



Public Order

For Prelims: Public Order, Hijab, Fundamental Rights, Cases Related to Freedom of Religion.

For Mains: Fundamental Rights, Judiciary, Government Policies & Interventions, Women's Issues, Cases Related to Freedom of Religion.

Why in News?

Recently, the **Karnataka High Court** is hearing a challenge to the constitutionality of the state government's ban on students wearing a [hijab in educational institutions](#).

- The case was regarding the arguments on whether the state can justify the ban on the ground that it **violates 'public order'**.

What is Public Order?

- Public order is normally **equated with public peace and safety**.
- Public order is one of the three grounds on which the **state can restrict freedom of religion**.
 - **Article 25** of the Constitution guarantees to all persons the right to freedom and conscience and the right freely to profess, practise and propagate religion **subject to public order, morality and health**.
- Public order is also one of the grounds to restrict **free speech and other fundamental rights**.
- According to [State List](#) (List 2) of the [Seventh Schedule of the Constitution](#), the power to legislate on aspects of public order rests with the states.

How has Public order been Interpreted by Courts?

- What affects public order is **contextual and is determined by the state**.
- However, the courts have broadly interpreted it to mean something that **affects the community at large and not a few individuals**.
- In *Ram Manohar Lohia vs State of Bihar (1965)*, the [Supreme Court](#) held that in the case of 'public order', **the community or the public at large have to be affected by a particular action**.
- The **contravention of law** (to do something that is forbidden by the law or rule) always affects order but before it can be said to affect public order, it must affect the community or the public at large.
 - One has to imagine **three concentric circles**, the **largest representing 'law and order'**, the next representing **'public order'** and the **smallest representing 'security of State'**.

How Does it relate to the Hijab Ban?

- According to the government order issued on February 5 under the **Karnataka Education Act, 1983**, **"public order"** is one of the reasons for not allowing students to wear a headscarf in

educational institutions **along with “unity” and “integrity.”**

- Previously, several courts have [given orders on prescription of dress code for minorities](#) in public institutions.
- **Petitioners Arguments:** The petitioners have argued that public order is not every breach of law and order.
 - Public order is an aggravated form of disturbance that is much higher than a law and order issue.
 - The petitioners have asked the state to show how the mere wearing of a hijab by students could constitute a public order issue.
- **Karnataka Government’ Stand: Karnataka’s Advocate General** has argued that the government order makes no mention of “public order” and that the petitioner’s reading of the order could be an error in translation.
 - The order, in Kannada, uses the words **“sarvajanika suvyavasthe”**.

[Source: IE](#)

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