
(2016) 08 AHC CK 0096
In the Allahabad High Court
Case No : Misc. Bench No. 18098 of 2016

Hindu Front For Justice

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 19-08-2016

Acts Referred:

Constitution of India, 1950 — Article 21A, 226, 25, 51A

Citation : (2016) AIR(Allahabad) 179 : (2017) 2 AILLJ 105

Hon'ble Judges : Amreshwar Pratap Sahi and Dr. Vijay Laxmi, JJ.

Bench : Division Bench

Advocate : Hari Shankar Jain, Advocate, for the Petitioner; C.S.C, A.S.G, for the Respondent

Final Decision : Disposed Off

Judgement

Amreshwar Pratap Sahi, J.—This petition under Article 226 of the Constitution of India has been filed as a Public Interest Litigation praying that the respondents Union of India and State of U.P. through their respective authorities be directed to introduce compulsory religious education right from class I to the Post Graduate level and also provide for a syllabus for research of such education. A prayer has also been made that the respondents may be restrained from granting recognition to the institutions if there is no sufficient provision for imparting religious education in a particular institution. A specific prayer has been made that the prescription of the syllabus should also include different aspects of Islamic religion including the advent of Islam and encourage the study of Islamic literature as a source of Islam. Additionally a prescription has been sought for introducing Hindu religious scriptures in the syllabus whether aided or unaided institutions.

2. The petitioner no. 1 association describes itself as a "Hindu Front for Justice" and contends that even after 66 years of the enforcement of Constitution of India, religious and moral education do not find their proper place in the curriculum of schools which is resulting in the youth going astray thereby

increasing the ills of the society. It is also contended that views of religious texts are not being presented correctly and the consequential action of preachers in encouraging conversions is also telling upon the cultural civilisation of this country. It is, therefore, necessary to introduce compulsory religious education to enable the imparting of comparative religious teachings thereby fostering a correct approach towards religion. This void of religious understanding has also taken the shape of a general perception that the followers of a particular religion indulge in terrorist and anti-social activities which gets supported by claims being made by the certain organisations of having indulged into it, whereas their religious preachers defend their religion contending that terrorism is opposed to the tenets of any religion.

Thus, the prayer is that such preaching by way of compulsory education would bring about rational understanding of all religions and would remove intolerance in the society. It is urged that the right to profess religion can be realised as a fundamental right only if the citizens are well informed and are able to learn and understand different religions and that is why it is obligatory for the State to include religious education at all levels.

3. Learned counsel for the Union of India and the learned Standing Counsel have both placed before the Court documents to indicate that the policy for providing the curriculum for primary and secondary schools is entrusted to the National Council for Educational Research and Training (NCERT) and at the State level the State Council for Educational Research and Training (SCERT). It is these bodies which are entrusted with the responsibility of framing curriculum. The National Council for Educational Research and Training has formulated the basic principles of the curriculum that are as follows:

"3. Curricular Areas, School Stages and Assessment

3.1 Language

3.1.1 Language Education

3.1.2 Home/First Language(s) or Mother Tongue Education

3.1.3 Second Language Acquisition

3.1.4 Learning to Read and Write

3.2 Mathematics

3.2.1 Vision for School Mathematics

3.2.2 The Curriculum

3.2.3 Computer Science

3.3 Science

3.3.1 The Curriculum at different Stages

3.3.2 Outlook

3.4 Social Sciences

3.4.1 The Proposed Epistemological Frame

3.4.2 Planning the Curriculum

3.4.3 Approaches to Pedagogy and Resources

3.5 Art Education

3.6 Health and Physical Education

3.6.1 Strategies

3.7 Work and Education

3.8 Education for Peace

3.8.1 Strategies

3.9 Habitat and Learning

3.10 Scheme of Study and Assessment

3.10.1 Early Childhood Education

3.10.2 Elementary School

3.10.3 Secondary School

3.10.4 Higher Secondary School

3.10.5 Open Schooling and Bridge Schooling

3.11 Assessment and Evaluation

3.11.1 The purpose of Assessment

3.11.2 Assessing Learners

3.11.3 Assessment in the Course of Teaching

3.11.4 Curricular Areas that Cannot be Tested for Marks"

3.11.5 Design and Conduct of Assessment

3.11.6 Self-Assessment and Feedback

3.11.7 Areas that Require Fresh Thinking

3.11.8 Assessment at Different Stages"

4. The Standing Counsel has invited the attention of the Court to Rule 22 of The Uttar Pradesh Right of Children to Free and Compulsory Education Rules, 2011 that authorizes the State body to lay down the curriculum for elementary education.

5. The petitioner is seeking enforcement of the right to receive a proper education particularly in the light of Article 21-A read with Article 25 of the Constitution of India. Sri H.S. Jain vehemently urged that this right of a child receiving education has to be realised in a meaningful way by developing his entire personality and not giving him just schooling. In order to groom comprehensively, values of different religions deserve to be taught so as to remove any misgivings about their teachings and to reveal their true religion. This would help in removing any doubts and preventing conflict of thoughts between different religions. In turn this would lead to peace in society and foster harmony between people believing in different religions. His thrust is that the shadow of doubt would all be cleared by the process of learning and therefore it is necessary to invoke State action to promote education about different religions.

6. In our opinion what Mr. Jain intends to urge is that this introduction of a compulsory study of religious tenets and their scriptures would be to introduce a secular education that would eliminate all elements that tend to being about misunderstandings about different religions. Lessening of differences and understanding the common tenets of novel values would lead towards a sound bondage between different communities.

7. Can this, however, be constitutionally enforced? Article 28 of the Constitution is extracted herein under:

"28. Freedom as to attendance at religious instruction or religious worship in certain educational institutions:

(1) No religion instruction shall be provided in any educational institution wholly maintained out of State funds

(2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(3) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto Cultural and Educational Rights."

8. While interpreting the impact of Article 26, 27 and 28, H.M. Seervai in Vol. 2 of Chapter XII of his book Constitutional Law of India has observed as follows:

"12.1 India is a secular but not an anti-religious State, for our Constitution guarantees the freedom of conscience and religion. Articles 27 and 28 emphasise the secular nature of the State, for they secure to every person freedom from the payment of taxes for the promotion of any religion, and freedom from attendance at religious instruction or religious worship in certain educational institutions. Article 25 guarantees to every person the freedom of conscience and

the free profession, practise and propagation of religion; and likewise, Article 26 guarantees to every religious denomination, or a section of it, a right to manage its own affairs in matters of religion and the right to establish and maintain institutions for religious purposes. The freedom of religion is subject to limitations which will be considered in this Chapter.

13.56 On the right to affiliation, the position adopted by Dwivedi J. is self-contradictory. He held, with the majority, that in the case of an affiliating university, "since the State cannot directly take away or abridge a right conferred (by) art 30(1), The State cannot also indirectly take away or abridge that right by subjecting the grant of affiliation to conditions which would entail the forbidden result. However, he also held that affiliation was not a fundamental right but a "statutory concept and may be obtained on the fulfilment of the conditions prescribed therefore by statute" that there was no express grant of the right of affiliation and the right was not necessarily implied in Article 30(1). It is submitted that this contradiction can be resolved only by analysing the situations in which there was a right to affiliation and situations in which there is no such right. It is further submitted that this failure to resolve the contradiction is responsible for Dwivedi J.'s dissent from the majority on provisions which converted affiliated colleges into constituent colleges, and it is submitted that his dissenting judgment is not correct. It may be added that his judgment was also coloured by the view that "affiliation of an institution imparting religious education or teaching only the theology of a particular religious minority may not comport with the secular character of the state." (*italics supplied*). But he overlooked Article 28(2) which shows that even in an institution administered by the State, religious instruction can be given under the circumstances described in Article 28(2), and he also overlooked Article 28(3) which also shows that religious instruction might be given in educational institutions "recognised by the State or receiving aid out of State funds..."(*italics supplied*) so that imparting religious instruction in minority institutions is not inconsistent with the "secular character of the State".

13.80 Article 26 runs as follows:

Art. 26. Freedom to manage religious affairs.-Subject to public order, morality and health, every religious denomination or any section thereof shall have the right -

- (a) to establish and maintain institutions for religious and charitable purposes;
- (b) to manage its own affairs in matters of religion;
- (c) to own and acquire movable and immovable property; and
- (d) to administer such property in accordance with law.

The following analysis of Articles 26 and 28 given in para 12.100 of the text shows that a religious denomination or a section thereof can establish and maintain a Medical College:

The right of a religious denomination to manage its own affairs in matters of religion [Art. 26(b)] would be meaningless if such denomination could not establish and maintain religious institutions: [Art. 26(a)]. In India, as in England, the advancement of religion is a recognised head of charity; therefore a religious institution (of a public character) would also be a charitable institution. But works of charity are a part of many religions; a "Brother or Sister of Charity" is a member of a religious organisation devoted to charity". In India, as in England, the advancement of education is also a recognised head of charity; therefore educational institutions would be covered by the words, "charitable institutions", in Article 26(a). But denominational education is education according to the principles of a church or sect, and Article 28 recognises the fact that religious instructions may be imparted in educational institutions not wholly maintained by the State. However, Article 28(3) provides that no one shall be required to take part in any religious instruction, or religious worship, at any educational institution recognised or receiving aid from the State, except with his, or his guardian's consent".

9. The Apex Court in the case of *Aruna Roy v. Union of India* (2002) 7 SCC 368 had the occasion to consider the argument in a Public Interest Litigation that was filed contending that the national curriculum framework published by National Council of Educational Research and Training (NCERT) was against the constitutional mandate and anti-secular, therefore, liable to be struck down. Article 28 was also one of the main arguments that was advanced. Hon'ble Justice M.B. Shah who presided over the Bench dealt with this in para 25 to 41 of the said judgment and came to the conclusion that the curriculum was not of religious education but an education about religion, their basic values inherent therein and the comparative study of philosophy of all the religions. The Court went on to hold in para 30, 31 and 32 as follows :

"30. Undisputedly, the aforesaid S.B. Chavan Committee's Report was placed before Parliament for discussion. None can also dispute that the past five decades have witnessed a constant erosion of the essential social, moral and spiritual values and increase in cynicism at all levels. We are heading for a materialistic society disregarding the entire value-based social system. None can also dispute that in a secular society, moral values are of utmost importance. A society where there are no moral values, there would neither be social order nor secularism. Bereft of moral values secular society or democracy may not survive. As observed by the Committee, values are virtues in an individual and if these values deteriorate, it will hasten or accelerate the breakdown of the family, society and the nation as a whole. In a society where there is constant evaporation of social and moral values for getting property, power or post, - is it not advisable to have a solid social foundation from the base legal so that a grownup person would fight against all kinds of fanaticism, ill will, violence, dishonesty, corruption and exploitation? The answer would obviously be-"yes".

31. Further, for controlling the wild animal instinct in human beings and for

having a civilised cultured society, it appears that religions have come into existence. Religion is the foundation for value-based survival of human beings in a civilised society. The force and sanction behind civilised society depends upon moral values. The philosophy of coexistence and how to coexist is thought over by the saints all over the world which is revealed by various philosophers. How to coexist, not only with human beings but all living beings on the earth, may be animals, vegetation and the environment including air and water, is thought over and discussed by saints and leaders all over the world which is reflected in religions. If that is taught, it cannot be objected as it is neither violative of constitutional or legal rights nor it offends moral values. This has been dealt with elaborately by the S.B. Chavan Committee. The Committee as stated above had invited suggestions from noted educationists on various aspects of value-based education. As stated by the Committee it had benefited by the views of eminent experts/NGOs doing pioneering work in this area. Further, no one can dispute that truth (satya), righteous conduct (dharma), peace (shanti), love (prem) and non-violence (ahimsa) are the core universal values accepted by all religions. The Committee has also pointed out that religion is the most misused and misunderstood concept. However, the process of making the students acquainted with the basics of all religions, the values inherited therein and also a comparative study of the philosophy of all religions should begin; students have to be made aware that the basis concept behind every religion is common, only the practices differ. If these recommendations made by the Parliamentary Committee are accepted by NCERT and are sought to be implemented, it cannot be stated that its action is arbitrary or unjustified.

32. Further, it appears to be a totally wrong presumption and contention that knowledge of different religions would bring disharmony in the society. On the contrary, knowledge of various religious philosophies is material for bringing communal harmony as ignorance breeds hatred because of wrong notions, assumptions, preaching and propaganda by misguided interested persons.

While considering the impact of Article 28 it was observed as follows in para 40 which is as follows :

"40. Further, no person attending any educational institution recognised by the State or receiving aid out of State funds could be compelled to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution. So the entire emphasis of the article is against imparting religious instruction or of performing religious worship. There is no prohibition for having study of religious philosophy and culture, particularly for having value-based social life in a society which is degenerating for power, post or property....."

Hon"ble Justice D.M. Dharmadhikari while concurring with the said judgment also proceeded to analyse the same and referred to religious pluralism as opposed to exclusionism. After extensively referring to the word "philosophy" and "religion" both in religious and political context on the issue came to the conclusion that

the National Education Policy which was under challenge in the said Public Interest Litigation did not run counter to the concept of secularism. However, while concurring with the opinion of the other Hon'ble Judges he further opined as under:

"How best this religious pluralism to accord with "secular thought" of the country can be achieved by properly selecting the material for inclusion in the text books for children of different ages and different stages in the education, is a matter which has to be left to the academicians and educationists. Their involvement with all dignitaries and with other experts in related fields is necessary. This exercise has to be undertaken by the Government for which any direction from the court is neither required and nor can the court assume such power to encroach on the field of preparation of an educational policy by the State.

The scrutiny of the text books to find out whether they conform to the secular thought of the country is also to be undertaken by the experts, academicians and educationists. The members of NCERT should be open to any such dialogue with the academicians and educationists. On the basis of general consensus, suitable curriculum, which accords with secularism as understood in wide and benevolent sense, has to be evolved."

Later on the Court further held as follows:

".....In a constitutional democracy, Parliament is supreme and policies have to be framed and approved by the Parliament. Parliament had constituted CABE and NCERT and if CABE has any objection to the National Curriculum nothing prevented it from expressing its opinion accordingly. It is ultimately for the Parliament to take a decision on the National Education Policy one way or the other. It is not the province of the Court to decide on the good or bad points of an Educational Policy. The Court's limited jurisdiction to intervene in implementation of a policy is only if it is found to be against any statute or the Constitution. We have not found anything in the Educational Policy or the Curriculum which is against the Constitution. We have found no ground to grant any relief as prayed for by the Petitioners. We would, however, direct the Union of India to consider the matter of filling the vacancies in the membership of CABE and convening a meeting of CABE for seeking opinion on the policy and the curriculum.

All bodies created by executive power of the state, are answerable to Parliament which is the supreme legislative body with all powers in suggesting and formulating a National Education Policy. It is open to Parliament to fill nominations to CABE, re-constitute it or do sway with it. The court can have no jurisdiction in that subject. This court can enforce constitutional provisions and laws framed by the Parliament. It cannot, however, compel that a particular practise or tradition followed in framing and implementing the policy, must be adhered to. The Court has to keep in mind the above limitations on its jurisdiction and power. It is true that if a policy framed in the field of education or

other fields runs counter to the constitutional provisions or the philosophy behind those provision, this court must, as part of its constitutional duty, interdict such policy."

10. It is, thus, clear that the Courts cannot impose upon the State a particular policy for imparting any form of religious instruction or education about religion and it is for the Parliament or the concerned legislative assembly that has the competence to do so. It is the appropriate Government which has to decide as a matter of policy to introduce the imparting of religious education and the manner of such imparting is for the expert bodies to recommend.

Per Dr. Vijay Laxmi, J. - Religious education in India is to be governed by secular ethos of its Constitution as contained in Preamble and reflected in Articles 25 to 30 and Article 51A prescribing fundamental duties of the citizens. Our experience of more than 65 years reveals that "Secularism" can not be practised by adopting a complete neutral approach towards religions but by a positive approach by making people to understand and respect religion and faith of another section of people. Based on such mutual understanding and respect for each others religious faith, mutual distrust and intolerance can gradually be eliminated.

12. The real meaning of secularism in the language of Gandhi is Sarva-Dharma-Sambhav meaning equal treatment and respect for all religions. In Harijan (16-7-1938), answering a correspondent about the place of religious instruction in the Wardha Scheme, Gandhiji wrote :

"Fundamental principles of ethics are common to all religions. These should certainly be taught to the children and that should be regarded as adequate religious instruction so far as the schools." To him religion means Truth and Ahimsa or rather Truth alone, because Truth includes Ahimsa, Ahimsa being the necessary and indispensable means for its discovery. Therefore anything that promotes the practise of these virtues is a means for imparting religious education.

13. In the name of secularism, we should not keep ourselves aloof from such great treasures of knowledge which have been left behind by sages, saints and seers. According to Vinoba Bhave "How can we develop cultured human-beings of moral character without teaching them from childhood the fundamental human and spiritual values." (See Vinoba Sahitya, Vol. 17, page 4449 and 67).

14. In leading judgment of Ms. Aruna Roy and Others v. Union of India and Others, D.M. Dharmadhikari, J. emphasised that education should not be for the purposes of making a child merely literate and intelligent but at the same time to enable him to realise inner elemental qualities. To quote the relevant extract :

"Indian Society is composed of people of various religions and faiths. They are expected not only to life together and tolerate each other, but to live a harmonious life in peace and love. Before and after partition in India, religious

conflicts and communal disturbances have impeded the growth of this nation and its attempt towards progress. After National Education Policy of 1986, a shift by the impugned National Educational Policy, 2002 towards teaching of religions in the schools to educate children to understand common factors in all religions, is not a non-secular step. Even before the Government decided to make a shift in the educational policy in that direction, eminent educationalists, thinkers, philosophers and academicians have expressed thoughts that for all round development of child, study of religions should start in rudimentary form from school education and should continue up to the higher education. It has been emphasised that education should not be for the purposes of making a child merely literate and intelligent. The real education is one in which a child gradually realises that he is made up not only of body and mind but also some inner elemental qualities.

Democracy cannot survive and Constitution cannot work unless Indian citizens are not only learned and intelligent, but they are also of moral character and imbibe the inherent virtues of human-being such as truth, love and compassion. Thinkers and philosophers strongly recommend introduction of teaching of religions in education....it is to ensue all round development of a child and with the object that he grows as citizen with respect for constitutional values."

15. The secular ethos of our Constitution may be best appreciated by considering the broad sweep of Hindu Philosophic concepts. In *Shastri Yagnapurushdasji and others & muldas Bhundardas Vaishya and another* [AIR 1966 SC 1119] a Constitution Bench of Supreme Court observed that the Hindu religion may broadly be described as a way of life. In that context, Gajendragadkar, C.J. who spoke for the Bench considered the questions elaborately as to what are the broad features of Hindu religion, thus :

"(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.

(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 or 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 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 a 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 Dri Radhakrishnan, p. 12](Kurma Purana).

(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 Ganges, swollen by a continual influx of tributary rivers and rivulets, spreading itself over an ever increasing area 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).".

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

(33). ..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 inevitable 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.

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

(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, Dhyaneshwar and Tukaram

initiated the varakari cult; Guru Nanak inspired Sikhism; Dayananda founded Arya Samaj, and Chaitanaya became Bhakti cult; and as 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.

"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:

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 worshiped is large, that indeed is the distinguishing feature of Hindu religion. [B.B. Tilak's Gitarahasaya]."

16. Shri Ramakrishna gave the message of Vedanta of "service to man is service to God" as the universal principle basic to all religions. 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. 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..."

17. Speaking to the ideal of Vedanta and its message Swami Vivekananda has said:

Vedanta lays down that each man should be treated not as what he manifests, but as for the divine, and therefore, every teacher should be helpful, not by contemning man, but by helping him to call forth the divinity that is within him. (1.3888)

18. Statements of Swami Vivekananda made at different times may be extracted:

"We not only tolerate, but we Hindus accept every religion, praying in the mosque of the Mohammedans, worshipping before the fire of the Zorestrians, 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) The religion of Vedanta can satisfy the demands of the scientific world, by referring it to the highest generalisation and to the law of evolution.

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,"

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

19. In *Bramchari Sidheswar Shai & ors. v. State of West Bengal Etc.*, Supreme Court observed that 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 Hinduism, 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 body. The Court cited following incident :

When Shri Ramakrishna was approached by Narendra (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".

20. The issue of religious education was examined by University Education Commission headed by Dr. Radhakrishnan. The Commission recommended in its Report of 1948-49 that the intention behind secular state was not to ban all religious education but to ban dogmatic or sectarian religious instruction in State Schools. If we teach sectarian creeds to our children in public schools, instead of developing in them the spirit of peace and brotherly love we encourage the spirit of strife, as the children become conscious of their divisive creeds and group loyalties. We do not accept a purely scientific materialism as the philosophy of the State. That would be to violate our nature, our svabhava, our characteristic genius, our svadharma. Though we have no State religion, we cannot forget that a deeply religious strain has run throughout our history like a golden thread. The fundamental principles of our Constitution call for spiritual training. There is no State religion. The State must not be partial to any one, religion. All the different forms are given equal place. Each one is at liberty to approach the Unseen as it suits his capacity and inclination. If this is the basis, or our Secular State, to be secular it is not to be religiously illiterate. It is to be deeply spiritual and not narrowly religious.

21. We must civilise the human heart. Education of the emotions and discipline of the will are essential parts of a sound system of education. Religion is a permeative influence, a quality of life, an elevation of purpose. Our institution, if they are to impart religious vitality, should have simplicity and an atmosphere of

consecration that permanently influence lives. To quote the relevant extract of the Report.

"16. Democracy and Religion-Besides, in the preamble to our Constitution, we have the makings of a national faith, a national way of life which is essentially democratic and religious. Whenever a human being strives upward toward enlightenment, goodness and concern for others, the spirit of religion is active. If we bear in mind that the whole future of our democracy depends on freedom of conscience, freedom of inquiry, moral solidarity, our secularism is an act of supreme courage and sublime loyalty to our national faith."

22. We have to understand that the great virtues of loyalty, courage, discipline and self sacrifice are essential for a successful citizen. Unless morality is taken in a larger sense, it is not enough. If we exclude spiritual training in our educational institutions we would be untrue to our whole historical development. We must habituate the students to right emotions, induce in them the formation of good moral, mental and physical habits. Our attempt should be to suggest and persuade, not command or impose. The best method is to teach them by personal example. The books should contain not moral lessons but lives of great men and women which exemplify the living of great thoughts and noble emotions.

23. A relevant study of the essentials of all religions would be uniquely rewarding as a step towards building character in our children and to bring harmony between religions which is in consonance with the spirit of our country.

24. While quantitatively India is marching closer to universal education, the quality of its education has been questioned. The problem of appointment of teaching faculty on vacant posts in primary and secondary level of education as well as in Universities and colleges is widely prevalent.

25. We, therefore, do not find any reason to issue a mandamus keeping in view the aforesaid judgment of the Apex Court in the case of Aruna Roy (supra.)

26. The writ petition is disposed of accordingly.