

(1986) 04 KAR CK 0007
In the Karnataka High Court
Case No : Writ Petition No. 11978 of 1970

Harinarayan Abhayankar

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 04-04-1986

Acts Referred:

Mysore Pawn Brokers Act, 1961 — Section 10, 10 (2), 22
Mysore Pawn Brokers Rules, 1966 — Rule 15

Citation : (1986) ILR (Kar) 4125

Hon'ble Judges : Murlidher Rao, J

Bench : Single Bench

Advocate : K.H. Jagadeesh, for the Appellant; U. Abdul Khader, HCGP, for the Respondent

Final Decision : Dismissed

Judgement

Murlidher Rao, J.—The petitioner is a licenced money lender and pawn broker doing business in City of Gulbarga. He is aggrieved by the letter (Annexure "A") issued to him by the Deputy Registrar of Co-operative Societies and Registrar of Money Lenders, Gulbarga whereby he is directed to maintain accounts as per Acts and Rules and show to the concerned Assistant Registrar of CS (Money lenders) within fortnight to renew his licence for the year 1976. The prayer in the Writ Petition is to declare Sub-section(2) of Section 10 of the Mysore Pawn Brokers Act 1961 as ultravires of the Constitution of India, as it prevents him from maintaining his account in Hindi and consequently to issue a Writ of mandamus directing respondents 2 and 3 not to insist him to keep accounts in English or Kanaada. The petitioner has obtained interim direction directing the authorities not to insist the maintaining of account either in English or Kannada. It is the case of the petitioner that he has been maintaining the accounts in Hindi. Therefore the question that arises for consideration is whether the authorities were justified in insisting on the petitioner to follow the provisions of the Act, namely to keep the accounts in the prescribed language as per the Act and Rules and show to the concerned Assistant Registrar of CS (Money Lenders)

within a fortnight. Sub-section (2) of Section reads thus ;

"All records or entries made in the books, accounts and documents referred to in Sub-section (1) shall be either in English or in Kannada as may be prescribed."

But the State Government has framed rules called Mysore Pawn Brokers Rules, 1966 in exercise of the powers conferred by Section 22 of the Mysore Pawn Brokers Act, 1961 and Rule 15 of the said rules reads thus :

215-Language in which records, etc. should be maintained :

All Records or entries made in the books, accounts and documents referred to in Sub-section (1) of Section 10 shall within the area mentioned in column (2) of the Table below be either in English or in Hindi subject to review after one year in the language or languages mentioned in the corresponding entry in column (3) thereof :

TABLE

Sl. No

Area

Language or Languages

1.

Bangalore City

| | | | | | | | } Kannada | | | | | | |

2.

Bangalore, Mandya, Mysore

3.

Hassan, Coorg, South Kanara

4.

Shimoga, Chikmagalur, Tumkur

5.

Chitradurga, Dbarwar

6.

Bijapur

7.

Kolar

8.

Bellary

9.

Karwar and Belgaum

10.

Raichur, Gulbarga and Bidar

It is obvious that under Sub-section(2) of Section 10 all the records and accounts books as also documents have got to be maintained either in English or in Kannada. However, the State Government may permit use of any other language for a period not exceeding three years as specified in that notification. Therefore, unless a notification is issued permitting the persons to use any other language within a period of three years every person doing business in Money lending or pawn broker has to maintain his account either in English or in Kannada. It is not the contention of the petitioner that any such notification has been issued by the State Government permitting the persons to use Hindi as language for maintenance of accounts and documents. The spirit of Section 10 has been reinforced by Rule 15 which says that all documents referred to in Sub-section (1) of Section 10 shall be maintained either in English or Hindi for a period of one year. But after the period of one year they have to be necessarily maintained in Kannada. The combined reading of Sub-section(2) of Section 10 and Rule 15 makes it clear that any person who has licence for carrying on pawn broker or money lender has to maintain the accounts either in English or in Kannada as contemplated by Sub-section (2) of Section 10. The insistence of the petitioner that he should be permitted to maintain his account in Hindi is not what is contemplated by the notification nor is there any such notification permitting the persons to maintain accounts in Hindi. In this view the petitioner who has licence to carry on pawn broker business or money lender has to maintain the accounts in the languages mentioned in Sub-section(2) of Section 10.

2. However, it was contended by Sri Jagadeesh that the restrictions imposed by Sub-section (2) of Section 10 itself is unconstitutional. He relied upon a Judgment of the Supreme Court in R.R. Dalavai Vs. The State of Tamil Nadu, That was a case wherein the Tamilnadu Government had promulgated a scheme by which pension was being sanctioned to the persons who did agitation against Hindi. It was called Anti-Hindi pension. It was in those circumstances the Supreme Court opined that the pension scheme so formulated by that Government contained vice of disintegration and fomenting fissiparous tendencies. In my view the prescription of Kannada language as compulsory language for maintenance of accounts is not a vice at all and does not fall within the test laid down by the Supreme Court in the above Judgment. The State Government is competent for the purpose of administration to prescribe the Kannada language as the Language of the State Government. Indeed the official language of the State Government is Kannada. In W.P. No. 5401/1969 c/w W.P. 5600 to 5615/69 decided on 6-2-1970, Sohanlal Jain v. State of Mysore a similar

contention was negated by a Division Bench of this Court. The Bench observed thus :

"Article 443 of the Constitution provides that the official language of the Union shall be Hindi in Devanagari script. Article 445 of the Constitution provides, inter alia, that the legislature of a State may, by law, adopt any one or more of the languages in use in the State or Hindi as the language to be used for all or any of the official purposes of that State. In pursuance of this Article, the Mysore State Legislature has enacted the Mysore Official Languages Act, 1963. Section 2 of that Act provided that official language of the State of Mysore shall be Kannada. Section 3 of that Act provides for English being continued to be used for official purposes until the Government otherwise directs. Section 4 of that Act provided that the State Government may, from time to time, by notification in the official Gazette, direct that Kannada shall be used in respect of such official purposes and in such areas as may be specified in the notification. Thus, it is seen that it is only for the purposes of the Union that the official language is Hindi. For the purpose of any State, it is permissible for the Legislature of that State to adopt any of the languages in use in that State. Thus for the purposes of administration and enforcement of the Mysore Pawn Brokers Act, which is enacted by the State Legislature, there is no impediment for adopting Kannada or a language other than Hindi."

For the aforesaid reasons, this petition fails. It is accordingly dismissed. No costs.