of Government sponsored colleges on a "standard pattern" excepting where the college concerned had a special constitution on the basis of Trust Deed or where the college was run by the Missionary Societies on the basis of agreement with respective Missions.

- F When according to the said Memo dated 18th April, 1978, the existing Governing Body of the Ramakrishna Mission College was carrying on the governance of that college, that on 12.8.1980 by a letter of even date, Principal of that college Swami Jitananda resigned his post. This situation led to the appointment of Shivamoyananda who was till then head of Ramakrishna Mission Vidya Mandir, Bellurmath, as Principal of Ramakrishna Mission College.

- H Teachers Council of the Ramakrishna Mission College who were agitated by new Principal's appointment, by resorting to strike, took over the management of the College and prevented the newly appointed Principal Shivamoyananda from functioning as Principal but also made Prof.

A.R. Das Gupta to function as the in-charge Principal of that College. This untoward situation led Ramakrishna Mission and the Secretary of the Governing Body of the College institute a civil suit - Suit No. 111 of 1980 in 10th Court of Sub-Judge, Alipore seeking a declaration that the functioning of A.R.Das Gupta as Principal and the functioning of 14 professors in the college was illegal.

When the affairs of the said Ramakrishna Mission College stood as above, that on 18.12.1980 the appellants in Civil Appeal No. 4937 of 1985, by filing C.O. No. 12837(W) of 1980 in the High Court sought for issue of (i) a writ in the nature of mandamus commanding the Government of West Bengal to reconstitute the Governing Body of the Ramakrishna Mission College according to standard pattern for Governing Bodies of sponsored colleges as per Government Memo No. 752-Edn (CS)/C.S. 30-3/77 dated 18th April, 1978 (ii) a writ declaring that the Ramakrishna Mission College is governed by W.B. Act of 1975 and W.B. Act of 1978; (iii) a writ in the nature of quo warranto restraining Swami Shivmoyananda as Principal of Ramakrishna Mission College and other incidental writs.

The grant of prayers sought for in the said writ petition was resisted by Ramakrishna Mission, Secretary of the Ramakrishna Mission College and Shivamoyananda, who were respondents in that writ petition and are respondents in present Civil Appeal No. 4937 of 1985 and other civil appeals.

However, as three notices were sent by the Calcutta University to Ramakrishna Mission during the pendency of the writ petition for reconstituting the Governing Bodies of the Ramakrishna Mission Residential College, Narendrapur, Ramakrishna Mission Siksha Mandir, Howrah and Ramakrishna Mission Vidya Mandir, Howrah, the sustainability of those notices was questioned by Ramakrishna Mission, by filing an Interlocutory Application in the writ petition itself.

A learned single Judge of the High Court although dismissed the said Writ Petition, quashed the said three notices issued by the Calcutta University to the Ramakrishna Mission for reconstituting the Governing Bodies of its three colleges, on his view that the Ramakrishna Mission College and other colleges of Ramakrishna Mission since established and administered by Ramakrishna Mission, comprised of the followers of Ramakrishna

A religion, being protected under Article 30(1) of the Constitution, the provisions in W.B. Act of 1975 and the W.B. Act of 1978, did not apply. However, he did not accept the claim of the Ramakrishna Mission that Article 26(a) of the Constitution enabled the Ramakrishna Mission to establish educational institutions as a religious denomination. The writ petitioners, who were aggrieved against the order of dismissal of their writ petition by the learned single Judge and of quashing of the notices for reconstituting of Governing Bodies of certain colleges of the Ramakrishna Mission preferred a writ appeal against that order. The State of West Bengal and Calcutta University who also felt aggrieved by the said order of learned single Judge, filed separate writ appeals questioning its correctness. A Division Bench of the High Court, which clubbed those writ appeals and heard them together, dismissed all of them by a common judgment having expressed its agreement with the learned single Judge that the Ramakrishna Mission comprised of followers of Ramakrishna, being a minority based on religion, was protected under Article 30(1) of the Constitution, and also its disagreement with the view that Article 26(a) of the Constitution did not protect the Ramakrishna Mission from establishing educational institutions as a religious denomination. Dismissal of the appeals was also based on the view of the Division Bench that both the W.B. Act of 1975 and the W.B. Act of 1978 since did not contain any express provision including their application to educational institutions established and maintained by the Ramakrishna Mission, those Acts would be inapplicable, to the Ramakrishna Mission College and other colleges of Ramakrishna Mission for to hold otherwise would amount to infringement of the rights enjoyed by the Ramakrishna Mission under Article 26(a) and 26(b) of the Constitution. However, it left open the question of legality of otherwise of the direction contained in the notices issued by the Calcutta University to the Ramakrishna Mission for reconstitution of Governing Bodies of the Ramakrishna Mission Residential College, Narendrapur, Ramakrishna Mission Siksha Mandir, Howrah and Ramakrishna Mission Vidya Mandir, Howrah.

G

The present appeals are those filed against the said judgment of the Division Bench by the appellants in the writ appeals before the High Court and by interested persons who have filed the appeals against the same judgment by permission of this Court, though they were not parties in the proceedings of the Writ Petition in the High Court and in the writ appeals

H

in the same Court.

A

We have heard oral arguments of learned counsel appearing for respective parties in these appeals. We have also carefully read the written submissions filed by learned counsel in these appeals on behalf of their respective parties.

B

The points arising for our consideration for deciding these appeals in the light of the material facts adverted to as leading to the filing of them and the oral arguments of learned counsel made on behalf of their respective parties in these appeals and also the written submissions filed by them on behalf of their respective parties in these appeals, would be the following:

C

1. Can the citizens of India residing in the State of West Bengal who are professing, practising or propagating the religious doctrines and teachings of Ramakrishna and have become his followers, claim to belong to a minority based on Ramakrishna religion which was distinct and different from Hindu religion and as such entitled to the fundamental right under Article 30(1) of the Constitution of India, of establishing and administering educational institutions of their choice through Ramakrishna Mission or its branches in that State?

D

2. Do persons belonging to or owing allegiance to Ramakrishna Mission belong to a religious denomination or any section thereof as would entitle them to claim the fundamental rights conferred on either of them under Article 26 of the Constitution of India?

E

3. If persons belonging to or owing allegiance to Ramakrishna Mission is a religious denomination or a section thereof, have they the fundamental right of establishing and maintaining institutions for a charitable purpose under Article 26(1) of the Constitution of India.

F

4. If Ramakrishna Mission as a religious denomination or a section thereof establishes and maintains educational institutions, can such institutions be regarded as institutions established and maintained for charitable purpose within the meaning of Article 26(a) of the Constitution of India?

G

5. Is Ramakrishna Mission College at Rahra established and main-

H

- A tained by Ramakrishna Mission and if so, will the constitution of its governing body by the Government of West Bengal amounts to infringement of Ramakrishna Mission's fundamental right to establish and maintain an educational institution under Article 26(a) of the Constitution of India?
- B 6. Can the court direct the West Bengal Government because of W.B. Act 1975 and W.B. Act 1978, to constitute governing body on 'standard pattern' of sponsored college envisaged under its Memo dated 18th April, 1978 in respect of Ramakrishna Mission College when that memo itself says that colleges established and maintained by Missions on the basis of agreements cannot be treated as sponsored colleges for the purpose of constituting governing bodies for them on a 'standard pattern'.
- C

D Before taking up the above points of consideration, we may advert to the views of this Court expressed in some of its decisions on matters, such as Hindu religion, religious denomination, to our advantage:

E A Constitution Bench of this Court in the *Commissioner, Hindu Religious Endowments, Madras v. Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt*, [1954] SCR 1005 speaking through Mukherjee, J. (as he then was), who spoke for the Bench while holding that certain provisions of the Madras Hindu Religious and Charitable Endowments Act, 1951 imposing tax on religious trusts and institutions were ultra vires Article 26 of the Constitution of India, adverted to the meaning of the word 'religion' and the expression 'religious denomination' found in the Constitution of India, thus:

F "...The word 'religion' has not been defined in the Constitution and it is a term which is hardly susceptible of any rigid definition. In an American case *Davis v. Benson*, 133 US at 342 it has been said 'that term 'religion' has reference to one's views of his relation to his Creator and to the obligations they impose of reverence for His Being and character and of obedience to His will. It is often confounded with cultus of form or worship of a particular sect, but is distinguishable from the latter.' We do not think that the above definition can be regarded as either precise or adequate. Articles 25 and 26 of our Constitution are based for the most part upon

G

H article 44(2) of the Constitution of Eire and we have: great doubt

whether a definition of 'religion' as given above could have been in the minds of our constitution makers when they framed the constitution. Religion is certainly a matter of faith with individuals or communities and it is not necessarily theistic. There are well known religions in India like Buddhism and Jainism which do not believe in God or in any Intelligent First Cause: A religion undoubtedly has its basis in a system of beliefs or doctrines which are regarded by those who profess that religion as conducive to their spiritual well being, but it would not be correct to say that religion is nothing else but a doctrine or belief. A religion may not only lay down a code of ethical rules for its followers to accept, it might prescribe rituals and observances, ceremonies and modes of worship which are regarded as integral parts of religion, and these forms and observances might extend even to matters of food and dress."

Then dealing with the meaning and connotation of the expression 'religious denomination' and whether a Math could come within this expression, it has been observed thus:

"..The word 'denomination' has been defined in the Oxford Dictionary to mean 'a collection of individuals classed together under the same name: a religious sect or body having a common faith and organisation and designated by a distinctive name.' It is well known that the practice of setting up Maths as centres of theological teaching was started by Shri Sankaracharya and was followed by various teachers since then. After Sankara, came a galaxy of religious teachers and philosophers who founded the different sects and sub-sects can certainly be called a religious denomination, as it is designated by a distinctive name, - in many cases it is the name of the founder, - and has a common faith and common spiritual organisation. The followers of Ramanuja, who are known by the name of Shri Vaishnabas, undoubtedly constitute a religious denomination; and so do the followers of Madhwacharya and other religious teachers. It is a fact well established by tradition that the eight Udipi Maths were founded by Madhwacharya himself and the trustees and the beneficiaries of these Maths profess to be followers of the teacher. The High Court has found that the Math in question is in charge of the Sivalli Brahmins who constitute a

A section of the followers of Madhwacharya. As Article 26 contemplates not merely a religious denomination but also a section thereof, the Math or the spiritual fraternity represented by it can legitimately come within the purview of this article."

B In *Shastri Yagnapurushdasji and Others v. Muldas Bhundardas Vaishya and Another*, AIR (1966) SC 1119 a Constitution Bench of this Court was required to consider the question whether the Bombay High Court was right in holding that Swami Narayan Sampradaya sect to which the appellants before the Court belonged is not a religion distinct and separate from the Hindu religion. In that context, Gajendragadkar, C.J.
 C who spoke for the Bench considered the questions elaborately as to who are Hindus and what are the broad features of Hindu religion, thus:

D "(27) Who are Hindus and what are the broad features of Hindu religion, that must be the first part of our enquiry in dealing with the present controversy between the parties. The historical and etymological genesis of the word 'Hindu' has given rise to a controversy amongst indo-logists; but the view generally accepted by scholars appears to be that the word 'Hindu' is derived from the river Sindhu otherwise known as Indus which flows from the Punjab. 'That part of the great Aryan race', says Monier Williams,
 E 'which immigrated from Central Asia, through the mountain passes into India, settled first in the districts near the river Sindhu (now called the Indus). The Parisian pronounced this word Hindu and named their Aryan brethren Hindus. The Greeks, who probably gained their first ideas of India Persians, dropped the hard aspired, and called the Hindus 'Indoi'.

F
 G (28) The Encyclopaedia of Religion and Ethics, Vol. VI, has described 'Hinduism' as the title applied to that form of religion which prevails among the vast majority of the present population of the Indian empire (p.686). As Dr. Radhakrishnan has observed: 'The Hindu civilization is so called, since its original founders or earliest followers occupied the territory drained by the Sindhu (the Indus) river system corresponding to the North-West Frontier Province and the Punjab. This is recorded in the Rig Veda, the oldest of the Vedas, the Hindu scriptures which give their name to this period of Indian history. The people on the Indian side of
 H

the Sindhu were called Hindu by the Persian and the later western invaders [The Hindu View of Life by Dr. Radhakrishnan, p.12]. That is the genesis of the word 'Hindu'. A

(29) When we think of the Hindu religion, we find it difficult, if not impossible, to define Hindu religion or even adequately describe it. Unlike other religions in the world, the Hindu religion does not claim any one prophet; it does not worship any one God; it does not subscribe to any one dogma; it does not believe in any one philosophic concept; it does not follow any one set of religious rites or performances; in fact, it does not appear to satisfy the narrow traditional features of any religion or creed. It may broadly be described as a way of life and nothing more. B C

(30) Confronted by this difficulty, Dr. Radhakrishnan realised that 'to many Hinduism seems to be a name without any content. Is it a museum of beliefs, a medley of rites, or a mere map, a geographical expression [The Hindu View of Life by Dr. Radhakrishnan, p.11]? Having posed these questions which disturbed foreigners when they think of Hinduism, Dr. Radhakrishnan has explained how Hinduism has steadily absorbed the customs and ideas of peoples with whom it has come into contact and has thus been able to maintain its supremacy and its youth. The term 'Hindu', according to Dr. Radhakrishnan, had originally the territorial and not a credal significance. It implied residence in a well defined geographical area. Aboriginal tribes, savage and half-civilized people, the cultured Dravidians and the Vedic Aryans were all Hindus as they were the sons of the same mother. The Hindu thinkers reckoned with the striking fact that the men and women dwelling in India belonged to different communities, worshiped different gods, and practised different rites [The Hindu View of Life by Dr. Radhakrishnan, p.12] (Kurma Purana). D E F

(31) Monier Williams has observed that 'it must be borne in mind that Hinduism is far more than a mere form of theism resting on Brahmanism. It presents for our investigation a complex congeries of creeds and doctrines which in its gradual accumulation may be compared to the gathering together of the mighty volume of the Garden swollen by a continual influx of tributary rivers and H

A rivulets, spreading itself over an ever- increasing areas of country, and finally resolving itself into an intricate Delta of tortuous streams and jungly marshes..... The Hindu religion is a reflection of the composite character of the Hindus, who are not one people but many. It is based on the idea of universal receptivity. It has ever aimed at accommodating itself to circumstances, and has carried on the process of adaptation through more than three thousand years. It has first borne with and then, so to speak, swallowed, digested, and assimilated something from all creeds [Religious Thought & Life in India by Monier Williams, p.57].’....”

C Dealing with broad sweep of the Hindu philosophic concept, it has been stated thus:

D (33) The monistic idealism whilom can be said to be the general distinguishing feature of Hindu Philosophy has been expressed in four different forms: (1) Non-dualism or Advaitism; (2) Pure monism, (3) Modified monism; and (4) Implicit monism. It is remarkable that these different forms of monistic idealism purport to derive support from the same Vedic and Upanishadic texts. Shankar, Ramanuja, Vallabha and Madhva all based their philosophic concepts on what they regarded to be the synthesis between the Upanishads, the Brahmasutras and the Bhagvad Gita. Though philosophic concepts and principles evolved by different Hindu thinkers and philosophers varied in many ways and even appeared to conflict with each other in some particulars, they all had reverence for the past and accepted the Vedas as sole foundation of the Hindu philosophy. Naturally enough, it was realised by Hindu religion from the very beginning of its career that truth was many-sided and different views contained different aspects of truth which no one could fully express. This knowledge inevitably bred a spirit of tolerance and willingness to understand and appreciate the opponent’s point of view. That is how ‘the several views set forth in India are considered to be the branches of the self-same tree. The short cuts and blind alleys are somehow reconciled with the main road of advance to the truth [ibid, p.48].’ When we consider this broad sweep of the Hindu philosophic concepts, it would be realised that under Hindu philosophy, there is no scope for ex- communicating any notion or principle as heretical and

rejecting it as such." A

Thereafter, the basic concepts of Hindu religion, are stated thus:

(35).The first amongst these basic concepts is the acceptance of the Veda as the highest authority in religious and philosophic matters. This concept necessary implies that all the systems claim to have drawn their principles from a a common reservoir of thought enshrined in the Veda. The Hindu teachers were thus obliged to use the heritage they received from the past in order to make their views readily understood. The other basic concept which is common to the six systems of Hindu philosophy is that 'all of them accept the view of the great world rhythm. Vast periods of creation, maintenance and dissolution follow each other in endless succession. This theory is not inconsistent which belief in progress: for it is not a question of the movement of the world reaching its goal times without number, and being again forced back to its starting point.It means that the race of man enters upon and retravels its ascending path of realization. This interminable succession of world ages has no beginning [Indian Philosophy by Dr. Radhakrishnan, Vol.II, p.26].' It may also be said that all the systems of Hindu philosophy belief in rebirth and pre- existence. 'Our life is a step on a road, the direction and goal of which are lost in the infinite. On this road, death is never an end or an obstacle but at most the beginning of new steps [Indian Philosophy by Dr. Radhakrishnan, Vol.II, p.27].' Thus, it is clear that unlike other religions and religious creeds, Hindu religion is not tied to any definite set of philosophic concepts as such." B C D E F

Adverting to the question whether Hindus worship at their temples the same set or number of gods, it has been observed thus:

"(36).Indeed, there are certain sections of the Hindu community which do not believe in the worship of idols; and as regards those sections of the Hindu community which believe in the worship of idols, their idols differ from community to community and it cannot be said that one definite idol or a definite number of idols are worshipped by all the Hindus in general. In the Hindu Pantheon the first gods that were worshipped in Vedic times were mainly Indra, Varuna, Vayu and Agni. Later, Brahma, Vishnu and H

A Mahesh came to be worshipped. In course of time, Rama and Krishna secured a place of pride in the Hindu Pantheon, and gradually as different philosophic concepts held sway in different sects and in different sections of gods there added, with the result that today the Hindu Pantheon presents the spectacle of a very large number of gods who are worshipped by different sections of the Hindus."

However, dealing with the development of the Hindu religion and philosophy from time to time, it is observed thus:

C "(37). The development of Hindu religion and philosophy shows that from time to time saints and religious reformers attempted to remove from the Hindu thought and practices elements of corruption and superstition and that led to the formation of different sects. Buddha started Buddhism; Mahavir founded Jainism; Basava became the founder of Lingayat religion, Dhyaneswar and Tukaram initiated the Varakari cult; Guru Nanak inspired Sikhism; Dayananda founded Arya Samaj, and Chaitanaya became Bhakti cult; and as a result of the teachings of Ramakrishna and Vivekananda, Hindu religion flowered into its most attractive progressive and dynamic form. If we study the teachings of these saints and religious reformers, we would notice an amount of divergence in their respective views; but underneath that divergence, there is a kind of subtle indescribable unity which keeps them within the sweep of the broad and progressive Hindu religion."

F Ultimately reference is made to the working formula evolved by Tilak and is found to be adequate and satisfactory formula. That working formula is quoted thus:

G "Acceptance of the Vedas with reverence; recognition of the fact that the means or ways to salvation are diverse; and realisation of the truth that the number of gods to be worshipped is large, that indeed is the distinguishing feature of Hindu religion. [B.G. Tilak's Gitarahasaya]."

H In *Acharya Jagdishwaranand Avadhuta, Etc. v. Commissioner of Police, Calcutta & Anr.*, [1984] 1 SCR 447, Ranganath Misra, J. (as he then

was) speaking for a three -Judge Bench of this Court has held that Anand Margis being a collection of individuals who have a system of beliefs with regard to their conductive spiritual well-being, a common organisation and a definitive name; would be a religious denomination within the Hindu religion, inasmuch that satisfy the tests laid down by the Constitution Bench of this Court in that regard in *Sri Shivar Mutt's* case (supra).

We could now refer to the points arising for our consideration in these appeals and consider them seriatim.

Point-1:

The learned single Judge of the High Court, who decided the Writ Petition, took the view that the followers of Ramakrishna were entitled to protection of Article 30(1) of the Constitution of India since the religion preached and propagated by Thakur Sri Ramakrishna and his great chella Swami Vivekananda, is Ramakrishna religion - a universal religion, different from the Hindu religion. The factors which led the learned single Judge to take the above view in respect of the Ramakrishna religion are the following:

Fundamental tenets of Remakrishna religion set out in the statement of Swami Ramanand in his affidavit filed in opposition to the Writ Petition, which according to him made it unique by comprehending all other religions without identifying itself with any of them :

"1. That Thakur Shri Ramakrishna Paramhansa Deva practised various religions including Islam and realised the truth underlying these religions.

2. That Shri Ramakrishna's spiritual practice culminated in experience that all beings are in essence divine and identical with Eternal Existence, Consciousness and Bliss, and that the ultimate aim of human life is to realise this Truth and attain eternal life.

3. Shri Ramakrishna discovered that the same Eternal Truth underlies all religious, which is the essence of all scriptures. That all religions are true.

4. According to Shri Ramakrishna, religion is not an end in itself but is a means to achieve the said aim of human life.

A 5. He (Ramakrishna) proclaimed that all religions are only different paths leading to the same goal.

6. He (Ramakrishna) preached that service to man as the vertiable manifestation of God, in a spirit of worship, is a sure way to realise the Truth.

B

7. Accepting all religion to be true he (Ramakrishna) prohibited condemnation of any of them."

Most important features of Ramakrishna religion, set out by Swami Ramananda in his affidavit in opposition, which according to him distinguished Ramakrishna religion from all other cults or religions including traditional Hinduism:

C

"(i). The religion of Shri Ramakrishna looks upon Sri Ramakrishna as an illustration and embodiment of the Religion Eternal which constitutes the core of all religious ideals and permits his worship through his image (like portraits, photos, statues, etc.) relics or otherwise with or without any ritual or ceremony.

D

(ii). It not only tolerates all religions, but also accepts them all to be true, and it considers all religions to be only different paths leading to the same goal, whereas other religions claim absolute authority in all matters to the exclusion of all others.

E

(iii). It believes that the underlying truth in all religions is the same Eternal Truth which is the essence of the scriptures of all religions."

F

Further statement made in the self-same affidavit by Swami Ramananda:

"..... that the followers of this religion or cult of Shri Ramakrishna believe in and practise the universal religion of all times, as practised and preached by him. They believe in the universal brotherhood of all irrespective of caste, colour, creed community, language or nationality. Amongst the followers of Shri Ramakrishna's religion, there are persons coming from Hindu fold as well as from the followers of Islam, Christianity and other religions."

G

H

Remark of notable historian Arnold Toyanbee:

A

"Shri Ramakrishna's message was unique in being expressed in action... Religion is not just a matter for study, it is something that has to be experienced and to be believed, and this is the field in which Shri Ramakrishna manifested his uniqueness... His religious activity and experience, were, in fact, comprehensive to a degree that had perhaps never before been attained by any other religious genius in India or elsewhere."

B

Statements of Swami Vivekananda made at different times:

"What is wanted is power of organisation do you understand me?... We want some disciples fiery youngmen... do you see? ... intelligent/and brave who dare to go to the jaws of death and are ready to swim and ocean across. Do you follow me? We want hundreds like that... both men and women. Try your utmost for that and alone. Make converts right and left and put them into our purity drilling machine."

C

D

And together we conceived that this ideal had to be spread, and not only spread, but made practical. That is to say, we must show the spirituality of the Hindus, the mercifulness of the Buddhists the activity of the Christians, the brotherhood of Mohamadans, by our practical lives. We shall start a universal religion now and here."

E

"Each soul is potentially divine, the goal is to manifest this divinity within, by controlling nature external and internal. Do this either by work or by worship by one or more, or all of them and be free."

F

"I have a message and I will give it after my own fashion, will neither be Hinduism, nor Christianity and that is all. Liberty, Mukti is all my religion."

G

"I shall inspire men everywhere, until the world shall know that it is one with God."

Swami Jyotishwarananda's statement :

H

A "The Ramakrishna Mission is preeminently a religious body in service forming a part of Sadhana or spiritual practice. It stands on the universal ideals of religion. Its numerous preaching centres in India and America are trying to spread through the life and thought of their members a true knowledge of religion in its all embracing aspects and also to promote fellowship amongst the followers of different religions of the world, which are in fact as Sri Ramakrishna realised, so many forms of the Eternal and Universal Religion."

B
C
D
E
F
G
H
Objects of Ramakrishna Math :

"1. The Ramakrishna Math, otherwise called the Belur Math, is an institution of Sannyasins, established to help individuals as to work out their own liberation and also to train them to serve the world in every possible way along the lines laid down by Bhagavan Sri Ramakrishna.

2. The activities of the Ramakrishna Math Belur otherwise called the Belur Math, and other Maths associated with it and forming branch Maths or Ashramas, and the various centres of work shall be confined to the promotion of the objects and principles of the cult or religion of Sri Ramakrishna Paramhansa, and to the propagation, advancement and furtherance of the same through publication of books, magazines etc., and establishment of temples, prayer halls, educational, cultural and charitable institutions of various types , as also other forms of preaching and seva, which all shall be conducted along the lines of universal principles taught by Sri Ramakrishna and exemplified by his life."

Objects of Ramakrishna Mission :

"(a) To impart and promote the study of the Vedanta and its principles as pronounced by Sri Ramakrishna and practically illustrated by his own life and of Comparative Theology in its widest form.

(b) To impart and promote the study of the art, sciences and industries.

(c) To carry on educational work among masses.

(d) To establish, maintain, carry on and assist Schools, Colleges, universities, Orphanages, Work Shops, Laboratories, Hospitals, Dispensaries, houses for the works and other educational and/or charitable works and institutions of a like nature." A

Division Bench of the High Court while dismissing the appeals filed against the order in the Writ Petition, has upheld the views of the learned single Judge that Ramakrishna religion was a different religion from Hindu religion by relying on the very factors on which the learned single Judge had based his views on the subject. However, the Division Bench has sought to point out how Swami Vivekananda in the latter days of his life changed his thoughts on religion influenced by Western thought and way of life and propounded a world religion, by referring to what was said of him by others: B C

"42. Undoubtedly, thoughts of Sri Ramakrishna and Swami Vivekananda were based on Vedanta. But their philosophy and religion were not identical with the Traditional Vedantabad. Dr. Satish Chandra Chatterjee formerly Head of the Department of Philosophy, Calcutta university, in his work 'Classical Indian Philosophers : Their Synthesis in the Philosophy of Sri Ramakrishna' published by the University of Calcutta, 1963, has described Sri Ramakrishna's philosophy as Samanvaya Vedanta in the sense of being a synthesis of all the schools of Hindu Law. Dr. Chatterjee in Chapter - X of the said book has discussed in detail the said philosophy of Sri Ramakrishna. He has, inter alia, observed that Sri Ramakrishna's experiences go beyond the Veda and Vedanta. According to him, the impersonal absolute and the personal God are not two different realities unrelated to each other, nor are the different realities inseparably related to each other as substance and quality. They are same realities in different states. According to the learned author, Bramhana is not different from Shakti or Kali in point of Reality. Sri Ramakrishna held that Bramhana is present in every thought and being the Universe. Sri Ramakrishna's teachings lay down a rational basis for reconciliation of different and conflicting systems of philosophy and religion. Dr. Chatterjee in his said book observes that religion, according to Sri Ramakrishna, is neither religious knowledge about God, nor philosophical speculation on God; it is the direct experience or D E F G H

A realisation of God. Sri Ramakrishna's conception that the end of
 Man's life is realization of the divine in him, was not identical with
 the traditional Hindu view of life. One of the most remarkable
 traits of Sri Ramakrishna's religion was his doctrine of harmony
 of religions. He not only taught Universal Harmony but he himself
 B demonstrated it.

43. Thus although thoughts of Sri Ramakrishna and Swami
 Vivekananda were based on Vedanta, their thought and action did
 not remain strictly within the limits of ancient Vedantic thought.
 C The writings and speeches of Swami Vivekananda also clearly
 indicate his gradual transition from a preacher of Hindu thought
 into a world missionary. Swami Vivekananda's views on religion
 did not remain static and unchanged. Therefore, stray quotations
 given from his various writings and speeches may not depict his
 true views on religion. With his greater and greater acquaintance
 D with the western thought and ways of life, Swami Vivekananda's
 own ideas about religion and its significances underwent change.
 He had begun to lay greater and greater stress on the unity of
 religions. He came gradually to believe in and propounded world
 religion. Swamiji persistently sought to formulate on the basis of
 Sri Ramakrishna's teachings of One Principle behind all religious
 E phenomenon. Miss Marie Louse Bueke in her book 'Swami
 Vivekananda in the West' Vol. II, had observed that from the
 summer of 1894 onwards simultaneous developments keeping pace
 with one another were taking place in Swamiji's thought along
 three lines. There was an evolution in his message, the change in
 F his plan and work and the increasing degree in which he identified
 his own message with Vedanta. According to the learned author,
 all three were aspects of a single event - the emergence of his world
 mission. According to Miss Burke, Swamiji did not teach the
 orthodox Vedanta in every respect. He mixed with it, for instance,
 G a great deal of Sankhya in order to answer some of the questions
 posed by modern knowledge. The learned author has answered
 the question why Swamiji gave the name Vedanta to his Principles
 of Religion. She thinks that, on the face of it, it was not necessary,
 for as Swami Vivekananda himself often observed, these principles
 have always existed in greater or lesser degree in every religion.
 H He wrote 'the real thing is the religion taught by Sri Ramakrishna;

let the Hindu call it Hinduism and the other call it in their own way". According to Miss Burke, one obvious and important reason of calling his religion by specific name was that the name Vedanta already existed. One religion in all its aspects had been already formulated for thousands of years and called Vedanta. Miss Burke has given two other reasons, first, Swami Vivekananda attempted throughout to define harmony of religion in the truest sense and had concluded that it consisted in the recognition of the unity of religions or rather in the recognition of religion. Another reason why Swamiji wanted to give a name to one religion was that he was not only ensuring purity of his principles but to make it possible for any one to follow these principles without first attaching himself to specific creed and burdening himself with some forms and ceremonies not necessary to him. One would become a Vedantic and go straight to the heart of the religion." A B C

Can the aforesaid view of the learned single judge of Calcutta High Court. That there came into existence Ramakrishna religion, distinct and apart from Hindu religion, as upheld by learned Judges of the Division Bench of the same High Court by its Judgment impugned in the present appeals, be sustained for the reasons stated by them including the special reason put forward by learned Judges of the Division Bench that thoughts of Ramakrishna and Swami Vivekananda all thought were based on Vedanta, writings and speeches of Swami Vivekananda show that even though he had grown as a preacher of Hindu thought (Hindu religion), he converted himself into a preacher of world religion different from Hindu religion, in latter years of his life being influenced by his greater acquaintance with Western thought and way of life, if such view of the learned single Judge, as upheld by the learned Judges of the Division Bench of the High Court came in direct conflict with the view of Hindu religion enunciated by the Constitution Bench of this Court in its judgment in the case of Shastri Yagnapurushdasji (supra) by according its approval to what is stated in that regard by great philosophers and historians or of broad features of Hindu religion laid down by this Court in that judgment or with the views held by Ramakrishna himself, on Hindu religion and the Hindu way of life led by him or of what was spoken of Ramakrishna as the great saviour, reviver and rejuvenator of Hindu religion by world thinkers, philosophers, historians and his disciples, or the utterances of Sri Ramakrishna and Swami Vivekananda. which show that they always continued as Hindus H

- A professing Hindu religion and never disowned or discarded their Hindu status or Hindu religion.

B The Constitution Bench of this Court in *Shastri Yagnapurushdasji* (supra) when had occasion to deal with the question what Hindu religion has been, on consideration of diverse aspects of the questions before it, not merely expressed its clear views thereon, viz., (i) that unlike other religions in the world Hindu religion does not claim any one prophet; it does not worship any one God; it does not subscribe to any one dogma; it does not believe in any one philosophic concept; it does not follow any one set of religious rites or performances and thus when it does not appear to satisfy

C any of the narrow traditional features of any religion or creed, it may broadly be described as a way of life and nothing more; (ii) that unlike other religions Hindu religion is not tied to any definite set of philosophic concepts as such; and (iii) that though philosophic concepts and principles evolved by different Hindu thinkers and philosophers varied in many ways

D and even appeared to conflict with each other in some particulars, they all had reverence for the past and accepted the Vedas as the sole foundation of Hindu philosophy; but also clearly accorded its approval to the views of Hindu religion expressed by Monier Williams to the effect that the Hindu religion is a reflection of the composite character of the Hindus, who are not one people but many based on the idea of universal receptivity ever aimed at accommodating itself to circumstances, having swallowed,

E digested and assimilated something from all creeds, and to the view of Hindu religion expressed by Dr. S. Radhakrishnan 'that Hindu religion because of the teachings of Ramakrishna and Vivekananda has flowered into its most attractive, progressive and dynamic form.'

F

Since the afore-mentioned views that there came into existence Ramakrishna religion, as such, distinct and part from Hindu religion, of the learned single Judge of the High Court deciding the writ petition and the learned Judges of the Division Bench of the High Court deciding the

G appeals are quite contrary to and directly conflict with afore-referred views of the Constitution Bench on Hindu religion enunciated in the case of *Shastri Yagnapurushdasji* (supra), the views of the learned Judges of the High Court that there came into existence a Ramakrishna religion which was different and distinct from Hindu religion cannot, in our view, stand

H and become unsustainable.

Features of Hindu religion recognised by this Court in *Shastri Yaganapurushdasji* (supra) as coming within its broad sweep are these: A

(i) Acceptance of the Vedas with reverence as the highest authority in religious and philosophic matters and acceptance with reverence of Vedas by Hindu thinkers and philosophers as the sole foundation of Hindu philosophy. B

(ii) Spirit of tolerance and willingness to understand and appreciate the opponent's point of view based on the realisation that truth was many-sided.

(iii) Acceptance of great world rhythm, vast period of creation, maintenance and dissolution follow each other in endless succession, by all six systems of Hindu philosophy. C

(iv) Acceptance by all systems of Hindu philosophy the belief in rebirth and pre-existence. D

(v) Recognition of the fact that the means or ways to salvation are many.

(vi) Realisation of the truth that Gods to be worshipped may be large, yet there being Hindus who do not believe in the worshipping of idols. E

(vii) Unlike other religions or religious creeds Hindu religion not being tied-down to any definite set of philosophic concepts, as such.

Ramakrishna - according to Aurobindo :

"...in him the spiritual experiences of the millions of saints who had gone before were renewed and united. Sri Ramakrishna gave to India the final message of Hinduism to the world. A new era dates from his birth... Hinduism as summed up in the life of Sri Ramakrishna has to attempt for all..." [World Thinkers on Ramakrishna, Vivekananda, p.36] G

Ramakrishna - according to Arnold Toynbee :

"Sri Ramakrishna's message was unique in being expressed in action, the message itself was the perennial message of Hinduism." H

A [Ramakrishna And His Unique Message - by Swami Ghananda, p.10.]

Ramakrishna - according to Prof. S. Radhakrishnan :

B "He has helped to raise from the dust the fallen standard of Hinduism, not in words merely, but in works too." [Ramakrishna And His Unique Message, p.29]

Ramakrishna's view of Hindu religion :

C "Hindu religion alone is the Sanatan Dharma. Various creeds you hear now a days have come into existence through the will of God and will disappear again through his will. They will not last for ever. Therefore, I bow down at the feet of even the modern Devotees. The Hindu religion has always existed and will always exist." [The Gospel of Sri Ramakrishna, Vol. II, p.642].

D Swami Vivekananda's view about his Master's (Ramakrishna's) religion :

E "Then it was that Sri Ramakrishna incarnated himself in India to demonstrate what the true religion of the Aryan race is, to show where amidst all its many divisions and off-shoots, scattered over the land in the course of its immemorial history, lies the true unity of the Hindu religion...."

F "All that I am, all that the world itself will some day be, is owing to my Master, Sri Ramakrishna, who incarnated and experienced and taught this wonderful unity which underlies everything, having discovered it alike in Hinduism, in Islam and in Christianity." [Ramakrishna And His Message, p.57].

G Address given by Swami Vivekananda at the World's Parliament of Religions at Chicago on 11th September, 1893 since assumes great significance, the same being accepted as the thoughts of Ramakrishna expressed on religion, through his principal disciple Swami Vivekananda, the important passages therein which bear on religion of Ramakrishna and his disciple Swami Vivekananda, are excerpted :

H "It fills my heart with joy unspeakable to rise in response to the

warm and cordial welcome which you have given us. I thank you in the name of the most ancient order of monks in the world; I thank you in the name of the mother of religions; and I thank you in the name of the millions and millions of Hindu people of all classes and sects. ..

I am proud to belong to a religion which has taught the world both tolerance and universal acceptance. We believe not only in universal toleration, but we accept all religions as true. I am proud to belong to a nation which has sheltered the persecuted and the refugees of all religions and all nations of the earth...

I am a Hindu. I am sitting in my own little well and thinking that the whole world is my little well. The Christian sits in his little well and thinks the whole world is his well. The Mohammedan sits in his little well and thinks that is the whole world. I have to thank you of America for the great attempt you are making to break down the barriers of this little world of ours, and hope that, in the future, the Lord will help you to accomplish your purpose.....

"From the high spiritual flights of the Vedanta philosophy, of which the latest discoveries of science seem like echoes, to the low ideas of idolatry with its multicolour, mythology, the agnosticism of the Buddhists and the atheism of the Jains, each and all have a place in the Hindu's religion....

Here it may be said that these laws as laws may be without end, but they must have had a beginning. The Vedas teach us that creation is without beginning or end. Science is said to have proved that the sum total of cosmic energy is always the same. Then, if there was a time when nothing existed where was all these manifested energy."

Coming to the paper on Hinduism read by Swami Vivekananda on Idolatry at the said Parliament of Religions on 19th September, 1893:

"One thing I must tell you. Idolatry in India does not mean anything horrible. It is not the mother of harlots. On the other hand, it is the attempt of undeveloped minds to grasp high spiritual truths. The Hindus have their faults, they sometimes have their

A exceptions; but mark this, they are always for punishing their own bodies, and never for cutting the throats of their neighbours."

B "The Lord has declared to the Hindu in His incarnation as Krishna: 'I AM IN EVERY RELIGION AS THE THREAD THROUGH A STRING OF PEARLS. WHEREVER THOU SEEST EXTRAORDINARY HOLINESS AND EXTRAORDINARY POWER RAISING AND PURIFYING HUMANITY, KNOW THOUGH THAT I AM THERE.'"

C Again speaking at the World's Parliament of Religions on 20th September, 1893:

D "In India, during the terrible famines, thousands died for hunger, yet you Christians did nothing. You erect churches all through India, but the crying evil in the East is not religion - they have religion enough - but it is bread that the suffering millions of burning India cry out for with parched throats. They ask us for bread, but we give them stones. It is an insult to a starving people to offer them religion; it is an insult to a starving man to teach him metaphysics."

E "The religion of the Hindus is divided into two parts, the ceremonial and the spiritual; the spiritual portion is specially studied by the monks."

F "In that there is no caste. A man from the highest caste and a man from the lowest may become a monk in India and the two castes become equal. In religion there is no caste; caste is simply a social Institution."

Other exhortations of Swami Vivekananda on Hindu religion (Hinduism) :

G Three religions now stand in the world which have come down to us from time prehistoric - Hinduism, Zoroastrianism and Judaism. They have all received tremendous shocks and all of them prove, by their survival, their internal strength. But while Judaism failed to absorb Christianity and was driven out of its place of birth by its all-conquering daughter, and a handful of Parsees is all that remains to tell the tale of their grand religion, sect after sect arose

H

in India and seemed to shake the religion of the Vedas to its foundations, but like the waters of the seashore in a tremendous earthquake, it receded only for a while, only to return in an all-absorbing flood, a thousand times more vigorous, and when the tumult of the rush was over, these sects were all sucked in, absorbed and assimilated into the immense body of the mother faith. (1.6) A B

From the high spiritual flights of the Vedanta philosophy, of which the latest discoveries of science seem like echoes, to the low ideas of idolatry with its multifarious mythology, the agnosticism of the Buddhist, and the atheism of the Jains, each and all have a place in the Hindu's religion. (1.6) C

The Hindu religion does not consist in struggles and attempts to believe a certain doctrine or dogma, but in releasing - not in believing, but in being and becoming. Thus the whole object of their system is by constant struggle to become perfect, to become divine, to reach God and see God, and this reaching God, becoming perfect, even as the Father in Heaven is perfect, constitutes the religion of the Hindus. (1.13) D

We not only tolerate, but we Hindus accept every religion, praying in the mosque of the Mohamedans, worshipping before the fire of the Zorostrians, and kneeling before the cross of the Christians, knowing that all the religions, from the lowest fetishism, mean so many attempts of the human soul to grasp and realise the infinite, each determined by the conditions of its birth and association, and each of them making a stage of progress. We gather all these flowers and bind them with the twine of love, making a wonderful bouquet of worship (1.331-32) E F

The religion of the Vedanta can satisfy the demands of the scientific world, by referring it to the highest generalisation and to the law of evolution. G

Vedanta lays down that each man should be treated not as what he manifests, but as what he stands for. Each human being stands for the divine, and, therefore, every teacher should be helpful, not by condemning man, but by helping him to call forth the divinity H

A that is within him. (1.388).

In India there never was any religious persecution by the Hindus, but only that wonderful reverence, which they have for all the religions of the world. (1.391)

B If your mind says something and the Vedas say something else, stop your mind and believe in the Vedas. (I.452)

Not only is Vedanta the highest philosophy in the world , but it is the greatest poem. (I.499)

C In one word, the ideal of Vedanta is to know man as he really is, and this is its message, that if you cannot worship your brother man, the manifested God, how can you worship a God who is unmanifested? (II.325-26)

D Taking country with country, there is not one race on this earth to which the world owes so much as to the patients Hindu, the mild Hindu. 'The mild Hindu' sometimes is used as an expressing of reproach; but if ever a reproach concealed a wonderful truth, it is in the term 'the mild Hindu' who has always been the blessed child of God. (III.105).

E One thing we may note that whereas you will find that good and great men of other countries take pride in tracing back their descent to some robber-baron who lived in a mountain fortress and emerged from time to time to plunder passing wayfars, we Hindus, on the other hand, take pride in being the descendants of Rishis and sages who lived on roots and fruits in mountain and caves, meditating on the Supreme. (III.139)

F We must remember that for all periods the Vedas are the final goal and authority, and if the Puranas differ in any respect from the Vedas, that part of the Puranas is to be rejected without mercy. (III.173)

G Here we are, the Hindu race, whose vitality, whose life-principle, whose very soul, as it were, is in religion. (III.177)

HI think that it is Vedanta, and Vedanta alone that can become

the universal religion of man, and no other is fitted for the role. Excepting our own, almost all the other great religions in the world are inevitably connected with the life or lives of one or more of their founders. All their theories, their teachings, their doctrines and their ethics are built round the life of a personal founder from whom they get their sanction, their authority and their power; and, strangely enough, upon the historicity of the founder's life is built, as it were, all the fabric of such religions. If there is one blow dealt to the historicity of that life, ... if that rock of historicity ... is shaken and shattered, the whole building tumbles down, broken absolutely, never to regain its lost status.

Every one of the great religions in the world, excepting our own, it built upon such historical characters; but ours rests upon principles. There is no man or woman who can claim to have created the Vedas. They are the embodiment of eternal principles; sages discovered them.... (III.182-83)

India alone was to be, of all lands, the land of toleration and of spirituality; ... For one of the greatest sages that was ever born found out here in India even at that distant time, which history cannot reach, and into whose gloom even tradition itself dares not peep - in that distant time the sage arose and declared Ekkam Sad Vipra bahuda Vadanti - 'He who exists is one; the sages call Him variously'. This is one of the most memorable sentences that was ever uttered, one of the grandest truths that was ever discovered. And for us Hindus this truth has been the very backbone of our national existence. For throughout the vistas of the centuries of our national life this one idea - Ekkam Sad vipra bahuda Vadanti - comes down gaining in volume and in fullness till it has permeated the whole of our national existence, till it has mingled in our blood, and has become one with us. We live that grand truth in every vein, and our country has become the glorious land of religious tolerance. It is here and here alone that they build temples and churches for the religions which have come with the object of condemning our own religion. (III.186-87)

.... our religion is not based upon persons but on principles. That you obey your religion is not because it came through the

A authority of a sage, no, not even of an Incarnation. Krishna is not the authority of the Vedas, but the Vedas are the authority of Krishna himself. His glory is that he is the greatest preacher of the Vedas that ever existed. (III.249)

B The Hindu can worship any sage and any saint from any country whatsoever, and as a fact we know that we go and worship many times in the churches of the Christians, and many, many times in the Mohammedan mosques and that is good. Why not? Ours, as I have said, is the universal religion. It is inclusive enough, it is broad enough to include all the ideals. All the ideals of religion that already exist in the world can be immediately included, and we can patiently wait for all the ideals that are to come in the future to be taken in the same fashion, embraced in the infinite arms of the religion of the Vedanta. (III.251-52)

D Ours is the religion of which Buddhism, with all its greatness, is a rebel child, and of which Christianity is a very patchy imitation. (III.275)

Ours is the only religion that does not depend on a person or persons; it is based upon principles. (III.280)

Ethis religion of ours admits of a marvellous variation, an infinite amount of liberty to think and live our own lives.. (III.286-87).

F If there is any sect here which believes that OM ought not to be the symbol of Hinduism, it has no right to call itself Hindu. (III.302)

G Whether we are conscious of it or not, we think the Vedanta, we live in the Vedanta, we breathe the Vedanta, and we die in the Vedanta, and every Hindu does that. To preach Vedanta in the land of India, and before an Indian audience, seems, therefore, to be an anomaly. But it is the one thing that has to be preached and it is the necessity of the age that it must be preached. (III.323)

H If at present the word Hindu means anything bad, never mind; by our action let us be ready to show that this is the highest word and any language can invent. It has been one of the principles of

my life not to be ashamed of my own ancestors...(III.368-69)

A

Ay, when a man has begun to hate himself, then the last blow has come. When a man has begun to be ashamed of his ancestors, the end has come. Here am I, one of the least of the Hindu race, yet proud of my race, proud of my ancestors. I am proud to call myself a Hindu, I am proud that I am one of your unworthy servants. I am proud that I am a countryman of yours; - you, the descendants of the sages, you the descendants of the most glorious Rishis the world ever saw. Therefore, have faith in yourselves, be proud of your ancestors, instead of being ashamed of them.(III.381)

B

C

I found Hinduism to be the most perfectly satisfying religion in the world. (III.449)

The principles of the Vedanta not only should be preached everywhere in India, but also outside. Our thought must enter into the make-up of the minds of every nation, not through writings, but through persons. (IV.311)

D

No religion on earth preaches the dignity of humanity in such a lofty strain as Hinduism and no religion on earth treads upon the necks of the poor and the low in such a fashion as Hinduism. (V.15)

E

The Hindu must not give up his religion, but must keep religion within its proper limits and give freedom to society to grow. All the reformers in India made the serious mistake of holding religion accountable for all the horrors of priestcraft and degeneration and went forthwith to pull down the indestructible structure and what was the result? Failure (V.22)

F

'I want to see you, Swami', asked the correspondent of Prabhudha Bharata, 'on this matter of receiving back into Hinduism those who have been perverted from it. Is it your opinion that they should be received?'

G

'Certainly', said the Swami, 'they can and ought to be taken'. (V.233-34)

H

A Most of the Upanishads were written by Kshatriyas, while the ritualistic portions of the Vedas came from the Brahmins (V.309)

B One peculiarity of the Vedas is that they are the only scriptures that again and again declare that you must go beyond them. The Vedas say that they were written just for the child mind; and when you have grown, you must go beyond them. (V.311)

C The Vedas, i.e. only those portions of them which agree with reason are to be accepted as authority. Other Shastras, such as Puranas, etc. are only to be accepted so far as they do not go against the Vedas. All the religious thoughts that have come subsequent to the Vedas, in the world, in whatever part of it, have been derived from the Vedas. (V.315)

D In Vedanta the chief advantage is that it was not the work of one single man: and, therefore, naturally, unlike Buddhism or Christianity or Mohammedanism, the prophet or teacher did not entirely swallow up or overshadow the principles. (VI.7)

E The religion of the Vedas is the religion of the Hindus, and the foundation of all Oriental religions: that is, all other Oriental religions are offshoots of the Vedas; all Eastern systems of religion have the Vedas as authority. (VI.48)

F Hinduism is the very genius of absorption. We have never cared for fighting. Of course, we could strike a blow now and then, in defence of our homes! That was right. But we never cared for fighting for its own sake. Every one had to learn that. So let these races of new comers whirl on! They will all be taken into Hinduism in the end. (VIII.266)

[Hinduism by Swami Vivekananda, published by Shri G.M. Jagtiani]

G This is the gist of all worship - to be pure and to do good to others. He who sees Siva in the poor, in the weak, and in the diseased, really worships Siva; and if he sees Siva only in the image, his worship is but preliminary. (III.141-442)

H The only way of getting our divine nature manifested is by

helping others to do the same. If there is inequality in nature, still there must be equal chance for all - or if greater for some and for some less - the weaker should be given more chance than the strong. In other words, a Brahmana is not so much in need of education as a Candala. If the son of a Brahmana needs one teacher, that of a Candala need ten. For greater help must be given to him whom nature has not endowed with an acute intellect from birth. It is a madman who carries coals to Newcastle. The poor, the downtrodden, the ignorant - let these be your god. (VI.319)

There are many things to be done, but means are wanting in this country. We have brains, but no hands. We have the doctrine of Vedanta, but we have not the power to reduce it into practice. In our books, there is the doctrine of universal equality, but in work we make great distinctions. It was in India that unselfish and disinterested work of the most exalted type was preached, but in practice we are awfully cruel, awfully heartless - unable to think of anything besides our own mass-of-flesh bodies... I too believe that India will awake again, if anyone could love with all his heart the people of the country - bereft of the grace of affluence, of blasted fortune, their discretion totally lost, down-trodden, ever-starved, quarrelsome, and envious. Then only will India awake, when hundreds of large-hearted men and women, giving up all desires of enjoying the luxuries of life, will long and exert themselves to their utmost for the well being of the millions of their countrymen who are gradually sinking lower and lower in the vortex of destitution and ignorance. (V.125-26)

Carry the light and the life of the Vedanta to every door, and rouse up the divinity that is hidden within every soul. (III.199)

[Vivekananda - His call to the Nation, pp.64, 86-87 and 89]

Shri C. Rajagopalachariar, the great scholar speaks of the greatness of Swami Vivekananda thus :

"Swami Vivekananda saved Hinduism and saved India. But for him we would have lost our religion and would not gain our freedom." [World Thinkers of Ramakrishna, Vivekananda, p.54].

A Thus, from what is said of Ramakrishna and Swami Vivekananda and of their religion by great world thinkers and philosophers, the glory of Ramakrishna is that he preached and made his principal disciple Swami Vivekananda to preach the religion of Vedanta which is the religion of Hindus, as the message of Hinduism or Hindu religion to the people of the entire world for their future survival, good and prosperity, that is, the worship of brother man, the manifested God, the living God, the human soul in the human body.

B
C When Shri Ramakrishna was approached by Narendar (Swami Vivekananda) to bless him with - 'Nirvikalpa Samadi' the highest spiritual experience, the admonition he got from his master Ramakrishna, being 'Shame on you! I thought you would grow, like a banayan tree, sheltering thousands from scorching of the world. But now, you seek your own liberation.' The same, demonstrates that Ramakrishna wanted his principal disciple to bring home to the world the religion of Vedanta which is the religion of Hindus, that is, 'worship of man is worship of God'.

D
E Again from what could be seen from the aforesaid features adverted to by this Court as falling under the broad sweep of Hinduism, and as the thoughts of Ramakrishna on Hinduism and as to what great thinkers, philosophers of the world have said of the highest contribution made by the great saint Ramakrishna to Hinduism and as to what Ramakrishna has himself said of Hinduism and again as to what Ramakrishna's disciple Swami Vivekananda has said of the Hinduism of his Master Ramakrishna, a Hindu of Hindu religion, we find it difficult to accept, with great respect, the view of the learned single Judge of Calcutta High Court, who decided the writ petition and the view of the learned Judges of the Division Bench of the Calcutta High Court, who decided the writ appeals, taken for upholding the claim put forward on behalf of the Ramakrishna Mission and the Ramakrishna Mission College, that Ramakrishna religion was distinct and separate from the Hindu religion and it was a minority religion in the State of West Bengal. The peculiar circumstances which led Ramakrishna Mission to make a claim that Ramakrishna religion was a distinct and separate religion from Hindu religion and, therefore, a minority religion having the protection of Article 30(1) of the Constitution, to save the Ramakrishna Mission College for Ramakrishna Mission and all other educational institutions established and administered by Ramakrishna Mission or its branches from being taken away under one pretext or the other

by the State Government, should not have been fund favour by the learned Judges of the High Court for declaration that Ramakrishna religion as a minority religion entitled to protection under Article 30(1) of the Constitution of India, when such claim made on behalf of Ramakrishna Mission was based not on the sayings, teachings, preachings of practices of Ramakrishna and Swami Vivekananda pertaining to Hinduism not tied-down to any definite philosophic concepts, to which we have adverted to, but on supposed statements made by Swami Vivekananda without indicating context or place and time in which they were made. Even otherwise those statements, as they stand, do not indicate that Ramakrishna brought into existence his own religion and called it Ramakrishna religion. Such declaration ignores the reality that Ramakrishna, the great saint had been born in Dakshineswar as an Avatar of both Rama - the embodiment of truth and Krishna - the embodiment of love, the epic Heroes of Hindus to save Hinduism from extinction and rejuvenate it to serve the whole humanity by expounding great principles of Vedanta, the religion of Hindus. In the words of Swami Vivekananda himself, Hinduism being the religion of Vedanta can satisfy the human needs of the scientific world by referring to it as the highest generalisation and the law of evolution, and further referring to it, as the only religion that does not depend on a person or persons and taking pride of calling himself a Hindu, which were :

"Ay, when a man has begun to hate himself, then the last blow has come. When a man has begun to be ashamed of his ancestors, the end has come. Here am I, one of the least of the Hindu race, yet proud of my race, proud of my ancestors. I am proud to call myself a Hindu."

The views expressed by the learned single Judge of the High Court deciding the writ petition and the learned Judges of the Division Bench deciding the writ appeals that Sri Ramakrishna brought into existence, during his life time, by his practices and teachings a religion distinct and different from Hindu religion and it was Ramakrishna universal religion, indeed, goes against the philosophy of Hindu religion as expounded, practiced and preached by Shri Ramakrishna himself and latter propagated to the whole world by his principal disciple Swami Vivekananda and other disciples. In this context, a passage from 'The Gospel of Sri Ramakrishna' which contains the view of Ramakrishna on Hindu religion is worth reiteration :

A "Hindu religion alone is the Sanatan Dharma. Various creeds you hear nowadays have come into existence through the will of God and will disappear again through his will. They will not last for ever. Therefore, I bow down at the feet of even the modern Devotees. The Hindu religion has always existed and will always exist."

B Speaking of greatness of Ramakrishna, Swami Vivekananda, as already adverted to by us, said thus:

C "...Sri Ramakrishna incarnated himself in India to demonstrate what the true religion of the Aryan race is, to show where amidst all its many divisions and off-shoots, scattered over the land in the course of its immemorial history, lies and true unity of the Hindu religion....."

D In the World's Parliament of Religions at Chicago, Swami Vivekananda, who claimed himself to be a Hindu, spoke of his Hindu religion which require reiteration :

"I am proud to belong to a religion which has taught the world both tolerance and universal acceptance..."

E Again speaking of Hindu religion, what he stated requires reiteration:

".....all have a place in the Hindu's religion..."

F Speaking of the ideal of Vedanta and its message, to which we have adverted to, Swami Vivekananda has said thus:

G "In one word, the ideal of Vedanta is to known man as he really is, and this is its message, that if you cannot worship your brother man, the manifested God, how can you worship a God who is unmanifested?"

Again what according to Swami Vivekananda Vedanta says requires reiteration :

H "The Vedanta says, there is nothing that is not God... The living God is within you and yet you are building churches and temples

and believing all sorts of imaginary nonsense. The only God to worship is the human soul in the human body." A

Then speaking of Upanishads, Swami Vivekananda at one stage administered a warning to Europe thus:

"Europe, the centre of the manifestation of material energy, will crumble into 'dust within fifty year, if she is not mindful to change her position, to shift her ground and make spirituality the basis of her life. And what will save Europe is the religion of the Upanishads" B

Warning given not to give up Hindu religion, but to keep religion within proper limits and give freedom to society to grow by Swami Vivekananda requires reiteration : C

"No religion on earth preaches the dignity of humanity in such a lofty strain as Hinduism, and no religion on earth treads upon the necks of the poor and the low in such a fashion as Hinduism." D

"The Hindu must not give up his religion, but must keep religion within its proper limits and give freedom to society to grow. All the reformers in India made the serious mistake of holding religion accountable for all the horrors of priestcraft and degeneration and went forthwith to pull down the indestructible structure and what was the result? Failure." E

What is referred to above by us, as to what is said by Ramakrishna of Hindu religion and what is said by Swami Vivekananda of Vedanta, the very soul of Hindu religion and its message 'that service to man is service to God' makes it abundantly clear that Ramakrishna brought into existence no religion of his own which was called as universal religion, but gave the message of Vedanta 'of service to man is service to God' as the universal principle basic to all religions and it being the message which was preached by Swami Vivekananda a the message given by his master based on Vedanta philosophy of Hindu religion, it would be a travesty of truth to say that Ramakrishna created a religion independent, distinct and apart from Hindu religion and called it a universal religion. Indeed, Hindu philosophy by Ramakrishna could be regarded as that expounded by him to serve Humanity of the changing world. Shri Ramakrishna is, therefore, rightly regarded by Hindus, great philosophers and thinkers of the world, H

A who have studied the lives and work of Shri Ramakrishna and his disciples and others as the incarnation of Rama - the truth and Krishna - the love, born in Dakshineswar as great saint, not only to save Hindu religion from its extinction, but to rejuvenate it with the message of Vedanta that 'service to man is service to God', calls for our acceptance without any hesitation and the views of the learned single Judge and the views of the learned

B Judges of the Division Bench of the High Court in the order and judgment under the present appeals that Ramakrishna religion exists apart and distinct from the Hindu religion and it is a minority religion which has the protection of Article 30(1) of the Constitution of India, becomes unsustainable.

C We may state, at this stage itself, that Swami Vivekananda changed his views on religion in his latter years, having been influenced by the West, as held by the Division Bench of the High Court, even if true, it is inconceivable that the same can have the effect of Shri Ramakrishna himself bringing up a religion of his own according to the subsequent

D thinking of Swami Vivekananda. Therefore, the basis of the subsequent thinking of Swami Vivekananda on which the Division Bench of the High Court held that there came into existence a universal religion of Ramakrishna, cannot be sustained. On the contrary, what becomes obvious and evident from the exhortations of Swami Vivekananda himself, to which we have already referred to, what he proclaimed to the world was that it is

E Vedanta and Vedanta alone that can become the universal religion of man and it is Hindu religion alone that is fitted to that role, in that, Hindu religion being inclusive and broad enough to include all the ideals of all religions in the world was indeed, the universal religion. Hence, to say or to hold that there came into existence Ramakrishna religion - a universal

F religion, apart and distinct from Hindu religion would, again be travesty of truth and reality.

For the foregoing reasons, we hold that the citizens of India residing in the State of West Bengal, who are professing, practising or propagating the religious doctrines and teachings of Ramakrishna and have become his

G followers, cannot claim to belong to a minority based on Ramakrishna religion which was distinct and different from Hindu religion and a such are not entitled to the fundamental right under Article 30(1) of the Constitution of India, of establishing and administering educational institutions of their choice through Ramakrishna Mission or its branches in that State

H and answer Point-1 accordingly, in the negative.

Point-2:

A

It is held by a Constitution Bench of this Court in *Sri Shirur Math's* case (supra) that religious denomination is a collection of individuals classed together under the same religious sect or body having a common faith and organisation and designated by distinctive name, based on the meaning of that phrase found in Oxford Dictionary. It is also held therein that such a religious denomination falls under Article 26 of the Constitution of India. It is further held therein that the followers of Ramanuja, who are known by the name of Shrivaisnavas while constitute a religious denomination of their own, the followers of Madhavacharya and other religious teachers could be regarded as those belonging to their respective religious denominations.

B

C

Following the view taken as above as regards religious denominations', by the Constitution Bench of this Court in *Sri Shirur Math's* case (supra), a three-Judge Bench of this Court in *Acharya Jagdishwaranand Avaduta's* case (supra) speaking through Ranganath Misra, J. (as he then was) has held that 'Ananda Margis', who are a collection of individuals, who have a system of beliefs with regard to their conducive spiritual well being, a common organisation, a definite name, could be regarded as a religious denomination within the Hindu religion, stating that the tests laid down by the Constitution Bench for regarding a denomination as a religious denomination were satisfied.

D

E

In views of the said pronouncements of this Court, persons who claim to belong to religious denomination envisaged under Article 26 of the Constitution can succeed in such claim only when they fulfil or satisfy the tests laid down therein, to wit:

F

- (i) a collection of individuals who have a system of beliefs with regard to their conducive spiritual well-being;
- (ii) a common organisation; and
- (iii) a definite name.

G

A Division Bench of the High Court of Calcutta in its Judgment under appeal has held that Ramakrishna Mission is a religious denomination by stating thus:

H

A "The followers of Shri Ramakrishna have a common faith. They have common organisation and they are designated by a distinct name."

B No good reason is shown to us for not accepting the view of the Division Bench on the point that Ramakrishna Mission or Ramakrishna Math is 'a religious denomination'. It is not in dispute and cannot be disputed that Sri Ramakrishna could be regarded as religious teacher who expounded, practised and preached the principles of Vedanta on which Hindu religion is founded, to meet the challenges posed to humanity in the changing world and made his disciples to spread the principles so expounded by him not only in India but all over the world as the basic principles of Hinduism. It cannot also be disputed that the disciples of Ramakrishna formed Ramakrishna Math and Ramakrishna Mission for propagation and promotion of the principles, so expounded, practised and preached by Ramakrishna Parmhansa, by way of publications and building of temples, prayer halls and building of educational, cultural and charitable institutions as performance of *sevas* resulting in the coming up of organisations as Ramakrishna Maths and Ramakrishna Missions, all over the world. These Maths and Missions of Ramakrishna composed of the followers of principles of Hinduism as expounded, preached or practised by Ramakrishna as his disciples or otherwise form a cult or sect of Hindu religion.

E They believe in the birth of sage Ramakrishna in Dakshineswar as an Avatar of Rama and Krishna and follow the principles of Hinduism discovered, expounded, preached and practised by him as those conducive to their spiritual well being as the principles of highest Vedanta which surpassed the principles of Vedanta conceived and propagated by Sankaracharya, Madhavacharya and Ramanujacharya, who were earlier exponents of Hinduism. Hence, as rightly held by the Division Bench of the High Court followers of Ramakrishna, who are a collection of individuals, who adhere to a system of beliefs as conducive to their spiritual well-being, who have organised themselves collectively and who have an organisation of definite name as Ramakrishna Math or Ramakrishna Mission could, in our view, be regarded as a religious denomination within Hindu religion, inasmuch as they satisfy the tests laid down by this Court in *Sri Shirur Math's* case (*supra*) for regarding a denomination as a 'religious denomination'.

H For the said reasons, we hold that persons belonging to or owing their allegiance to Ramakrishna Mission or Ramakrishna Math belong to

religious denomination within Hindu religion or a section thereof as would entitle them to claim the fundamental rights conferred on either of them under Article 26 of the Constitution of India and answer Point-2, accordingly, in the affirmative. A

Point-3:

Since we have held while dealing with Point-2 which arose for our consideration that the persons belonging to or owing allegiance to Ramakrishna Mission or Ramakrishna Math as followers of Ramakrishna, form a religious denomination in Hindu religion, as a necessary concomitant thereof, we have to hold that they have a fundamental right of establishing and maintaining institutions for a charitable purpose under Article 26(a) of the Constitution of India, subject, of course, to public order, morality and health envisaged in that very Article. B C

Point-3 is, accordingly answered, in the affirmative.

Points 4 to 6:

If followers of Ramakrishna Mission who, as held by us to be religious denomination in Hindu religion in answering Point-2, have the right to establish and maintain institutions for charitable purposes, subject to public order, morality and health as held by us in answering Point-3, can any educational institution established by and maintained by Ramakrishna Mission be regarded as an institution established and maintained for charitable purpose within the meaning of Article 26(a) of the Constitution of India, is an important point that arises for our consideration here. D E

No doubt a six-Judge Bench of this Court in the case of *Siddarajbhai v. State of Gujarat*, AIR (1963) SC 540 while considering the question whether the serious inroads made by the Rules and Order issued by the State Government in respect of an educational institution established and administered by a minority entitled to protection under Article 30(1) of the Constitution of India, speaking through Shah, J. (as he then was) has observed thus: F G

"Article 26 occurs in a group dealing with freedom of religion and is intended to protect the right to manage religious affairs. By clause (a) of Article 26, every religious denomination or any section thereof, has, subject to public order, morality and health, the right H

A to establish and maintain institutions for religious or charitable purposes and in a larger sense an educational institution may be regarded as charitable."

B But, it was thought not necessary to express any opinion on the plea that the right of petitioners under Article 26(a) was infringed, in that petitioners were entitled to protection of Article 30(1) of the Constitution.

C While the learned single Judge of the High Court who decided the Writ Petition took the view that Article 26(a) is confined to institutions imparting religious instructions and not to institutions imparting general education, the learned judges of the Division Bench of the High Court deciding the appeal have taken the view that Article 26(a) extends to establishment and maintenance of religious and charitable institutions including institutions for imparting education and that the essential part of the cult of Shri Ramakrishna being spreading of education, educational institutions of general education of Ramakrishna Mission have the protection of Article 26 (a) of the Constitution making it, however, clear that they do not mean to lay down that establishment of educational institutions would be essential matter of their religion.

E We think that the learned Judges of the High Court should not have decided on the general question whether educational institutions established and maintained by religious denomination including those established and maintained by Ramakrishna Mission for general education get the protection of Article 26(a) of the Constitution when that question in a general form, was not really at issue before them. Therefore, the views expressed on the question shall, according to us, ought to be treated as nonest and the question is left open to be decided in proper case, where such question really arises and all the parties who might be concerned with it are afforded adequate opportunity to have their say in the matter.

G As we have pointed out while narrating the facts, which gave rise to the filing of Writ Petition before the High Court earlier and now to the filing of present appeals, Ramakrishna Mission College was established by Ramakrishna Mission at the instance of the Central Government and the West Bengal Government and was allowed to be administered by it through a Governing Body constituted by it (Ramakrishna Mission). The State Government did not envisage the constitution of a Governing Body of its own for the Ramakrishna Mission College on the standard pattern of

governing bodies required to be constituted of sponsored colleges, as such, either before the coming into force of the W.B. Act of 1975 or the W.B. Act of 1978 as was done in respect of other sponsored colleges or subsequent to the coming into force of those Acts, being of the view that a college like Ramakrishna Mission College of Ramakrishna Mission at Rahra, which was a specially sponsored college having a specially constituted Governing Body of its own should be excepted for purposes of constitution of Governing Body on standard pattern. This fact becomes clear from the State Government's letters and clarification to which we have already referred to. However, this fact also becomes clear from the Memo dated 18th April, 1978 issued by the Deputy Secretary to Government, which reads :

"GOVERNMENT OF WEST BENGAL
EDUCATION DEPARTMENT
College (Sponsored) Branch

From : Shri D.L. Guha, M.A.,
Deputy Secretary to the
Govt. of West Bengal.

To : The Director of Public Instruction, West Bengal.

To : 752-Edn (CS)/C.S. 30-3/77

Dated, Calcutta, the 18th April, '78.

Subject : Composition of the Governing
Body of Sponsored colleges.

The undersigned is directing to say that for some time past Government have been feeling the necessity of revising the existing pattern for the composition of the Governing bodies of the Government sponsored colleges *excepting in cases where the college has a special constitution on the basis of Trust Deeds or where the colleges are run by Missionary Societies on the basis of agreement with the respective Missions.* After careful consideration of the different aspects of the matter and keeping in view of the necessity of ensuring the academic interest and efficient administration of these institutions of which Government has undertaken full financial responsibility the Governor has been pleased to order that in supersession of all previous orders relating to the constitution of Governing Body of

- A sponsored College, the new standard pattern for the composition of the Governing Bodies of sponsored colleges will be as follows:-
- A. 1. President - To be nominated by Government.
2. Secretary - Principal of the College - Ex - officio.
- B 3-5. Three representatives of the whole-time permanent teachers of the college to be elected from among themselves.
6. One representative of the whole-time permanent non-teaching employees of the college to be elected from among themselves.
- C 7-8. Two persons to be nominated by the Government.
9. One Educationist to be nominated by the Director.
- D 10. One Educationist to be nominated by the University to which the college is affiliated.
11. One representative of the regular students of the College. He should be the duly elected General Secretary of the Student's Union.
- E B. The terms of the Governing Body of the College should be for a period of three years. The representatives of the whole-time permanent teachers and the representatives of the whole-time permanent non-teaching staff should hold office for a period of three years.
- F C. Where the college is a women's college or a co-educational one at least one of the two Government nominees should be a woman.
2. This order comes into force with immediate effect.
- G 3. In order that there is no dislocation in administration of the sponsored colleges, the Governor has also been pleased to order that until now Governing Bodies of the sponsored colleges are constituted in accordance with the pattern prescribed above the existing arrangement will continue.
- H 4. The Governor is also pleased to order that there should be

Finance Committee in every sponsored college consisting of five members, three of whom should be representatives of the whole-time permanent teachers of the College, one should be representative of the whole-time permanent non-teaching staff of the college and the Principal of the college (*Ex-officio*). The representative staff shall be elected in the manner as laid down in para 1(a) above.

The duties and functions of the Finance Committee shall be such as may be prescribed by the Government.

Sd/-
D.L. Guha, 18.4.78
Deputy Secretary.

(Italicised by us)

As stated above, the State Government has excepted the Ramakrishna Mission College at Rahra in the matter of constituting of a Governing Body on standard pattern for the obvious reason that constituting such a governing body for a college like Ramakrishna Mission College which was all through allowed to have a governing body constituted by Ramakrishna Mission, which had built the College on its land conceding to the request made in that behalf by the State Government itself on the initiation of Central Government, may not be just. Thus when Ramakrishna Mission College had come to be built, established and managed by the Ramakrishna Mission, it is difficult for us to think that the learned Judges of the Division Bench of the High Court were not right in holding that the Government should not be directed by issue of a mandamus, to constitute a governing body for the Ramakrishna Mission College on standard pattern taking recourse to the W.B. Act of 1975 and the W.B. Act of 1978, although for its own reasons. Therefore, in the peculiar facts and circumstances in which Ramakrishna Mission College at Rohra was established on Ramakrishna Mission's land and allowed to administered by the Ramakrishna Mission through its own Governing Body, we feel that interest of justice may suffer by directing the State Government to constitute its own governing body on standard pattern of the usual sponsored colleges, as prayed for by the writ petitioners. However, the view we have expressed in the matter shall not come in the way of the State Government to change their earlier arrangement with the Ramakrishna Mission in the matter of gover-

- A nance of the Ramakrishna Mission College, if on objective considerations such change becomes necessary in the larger interest of students, teachers and other employees of that College and is so permitted by law.

- B In the said view we have taken in the matter of constituting a Governing Body by the Government of West Bengal in respect of the Ramakrishna Mission College at Rahra, there is no need to go into the question that there has been infringement by the Government of Ramakrishna Mission's fundamental rights to establish and maintain educational institutions under Article 26(a) of the Constitution of India inasmuch as such a question does not arise, in view of the answer already given by us on Point-3 above. So also, question of directing the West Bengal Government because of the W.B. Act of 1975 and the W.B. Act of 1978, to constitute governing body on 'standard pattern' of sponsored college envisaged under its Memo dated 18th April, 1978 in respect of Ramakrishna Mission College, cannot arise.

- D Points 4 to 6 are accordingly answered.

- E In the result we dismiss these appeals, however by setting aside the holding of the learned single Judge in the Writ Petition that Ramakrishna religion being a religion distinct and separate from Hindu religion was a minority in West Bengal based on religion, entitled to protection under Article 30(1) of the Constitution of India as upheld by the Division Bench of the High Court in its judgment deciding the appeals before it and also by setting aside the holding of the Division Bench of the High Court that Ramakrishna Mission as a religious denomination was entitled to establish and maintain institutions of general education under Article 26(a) of the Constitution of India a those established and maintained for a charitable purpose.

Having regard to the nature of controversies decided in these appeals, we direct all parties to bear their own costs.

- G. T.N.A. Appeals dismissed.