

(2007) 03 KAR CK 0030

In the Karnataka High Court

Case No : Writ Petition No. 18243 of 2006

Anshul Singhal, minor rep. by his Father Mr. Rajendra Singhal
and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 08-03-2007

Acts Referred:

Constitution of India, 1950 — Article 14, 29 (1), 30 (1)

Citation : (2007) ILR (Kar) 2465 : (2007) 4 KCCR 226 SN

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : Basavaraj R Bannur, for the Appellant; B. Manohar, AGA for R-1 to R-3 and Manjappa V., For R-5, for the Respondent

Final Decision : Dismissed

Judgement

Ram Mohan Reddy, J.—Petitioners, students of 10th standard admitted in the 5th respondent School and represented by their natural guardian, are before this Court to declare as arbitrary, illegal and violative of Article 14 of the Constitution the action of the respondent-State and the Education Board in directing the study of Kannada as a compulsory subject at the High School level; to quash the circular dated 25-05-2006 Annexure-"L" issued by the 2nd respondent making Kannada a compulsory subject of study at the High School level; to quash the endorsement dated 13-09-2006 Annexure-"J" of the 4th respondent

2. Petitioners claim to be migrants to the State of Karnataka, on temporary basis, and their stay is dependent upon the service conditions of their parents, working in Central Government Departments / Establishments, while some have migrated from other states on business purposes. The petitioners, having secured admission in the 5th respondent School for X Standard, opted out of ICSE Syllabus for State Syllabus. It is the allegation of the petitioners that the State Government on earlier occasions, permitted students from outside the State, admitted to VIII, IX and X Standards, to take Additional English or Hindi

as their First language. In other words, by the Government order, migrant students were exempted from studying Kannada and permitted to study Alternate English or Hindi as the first language. It is stated that the validity of the orders of the State of Karnataka pertaining to Language policy was tested on the anvil of Article 14 of the Constitution of India, by a Pull Bench of this Court in the case of General Secretary, Linguistic Minority Protection Committee v. State of Karnataka and Anr., and the decision when carried in Special Leave Petition, by the State of Karnataka, to the Supreme Court, was dismissed by order dated 8-12-1993. By a subsequent Government order dated 29-04-1994 Annexure-"E", State Government made it compulsory for all students including migrants to study Kannada as one of the subjects at the High School level. This order it is said, is subject matter of challenge in several Writ petitions which are pending before a Full Bench of this Court. Petitioners assert that, after completion of the IX Standard in the ICSE Syllabus, opted for the State syllabus when admitted to the 5th respondent School, who by letter dated 19-07-2006 Annexure-"H9" requested the Deputy Director of Public Instructions to permit the petitioners, amongst others, to study additional English, in lieu of Kannada language. The DDPI, by order dated 13-09-2006 Annexure-"J", rejected the said request, in view of the Circular dated 25-05-2006 Annexure- "L". In addition, it is stated that students similarly circumstanced, called in question the circular dated 25-05-2006, by filing W.P. No. 11188/2006, which was disposed of by order dated 18-09-2006 Annexure-"K".

3. Learned Counsel for the petitioners contends that though the 5th respondent School did not challenge the rejection of the application by order Annexure-"J", nevertheless, petitioners being interested parties, aggrieved by the said order, have preferred this Writ petition. It is next contended that this Court having permitted similarly circumstanced students to study Alternate English in lieu of Kannada, by judgment dated 18-09-2006 Annexure-"K", petitioners are also entitled to the very same reliefs. Learned Counsel further contends that the Circular Annexure-"L" making Kannada a compulsory third language for the petitioners who opted for State syllabus, is illegal and arbitrary.

4. Sri Manohar, learned AGA, having been directed to take notice for Respondents 1 to 4 submits that pursuant to the policy of the State, Circular Annexure-"L" was issued on 25-05-2006 much before the petitioners opted for change of syllabus from ICSE to State. Learned Counsel further contends that the 5th respondent Institution's request to exempt the petitioners from studying Kannada as a third language on opting for the State Syllabus, sought post facto permission, which is impermissible, in view of the circular Annexure-"L".

5. Learned Counsel points out to the decision of the Supreme Court in the case of Usha Mehta and Others Vs. State of Maharashtra and Others, to contend that the circular Annexure-"L" making Kannada language compulsory, in the State syllabus cannot be said to be unreasonable or unjustified. According to the learned Counsel, the policy decision was taken keeping in view the larger interest

of the State because, the official and common business carried out in the State is in Kannada language. Learned Counsel would hasten to add that the policy decision of the State imposing reasonable regulation with regard to making Kannada a compulsory subject being for protecting the larger interest of the State and the Union, cannot be characterised as violative of Article 14 of the Constitution.

6. It is no doubt true that the circular dated 25-05-2006 Annexure-"L" came up for consideration before this Court in W.P. Nos. 9582/2006 and batch in the case of Safe Mansabdar and another whence this Court, by order dated 18-09-2006 Annexure-"K", did not record any finding or quash the circular impugned, but held that the State Government permitted the students therein to shift over to the State syllabus, without insisting that they read Kannada as a compulsory subject, and therefore the students were permitted to take Alternate English in lieu of Kannada. Facts of this case are not similar to that of Safe Mansabdar's case. I say so because, the circular Annexure-"L" is dated 25-05-2006 and the application dated 19-07-2006 Annexure-"H9" is filed by the 5th respondent for permission to read Alternate English instead of Kannada. In other words, pursuant to the circular Annexure-"L" the 5th respondent institution sought permission for additional English in lieu of Kannada subject, on the petitioners opting State syllabus, the rejection of which by order dated 13-09-2006 Annexure-"J" is admittedly not called in question by the 5th respondent institution.

7. It is true that the petitioners claim to be adversely affected by the order Annexure-"J", but nevertheless the grounds on which the order Annexure-"J" is questioned, in my considered opinion, are without any merit

8. In the case of Usha Mehta and others, the Supreme Court, while considering the reasonableness of the circular of the State of Maharashtra imposing on educational institutions to compulsorily teach Marathi, a regional language held thus:

On the other hand, they are only challenging the compulsory imposition of Marathi language for students and asking for a right "not to learn" Marathi language while living in the State of Maharashtra. The regulation in this case imposed by the State of Maharashtra upon the linguistic minority right is to make Marathi language a compulsory course in school syllabi. The issue for resolution here is to find whether this action is reasonable or not. The impugned policy decision was taken by keeping in view the larger interest of the State, because the official and common business are carried on in that State in Marathi language. A proper understanding of Marathi language is necessary for easily carrying out the day-to-day affairs of the people living in the State of Maharashtra and also for proper carrying out of daily administration. Hence the regulation imposed by the State of Maharashtra upon the linguistic minorities to teach its regional language is only a reasonable one. This Court ruled that the right of minorities to establish and administer educational institutions of "their

choice" under Article 30(1) read with Article 29(1) would include the right to have choice of medium of instruction. (See generally the Constitution Bench decisions in D.A.V. College, Bhatinda, etc. Vs. The State of Punjab and Others, and D.A.V. College, Vs. State of Punjab and Others, . But this exercise of "choice"" of instructive language in schools by the linguistic minorities is subject to the reasonable regulation imposed by the State concerned. A particular State can validly take a policy decision to compulsorily teach its regional language. (See also English Medium Students Parents Association Vs. State of Karnataka and others,). In our opinion, the impugned decision taken by the Government of Maharashtra is within the regulatory ambit of Article 30. It is a reasonable one, which is conducive to the needs and larger interest of the State.

(Emphasis supplied)

9. In addition, having regard to the decision in the case of T.M.A. Pai Foundation and Others Vs. State of Karnataka and Others, , their lordships held that the State can impose reasonable regulations on institutions covering Article 30 for protecting the larger interest of the State and the nation. The challenge to compulsory imposition of Marathi language to students and asking for a right "not to learn" Marathi language while living in the State of Maharashtra, was repelled.

10. The feeble attempt made by the petitioners to question the circular Annexure-"L" as violative of Article 14 of the Constitution is without merit, as it is not shown as to how the Circular Annexure-"L" could, justifiably, be held to be ultravires the Constitution. All that the circular did was to making it compulsory for students who opt for state syllabus to read Kannada as a third language. Clause (5) of the said circular entitles students who have opted from ICSE/CBSE syllabus to State Syllabus 15 grace marks, requiring the students to secure another 20 marks to pass in the subject, keeping in view the fact that the students may not have read the subject as a language either in ICSE or CBSE syllabus. In any event, the 5th respondent - Institution sought for permission from the authorities to enable petitioners to read alternative English in lieu of Kannada. By no stretch of imagination, Circular Annexure-"L" could be said to be unreasonable, unjustified or illegal nor offend Article 14 of the Constitution. The policy of the State is to ensure that students who opt for State syllabus study Kannada language, which cannot be characterised as whimsical, unreasonable or arbitrary.

11. There is yet another reason for rejecting this Writ petition. Though the order Annexure-"J" was passed on 13-09-2006, neither the 5th respondent - Institution nor the petitioners approached this Court, immediately thereafter, but have come at the nth moment eking the sympathy of this Court which the petitioners are not entitled to.

12. Looking at it from any angle, the contentions advanced by the learned Counsel for the petitioners cannot be countenanced. The Writ petition is without

merit and is accordingly rejected.