

(2001) 10 KAR CK 0031
In the Karnataka High Court
Case No : Writ Petition No. 757 of 1998

Laxman Omannna Bhamane

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 06-10-2001

Acts Referred:

Constitution of India, 1950 — Article 30

Karnataka Shops and Commercial Establishments Rules, 1963 — Rule 24A

Citation : (2002) 92 FLR 1031 : (2002) ILR (Kar) 443 : (2002) 2 KarLJ 208 :
(2002) 1 KCCR 36 SN

Hon'ble Judges : Chandrashekaraiah, J

Bench : Single Bench

Advocate : C.R. Goulay, for the Appellant; Bharamegowda, High Court
Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Chandrashekaraiah, J.—The petitioner in this petition has sought for a declaration that the provisions of Section 23, read with Rule 24-A of the Shops and Commercial Establishments Act, 1963 is ultra vires of Article 30 of the Constitution of India and also for a declaration that the pamphlets issued by the Deputy Commissioner and the Kannada Development Authority are illegal and void being contrary to Article 30 of the Constitution of India.

2. The petitioner is a commission agent and engaged in the business at Belgaum. The case of the petitioner is that most of his customers are marathi speaking people and if he is asked to display his name board on the shop in Kannada as required under Rule 24-A of the Karnataka Shops and Commercial Establishments Rules, 1963 (hereinafter referred to as "the Rules"), his customers will not be in a position to identify his shop and consequently he would suffer loss in his business. The further case of the petitioner is that since the Marathi speaking people in Belgaum District forms a linguistic minority and any insistence to display the Board in Kannada is hit by Article 30 of the

Constitution of India. Article 30 of the Constitution deals with the right of minorities to establish and administer educational institutions. When this fact was brought to the notice of Sri C.R. Goulay, learned Counsel for the petitioner he submits that by mistake Article 30 has been mentioned in the writ petition, but in fact it should be read as Article 29 of the Constitution. After seeing Articles 29 and 30 of the Constitution, I am satisfied that there is some mistake in mentioning Article 30 in place of Article 29 and therefore I permitted the learned Counsel to substantiate how Rule 24-A of the Rules is ultra vires of Article 29 of the Constitution of India.

3. According to Sri C.R. Goulay, learned Counsel for the petitioner, Article 29 deals with the protection of the interests of minorities and under this Article any section of the citizens having a distinct language, script or culture of its own shall have the right to conserve the same. Rule 24-A of the Rules provides that the name board of every establishment shall be in Kannada and therefore if he is asked to display the name board of the shop in Kannada, the petitioner will not be in a position to conserve Marathi language since Marathi speaking people in certain taluks in Belgaum form a minority as their population is less than 15% of the total population in that area.

4. Article 345 of the Constitution of India, reads as follows:

- "Article 345.--Subject to the provisions of Articles 346 and 347, 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 or languages to be used for all or any of the official purposes of that State:

Provided that, until the Legislature of the State otherwise provides by law, the English language shall continue to be used for those official purposes within the State for which it was being used immediately before the commencement of this Constitution".

The State of Karnataka under this Article has enacted the law called Karnataka Official Language Act, 1963 (hereinafter referred to as "the Act"). Section 2 of the Act, reads as follows:

"The official language of the State of Karnataka shall be Kannada".

Subsequently, the State of Karnataka by notification u/s 4 of the said Act, directed that Kannada shall be used in respect of official communications from all offices of the State Government in the State of Karnataka. Insofar as linguistic minority is concerned the following exceptions are made:

"(b) if the population of linguistic minority in any taluk is not less than fifteen per cent.-

(i) petitions shall continue to be accepted in the minority language concerned and replies given in that language as far as possible;

(ii) handouts and publicity material shall continue to be given in such minority

language;

(iii) Government notices shall continue to be published in such minority language".

5. From the above said enactment and notification it is clear that the official language of the State of Karnataka is Kannada. But so far as linguistic minority is concerned an exception has been provided keeping in view the interest of the minority.

6. The State Legislature has enacted an Act called Karnataka Local Authorities (Official Language) Act, 1981 providing for use of Kannada for all official purposes by the local authorities in the State. Section 2 of the Act reads as follows.-

"2. The official language of all the local authorities in the State of Karnataka shall be Kannada:

xxx (b) if the population of a linguistic minority within the area of operation of such local authority is not less than fifteen per cent.-

(i) petitions shall be accepted in the language of such minority and as far as possible replies thereto shall be given in that language;

(ii) handouts and publicity material shall also be given in the language of such minority;

(iii) notices of the local authorities shall also be published in the language of such minority".

7. Though the petitioner has sought for declaration that Section 23 of the Shops and Commercial Establishments Act, 1961 is ultra vires, there is no need to consider the said contention since Section 23 has been omitted by Act 4 of 1969. What remains is whether Rule 24-A of the Rules is ultra vires of Article 29 of the Constitution. Rule 24-A of the Rules reads as follows.-

"24-A. Exhibition of name board.--The name board of every establishment shall be in Kannada and wherever other languages are also used, the versions in such other languages shall be below the Kannada version".

8. Article 29 of the Constitution reads as follows.-

29(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them".

Article 29(2) of the Constitution is not relevant for the purpose of considering the

case of the petitioner. Under Article 29(1) any section of the citizens, has a fundamental right to conserve his language, script or culture. Though the marginal note of the Article mentioned "minority rights", rights conferred under this Article extends to all sections of citizens whether they belong to minority or majority community. The right guaranteed under Article 29 of the Constitution is not subjected to any restrictions. Any section of the citizens has a right to have a distinct language, script or culture of its own irrespective of the fact whether that section is a minority or a majority and is entitled to conserve the said right. Rule 24-A of the Rules provides that the name board shall be in Kannada and whenever other languages are also used, the version in such other languages shall be below the Kannada version. From this it is seen the said rule does not in any way prevent the petitioner from displaying the name board of his shop in his language i.e., Marathi along with Kannada. If that is so, it cannot be said that the petitioner has in any way been prevented from conserving Marathi language since he is also allowed to use Marathi language along with Kannada.

9. When the State Government has legislated the law declaring the official language of the State as Kannada by virtue of its constitutional right under Article 345 of the Constitution, it is just and necessary to display the name board in Kannada. At the same time Rule 24-A of the Rules has not prevented the petitioner or any section of the citizens from displaying the name board in his own language. Therefore, it cannot be said that Rule 24-A of the Rules has in any way come in the way of conserving the language of any section of the citizens. Therefore, I am of the considered view that Rule 24-A of the Rules is not ultra vires of Article 29 of the Constitution.

10. The petitioner has also sought for quashing of the notices or handouts issued by the Deputy Commissioner and the Kannada Development Authority in this petition. Since Rule 24-A of the Rules is held to be valid, any notice issued to enforce Rule 24-A of the Rules cannot be said to be illegal. Therefore, the impugned notices are not liable to be quashed. Hence, I pass the following order:

Writ petition is rejected:

11. Rule is discharged.