

(1986) 04 MAD CK 0023
In the Madras High Court

Nehru National Higher Secondary School and Nehru National Middle School and Another APPELLANT

Vs

The State of Tamil Nadu and Another RESPONDENT

Date of Decision : 25-04-1986

Acts Referred:

Citation : (1986) 99 LW 1029 : (1987) 1 MLJ 389

Hon'ble Judges : K. Venkataswami, J

Bench : Division Bench

Judgement

K. Venkataswami, J.—The plaintiffs are the appellants. They filed the suit O.S. No. 151 of 1979, on the file of the Court of the District Munsif, Ambasamudram, in their capacity as correspondent and Manager respectively of Nehru National Higher Secondary School and Nehru National Middle School, Vadakkankulam, Radhapuram taluk, Tirunelveli district. Their prayer in the suit was for a declaration that the schools are run by a religious minority and for a consequential injunction restraining the respondents, namely, the State of Tamil Nadu represented by the District Collector, Tirunelveli and the District Educational Officer, Tirunelveli South, from interfering with their management by enforcing the provisions of the Tamil Nadu Private Schools (Regulation) Act, 1973 (Act 29 of 1974).

2. Undoubtedly, the Schools are run by Hindu Nadars. Though there is no dispute that Hindus are non-minorities in the State of Tamil Nadu, the contention seems to be that in the particular village, namely Vadakkankulam, Hindu Nadars form a minority while Christian Nadars form majority and, therefore Hindu Nadars are entitled to the protection of Article 30 of the Constitution of India. The trial Court negated the claim of the plaintiffs and consequently dismissed the suit. On appeal by the plaintiffs, the lower appellate Court also confirmed the judgment and decree of the trial Court and dismissed the appeal. Hence, the present second appeal.

3. Mr. K. Doraiswami, Learned Counsel for the plaintiff-appellant contended

before me that the Courts below have not properly appreciated the scope and extent of Article 30 of the Constitution of India. According to the Learned Counsel, the Courts should have held that to consider whether a particular community is a minority or not, the basis must be the locality in which the particular community people are residing and not the State in which they reside. This question does not appear to be res integra. The Supreme Court in *D.A.V. College, Vs. State of Punjab and Others*, , in paragraph 9, has observed as follows:

Though there was a faint attempt to canvass the position that religious or linguistic minorities should be minorities in relation to the entire population of the country, in our view, they are to be determined only in relation to the particular legislation which is sought to be impugned, namely, that if it is the State Legislature these minorities have to be determined in relation to the population of the State. On this aspect Das, C.J., in *In Re: The Kerala Education Bill, 1957*. Reference Under Article 143(1) of The Constitution of India, , speaking for the majority thought that there was a fallacy in the suggestion that a minority of section envisaged by Article 30(1) and Article 29(1) could mean only such persons as constitute numerical minority in the particular region where the educational institution was situated or resided under local authority. He however thought it was not necessary to express a final opinion as to whether education being the subject-matter of Item 11 of the State List, subject only to the provisions of Entries 62, 63, 64 and 66 of List I and Entry 25 of List III, the existence of a minority community should in all circumstances and for purposes of all laws of that State be determined on the said basis only when the validity of a law extending to the whole State is in question or whether it should be determined on the basis of a population of a locality when the law under the Act applies only to that locality, because in that case, the Bill before the Court extended to the whole of the State of Kerala and consequently the minority must be determined by reference to the entire population of that State.

In the light of the above clear pronouncement of the Supreme Court judgment, there cannot be any doubt that the basis for determination of minority is with reference to the entire population of the State as the law in question applies to the whole State. In view of that, I do not find any merit in this second appeal and the same is therefore dismissed.