

(1984) 01 KAR CK 0032

In the Karnataka High Court

Case No : W.P. No. 18882/82 & connected cases

Rajashekhar T.R. and Others

APPELLANT

Vs

State.

RESPONDENT

Date of Decision : 27-01-1984

Acts Referred:

Constitution of India, 1950 — Article 29(1)

Citation : (1985) 1 KarLJ 71

Hon'ble Judges : S. R. Rajasekhara Murthy, J;K. Jagannatha Shetty, J

Judgement

Jagannatha Shetty, J.-These petitions, under Article 226 of the Constitution, concern with the validity of the State Government Order dated July 20, 1982 by which Sanskrit has been jettisoned from the school curriculum. The Government while giving primacy to Kannada has included Sanskrit in the list of two other languages to be studied. This patter of study shall come into effect from the academic year 1987-88 and the existing patter of language studies will continue till then. But there is a constraint on students joining VIII Standard from the academic year 1982-83 so far as Sanskrit is concerned. They are prohibited from taking Sanskrit as hitherto available as. First language or composite First language till 1987-88. They can, however, take it as Third language.

Most of the petitioners are students. They are now studying in the VIII Standard. The other petitioners are "Sanskrit Parishaths" which are registered Societies, the object of which, inter alia, is to disseminate and spread of Sanskrit knowledge throughout the State.

2. The events leading to the impugned order are as follows:

Till October 20, 1979 Sanskrit was one of the First languages prescribed in the school curriculum. Sanskrit was also prescribed as composite course with another language. It appears that the "All India Kannada Sahitya Parishat" at its 49th Conference held at Shimoga, pointed out that the Sanskrit Text Books prescribed for High School Classes were not upto the standard when compared with the like Kannada Text Books. The Conference also pointed out that the students taking

Sanskrit as First language used to get more marks and an easy pass. Those appears to be the cause of action for the Government to act and delete Sanskrit from the list of First languages. The Government Order dated October 20, 1979 made in this connection reads as follows: "PROCEEDINGS OF THE GOVERNMENT OF KARNATAKA

Sub: Study of Sanskrit in High School Class-Orders regarding.

ORDER NO. ED 113 SOH 79, BANGALORE, dated 20.10.1979.

ORDER:

In the circumstances, sanction is accorded to remove Sanskrit language from the list of First languages and retain its place as indicated below:

(1) As composite course of two periods for students who take Hindi, Marathi, Tamil, Telugu, as First languages.

(2) As third language course of three periods as an alternative language to Hindi for those, who take Kannada as First Language.

BY ORDER AND IN THE NAME OF THE GOVERNOR OF KARNATAKA"

3. T.N. Saraswathamma and others challenged the validity of the said Government Order in W.P. No. 2191/80. On January 30, 1980 this Court issued Rule Nisi and stayed the operation of that Government Order. Consequently, the Commissioner for Public Instructions by Circular dated April 30, 1980, directed that Sanskrit language would continue in the list of First language prescribed for study until further orders. Later on, the Government took a decision not to give effect to the order dated October 20, 1979 and filed a memo in the said writ-petition, stating thus:

"That a Committee was being constituted by Government to examine inter alia questions involved in the writ petition and make its report to Government and Government would take a decision afresh after receipt of the report and that the Government Order dated 20.10.1979 would not be given effect to and would be kept in abeyance continuing the status quo."

This memo was accepted and the writ petition was dismissed as withdrawn.

3.1 The Government by Order ED 113 SOH 79, dated July 5, 1980, constituted a Committee of 6 persons with Dr. V.K. Gokak as the Chairman. The Committee was directed to consider the following questions and to submit report to the Government within three months:

(1) Should Sanskrit remain as the subject for study in the school Syllabus?

(2) If so, how to retain it without its being an alternative for Kannada?

(3) Would it be proper to have Kannada as a compulsory subject as per. the Three Language Formula and should the option of selecting the remaining two

languages be left to students themselves?

The Committee collected public opinion by conducting interviews at Mysore, Mangalore, Bangalore, Dharwar and Belgaum. On January 27, 1981, the Committee submitted a report which has been termed as "Dr. Gokak Committee Report". The recommendation of the Committee, to put it in a nutshell, is in the following terms:

First language:

(1) That kannada should be the sole First language from the academic year 1981-82 with 150 marks from III Standard. Second language:

(2) Any one of the modern languages such as Tamil, Telugu, Malayalam, Marathi, Gujarathi, Urdu, Hindi, etc.

Or

English

Any one of the ancient languages such as Sanskrit, Arabic, Persian, Latin. Greek.

Third language:

(3) Any language other than prescribed. First language and elective second language should be selected as Third language. This language should be selected from out of the list of the languages shown in the list (2).

(4) The third language shall carry 50 marks. The Third language should also be a compulsory subject for the examination.

(5) All language groups are included in the groups of Second language and Third language. The standard of the language to be studied, be it in modern or ancient, should be equal to that of other languages and language groups in the respective levels.

3.2. On April 30, 1982, the Government, after considering the said report, made an order, the relevant portion of which reads as follows:

"1. At the Secondary School level, the language pattern to be adopted will be as follows:

A. First language:

Kannada or Mother-Tongue (Urdu, Tamil, Telugu, Marathi, English, Hindi) to carry 150 marks:

B. Two other languages from the following:

Kannada, Hindi, English, Sanskrit. Arabic. Persian, Urdu, Tamil. Telugu, Marathi to carry 100 marks each.

NOTE: (1) Students offering a language other than Kannada as First language

will study Kannada as a compulsory language and any one of the remaining languages (from Group 1) both of which will be examination subjects for the S.S.L.C.

(2) Students offering Kannada as First language will take any two of the above languages from B. Group except Kannada.

2. Students coming from outside the State and joining VIII, IX or X Standard and who have not studied any of the languages listed as First language may be allowed to take Additional English or Hindi or First languages.

3. The Teaching of Kannada from III Standard in non-Kannada Schools will commence from the academic year 1982-83 itself and the language pattern for the High Schools prescribed in para-1 above will come into effect from the academic year 1987-88.

4. Students joining VIII Standard from the academic year 1982-83 cannot take Sanskrit as First language or as composite Third language. This system will continue till the language pattern prescribed in para-1 above comes into force from the academic year 1987-88".

3.3 It will seen from this Government Order that Sanskrit was again deleted from the list of the First languages. The First languages prescribed thereunder was either Kannada or Mother-tongue like Urdu, Tamil, Telugu, Marathi, English or Hindi. Sanskrit was, however, included in the list of two other languages to be taken by the students. First language paper carried 150 marks while the two other languages carried 100 marks each. This pattern of studies was required to come into effect from the academic year 1987-88. But Clause (4) of the said Order imposed a constraint on students joining VIII Standard from the academic year 1982-83 not to take Sanskrit as First language or as composite First language. They could take Sanskrit only as a Third language. This bar would operate till 1987-88 when the language pattern prescribed in para-1 of the Government Order would come into effect.

4. The petitioners being aggrieved by the deletion of Sanskrit from the list of First languages challenged the validity of the said Government Order in these writ petitions and obtained stay of its operation. The result was that the pre-pattern of language study has been continued with Sanskrit as First language for the petitioners.

4.1 During the pendency of these writ petitions, there was a rethinking by the Government on the language policy, perhaps due to agitation by and representations from different quarters. The Government, however, did not take a decision by itself. It wanted to have the opinion of the Legislature. Accordingly, it moved on official resolution in both the Houses of the Legislature and the same was passed in the following terms:

"In High schools Kannada shall be the sole First regional language carrying 125 marks. In addition, a student may study any two languages carrying 100 marks

each from the following:

Urdu, Tamil, Marathi, Hindi, English, Sanskrit, Arabic, Persian, Malayalam, Telugu and Kannada.

15 grace marks may be given for a period of ten years to students belonging to linguistic minority communities who study Kannada as First regional language and also those who study Hindi and whose mother-tongue is not Hindi to enable the students whose mother-tongue is not Kannada to learn Kannada as the sole First language in High Schools. Government have taken steps to start teaching of Kannada from III Standard from this academic year i.e., 1982-83. In addition to the above, Government should take steps to start teaching Kannada from I standard itself from this academic year, i.e., 1982-83. A High Power Committee should be constituted for effective implementation of the language Policy".

4.2 Pursuant to the said resolution, the Government made the impugned order dated July 20, 1982 superseding the Order dated April 30, 1982. The relevant portion of the Order dated July 20, 1982 reads: "ORDER NO. ED. 113 SOH 79, BANGALORE

Dated 20th July, 1982.

1) At the Secondary School level, the language pattern to be adopted shall be as follows (from the academic year 1987-88):

A. FIRST LANGUAGE: (Kannada shall be the sole First language (to carry 125 marks)

B. Two other languages from the following:

Urdu, Tamil, Telugu, Marathi, English, Hindi, Sanskrit, Arabic, Persian, Malayalam and Kannada (to carry 100 marks each)

NOTE: 15 grace marks shall be given for a period of ten years (a) in the First language examination, to students whose mother-tongue is not Kannada (b) in Hindi examinations to students who study Hindi and whose mother-tongue is not Hindi. 2. Students coming from outside the State and joining VIII or IX or X Standard in the State of Karnataka and who did not study Kannada earlier may be permitted to take English or Hindi as First language.

3. The teaching of Kannada from I Standard in non-Kannada Schools will commence from the academic year 1982-83 itself and the language pattern for High Schools prescribed in para (1) above will come into force from the academic, year 1987-88.

4. Students joining VIII Standard from the academic year 1982-83, could not be permitted to take Sanskrit as First language or as composite First language. They can, however, take Sanskrit as Third language. This will continue till the language pattern prescribed in Para-1 takes effect from the academic year 1987-88.

NOTE: Para 4 above which corresponds to para-4 of Government Order No. ED

113 SOH 79 dated 30th April, 1982 shall not be given effect to pending disposal of Writ Petition Nos. 18882 to 18885 of 1982 in the High Court of Karnataka wherein operation of the corresponding para-4 of Government order dated 30th April, 1982 has been stayed."

4.3 Even under this new dispensation, the petitioners' claim has not been improved. Sanskrit has been again included in the list of two other languages and Kannada has been made the sole First language. The embargo on Sanskrit as First language or as composite First language till 1987-88 will continue. The students could take Sanskrit only as Third language which, of course, is of no consequence for promotion. The only advantage gained by students whose mother-tongue is not Kannada and who fail in Kannada is to secure grace marks upto a limit of 15.

5. The petitioners by suitably amending the writ petitions have questioned the constitutional validity of the latest Government Order, inter alia, contending as follows:

That Sanskrit is their mother-tongue and they have questioned the constitutional validity of the latest Government Order, inter alia, contending as follows:

That Sanskrit is their mother-tongue and they have got a right to take Sanskrit as First language. The study of Sanskrit is necessary for them to understand and practice their religion since all their religions original texts are in Sanskrit. Article 25 of the Constitution guarantees to them the right to freely profess, practice and propagate religion. There is no justification to deny Sanskrit education as First language or as Composite First language till 1987-88. The Government Order does not disclose any reason why the petitioners should not be allowed to take Sanskrit as First or composite First language. The Order is arbitrary and has no nexus to the object sought to be achieved.

6. The State, while resisting the petitions has, inter alia, asserted that the impugned order was based on Dr. Gokak Committee Report in which it is stated that Sanskrit is not the mother-tongue of any person. The petitioners who assert that their mother-tongue is Sanskrit are put to strict proof of their assertion. Sanskrit has remained a language only of religious literature and ceased to be a living language. It cannot be used as a medium of communication by the common man because of its disuse from centuries ago. Since Sanskrit is not the mother-tongue or the language of any particular section of the community the petitioners cannot assert their fundamental right to preserve the same under Articles 29(1) or 30(1) of the Constitution. Even otherwise, the study of Sanskrit at the School level is not sufficient to have an indepth study of Vedas, Puranas and Upanishada and other well known religious texts.

6.1 The study of Sanskrit is neither removed totally nor prohibited under the Government Order and the petitioners are, therefore, not prejudiced in any manner. The Sanskrit language stands as a class by itself. It cannot stand in comparison with other living and spoken languages. It is entirely for the State to

determine the language to be offered for study, regard being had to the medium of communication used within the State and the necessity for imparting education in consonance with the needs of the people of the region. Apart from that, the discrimination alleged being purely temporary in nature, will not have an impact on the constitutionality of the entire order, as the offending portion is clearly severable.

7. Since the Government Order is said to be based on the report of Dr. Gokak Committee, it will now be necessary to refer to that report. The Committee, while characterising Sanskrit as a dead language, observed: (1) Dr. Gokak Committee report page 2.

"While Sanskrit had attained a Granthic form and retained the features like style, Rhetorics, Grammar, etc., of that form, Prakrit and other regional languages slowly paved their way as the languages of people and literature. Then the "Granthic" Sanskrit which had remained in its static "Margiya" "Granthic" or Classical Pattern, did neither wane away nor grew, but became static. It became the colloquial speech of the scholars language alone can be proved as the living point of that "Dead" language. Besides, we cannot forget that the "living" languages also have "Dead" points in them."

7.1 The Committee, however, has recognised the practical existence of Sanskrit language in the following observations (2) Supra Note (1), page 24.

"It is true that Sanskrit has a practical existence. Some of the members of the Constituent Assembly had in the past argued that Sanskrit should be the link language for the inter-State communication. Now-a-days, the All India Radio broadcasts the news bulletin in Sanskrit also. Some Sanskrit periodicals are also being published. Thus, Sanskrit is being used for the present day requirements. More over, Sanskrit is also being used as a language of scholars for discourses and conversations."

7.2 The Committee also admitted that Kannada has enriched itself by borrowings from Sanskrit Treasure and its study, therefore, should be supplementary to the study of Kannada: (3) Supra Note (1), Page 24.

"Thus, we have to resort to the study of Sanskrit to understand the glory of Kannada literature. Sanskrit study is essential for the students studying ancient and medieval Kannada literature in particular.

The Sanskrit Epics have illuminated the Kannada works over the centuries. The same holds good in respect of Bhagavadgita and Upanishads. Kannada enriched itself by borrowings from that treasure, such as the Alankara Shastras, the Pan-chatantras, etc. Thus, with increasing knowledge of Sanskrit, our understanding of Kannada language and literature becomes crystal clear. In view of this, study of Sanskrit is supplementary to the study of Kannada language and literature."

7.3 The Committee then went on to state: (4) Supra Note (1), Page 22.

"Today, Sanskrit is not the language of common man. How many Kannadigas from among three crores of Kannadigas can know Sanskrit? When 70% of the Kan-nadagias are illiterate, Kannada, the regional language, alone can become the proper medium for sowing seeds of culture. The lieterates and illiterates can understand it. Hence a venture took place to rewrite the Epics of Ramayana and Mahabharatha throughout the History of Kannada literature. Jainism took its poetic form in Kannada. Vachanas became Kannada Upanishads. A time came for Kannadagias to question what is there in Sanskrit? Kannada is not only the language of today but has been the First language for past thousand years."

7.4 With these observations, the Committee has unanimously adopted the following recommendations: (5) Supra Note (1), Pages 25 & 26.

"(1) Kannada should be made the sole First language from the academic year 1981-82 itself and the study thereof shall be made compulsory. It should carry 150 marks. (An adhoc arrangement is necessary in this regard, which is explained in a separate note)

(2) Any one of the modern languages such as Tamil, Telugu, Malayalam, Marathi, Gujarathi, Urdu, Hindi, etc.

English or

or

Any one of the ancient languages such as Sanskrit, Arabic, Persian, Greek, (to carry 100 marks)

(3) Any language other than prescribed, First language and elective Second language should be selected as Third language. This language should be selected from out of the list of languages shown in the list (2) Supra Note (1), page 24.

(4) The Third language shall carry 50 marks. The Third language should also be compulsory subject for the examination.

(5) All language groups are included in the groups of Second language and third language. The standard of the language to be studied, be it modern or ancient, should be equal to that of other languages and language groups in the respective levels".

It will be seen from the report that Dr. Gokak Committee, after examining the utility of Sanskrit language in the modern world, has recommended its inclusion along with other ancient languages such as Arabic, Persian and Greek for selecting one of the Second language with 100 marks or as a Third language with 50 marks. This recommendation appears to be the necessary consequence of the conclusion of the committee that Kannada should be the sole First language.

8. The counsel for the petitioners have seriously criticised the opinion expressed and the recommendation made by Dr. Gokak Committee. They contended that Sanskrit is not a dead language and it continues to be the mother-tongue of

some of the petitioners besides being the mother of all languages.

9. These contention cannot properly be appreciated without reference to the historical facts about Sanskrit. We may here briefly refer to them.

The historical period of Sanskrit language began probably, round about the period 1200-1000 B.C. with the composition and compilation of Rigveda. The Report of the Official language Commission (6) Report of the Official Language Commission (1956) Page 20 (Govt. of India Publications) (1956) traces that history as follows:

"The language used in the Vedic hymns, there may have been dialectal variations amongst forms of speech then current, and these are called by scholars the Vedic Prakrits. While these were being cultivated, the Vedic language passed on from generation to generation through an oral tradition, largely in the custody of the priestly classes, substantially without change. Some time CIRCA THE 6th & 7th Century B.C., from this base was evolved the standardised language which has since been known as Sanskrit. A great deal of grammatical analysis and research was made by generations of scholars previous to panini, but the forms of Sanskrit grammar and syntax, as fixed by him have ever since been known as the standard classical Sanskrit. Sanskrit for many centuries thereafter was the one language par excellence of culture amongst the literati in all parts of India".

(7) A HISTORY OF THE SAMSKRITA LITERATURE, Pages 1 and 2 (1960 Edition).

9.1 D.R. VARADACHARI says:"Two main stages are found to mark the growth of this language. They are: 1. Vedic period and 2. classical period. During the first period, the language was simple, natural and forcible. The Vedas and the texts allied to them represent the literature during this period.....

During the Vedic period, this language was used for both religious and conversational purposes. The priests, who made a correct use of it while performing the sacred rites, committed mistakes while using it for conversation. Attempts were made by many grammarians at various stages to frame the rules with a view to prevent this abuse of the language. It was not till the 7th Century B.C. that this purpose was achieved by Panini who wrote his Astadhyayi laying down definite rules for this language. He was followed in this attempt by Katyayana also known as Vararuci who wrote in the 5th Century B.C., his Vartika on the Astadhyayi and by Patanjali who wrote in the 2nd Century B.C., his Mahabhasya on the Astadhyayi. The rules and interpretations thereon by Katyayana and Patanjali perfected the language giving it the name of Samskrita. During the classical period, the Samskrita language had a rich development. Topics of interest of religious and secular nature were discussed employing this language. Poetry, arts and dialectics found in this language an agreeable mode of expression. In fact, there is no subject of study which did not receive treatment through this language".

9.2 The National Council of Educational Research and Training, New Delhi (8) The

Position of Languages in School Curriculum in India (1976) Page 26, puts across this historical retrospect:

".... Right from the beginning of Indian history to about 10th Century A.D., or so (with the exception of Tamil, the literary tradition of which goes back to 2nd Century B.C.). It was only Sanskrit, which was the lingua-franca and the official language of administration, etc., in India.

9.3 The Sanskrit language and its literary tradition did not confine to the limits of the sub-continent. It became a vehicle of transmission of the ancient Indian culture into many other countries. Sanskrit inscriptions are to be found, and clear traces of Hindu cultural influence and literary tradition are noticed to this day, in Burma, Indo-China, Malaya and Indonesia on one side, and in countries of Central Asia on the other. Apart from this, the great waves of religious movement in the early centuries of the Buddhistic period carried the message of India to large parts of Asia, like the countries of Ceylon, Tibet, Korea, China, Japan, Chinese Turkestan, etc.,

9.4 The original Indo-Aryan Prakrits subsequently developed into Apabhramshas or the spoken languages of the masses which, in their turn, evolved into modern Indian languages. The Sauraseni, Maharastri, Magadhi, Vrachada and Kekaya were the main Apabhramshas from which the modern Indo-Aryan languages are believed to have originated. Thus from the Sauraseni have sprung Western Hindi, Rajasthani, Punjabi and Gujarathi; from the Maharashtra, Marathi, from Vrachada, Sindhi; while Bengali, Assamese and Oriya have originated from the Magadhi Apabhramsha. (9) Supra Note (6), Pages 20 & 21.

9.5 It is about 10th Century A.D. that almost all the modern Indian literary languages were cultivated and used for literary purposes. The Muslims who came to India just about that time, brought with them two classical languages, namely, Arabic and Persian, which were used in Islamic education and administration in Muslim States. (10) Supra Note (8), page 27.

9.6 With the ascendancy of Muslim power, a foreign language became, for the first time, the language of court-life and wide administrative use in revenue, legal and other departments. However, this dominance of Persian, though it had its repercussions on Sanskrit, could not dislodge the latter from its established position. It was only when the British brought in a complex administrative machinery and set in motion a new policy of education that the scales turned completely, leading to the rapid decay of Sanskrit learning. (11) Report of the Sanskrit Commission (1956-57) (Government of India) Page 11.

9.7 It is against this background, we have to understand the observation made by Dr. Gokak Committee that Sanskrit is a "dead" language. One need not be unduly perturbed about this observation. It appears to be a reflection of what has been recorded in the Encyclopaedia Britannica. (12) Encyclopaedia Britannica, Vol.10, Page 659. It reads:

"In studying ancient (dead) languages one is of course, limited to studying the grammar of their written forms and styles, as their written records alone survive. Such is the case with Latin, Ancient Greek, and Sanskrit (Latin lives as a spoken language in very restricted situation, such as Roman Catholic services and as the Official language of some closed religious communities, but this is not the same sort of Latin as that studied in classical Latin literature; Sanskrit survives also as a spoken language in similarly restricted situations in a few places of India). Scholars may be able to reconstruct something of the pronunciation of a dead language from historical inference and from descriptions of its pronunciations by authors writing when the language was still spoken. They know a good deal about the pronunciation of Greek and Latin Sanskrit, because ancient Indian Scholars left a collection of extremely detailed and systematic literature on its pronunciation. But this does not alter the fact that when one teaches and learns dead languages today, largely for their literary value and because of the place of the communities formerly speaking them in our own cultural history."

9.8 It is customary to compare Sanskrit with Latin and Greek. All the three are ancient languages which have not kept pace with modern world. They are, therefore, not modern language like other languages which are used in daily life. It is, perhaps, in this sense that they are considered as "dead" languages. None the less, all the advanced Nations of Western Europe accepted Latin and through Latin, Greek as cultural languages of high import. Greek and Latin are the rallying points for a common European civilization. Latin is still used in the Church services in many countries and it is also included in some of the school curriculum. It is used in a diverse fields and has not disappeared from the daily life of the people.

9.9 So too the position of Sanskrit in "Sanskrit India" and, indeed, it is on a wider canvas. It is not considered as "dead" in the sense that it has disappeared. Nor in the sense that it cannot exert organic influence on the people. It is in a sense very much alive because it is in the atmosphere of Hindu life and culture. It is the vibrant living language in their daily rituals and worship. It is very much alive in their celebrations, festivals and ceremonies. It is frequently used in their social and religious functions. It is often used for discourses by the LITERATI and priestly class.

9.10 Some of the most valuable and most instructive materials in the history of man are treasured up in the literature in Sanskrit. Vedas, Upanishads, Puranas, and Itihasas which form the bedrock of Indian civilization and culture are all in Sanskrit. They also contain mental and spiritual riches of unique value. The two epics of Vyasa and Valmiki have ruled over the hearts of the people, learned and lay alike, in a manner which has no parallel in the history of any civilization. Their characters have moulded the thoughts and ideas of the people in general and most of the names of men and women are taken from these epics. Kalidasa was a national poet and dramatist, and Sankara was a Philosopher of all India.

Some of the modern architecture and sculpture are derived from the Sanskrit SILPA SASTRA and almost all traditional music and dance hark back to the common source in Sanskrit, Bharata's NATYA SASTRA. (13) Sanskrit Essay on the Value of the Language and the Literature by Dr. V. Raghavan, at page 42. Sanskrit, therefore, has not lost cultural relevance and educational value. It has, on the other hand, given a common intellectual legacy to the nation.

10. Let it not be said that Indians are interested persons and so praising Sanskrit. The importance and usefulness of this language was always stressed by critics of linguistic science even in countries abroad. Prof. Max Muller, the best known German Indologist regarded India as a paradise on earth for culture and literature and he said: (14) Excerpts from Max Muller: What can India Teach Us: quoted by Dr. Varadachari in his book "A history of the Samskrta Literature, Pages 254 & 255.

"..... Take any of the burning questions of the day-popular education, higher education, parliamentary representation, codification of laws, finance, emigration, poor law, and whether you have anything to teach and to try observe and to learn India will supply you with a laboratory such as exists nowhere else. That every Samskrta the study of which may at first seem so tedious to you and so useless, if only you will carry it on will open before you large layers of literature, as yet almost unknown and unexplored, and allow you an insight into strata of thought deeper than any you have known before and rich in lessons that appeal to the deepest sympathies of the human heart. Whatever sphere of the human mind you may select for your special study, whether it be language, or religion or mythology, or philosophy, whether it be laws or customs, primitive art or primitive science, everywhere, you have to go to India, whether you like it or not, because some of the most valuable and most instructive materials in the history of man are treasured up in India and in India only."

Prof. Alaka Hejib-A. Gera, McGill University, Montreal, Canada, stresses the importance of Sanskrit in the most impressive words: (15) The paper presented to the seminar at Thane on "Sanskrit Studies outside India" held on September 4, 1983.

"..... Sanskrit is symbol of India's culture of all the times. It is not just a language, and even absurdly, a dead one at all. Conception of death is in the minds of the dead and the deadly. Those who are enlivened with the spiritual force of life can never visualize death of anything. Sanskrit should be rightly taught only to those who never entertain thoughts of death but ever cherish the truth of immortality of everything that is sat (existing), cit (lively) and ananda (blissful)."

10.1 Foreign countries attach great importance to the teaching of Sanskrit because of its finest grammar and incomparable literature. The School curriculum of the St. James Independent School for Girls at London (16) School Curriculum: St. James Independent School for Girls, 91 Queen's Gate, London, highlights this

aspect in the following words: "LANGUAGE

Throughout the Unfolding stages of the girl's education, great importance is attached to the teaching of language. Command of language is a key factor in every aspect of life including the power to lead and undertake responsible positions in the world. The study of language is a key factor in every aspect of life including the power to lead and undertake responsible positions in the world. The study of language is based on Sanskrit, which is acknowledged to have the finest grammatical system, besides possessing an incomparable literature. Most European and Asiatic languages are closely linked to Sanskrit, which provides the student with a key to them all.

Greek is taught as a second language because it leads naturally from Sanskrit into Western culture."

10.2 On September 4, 1983, there was a Seminar at THANE on "Sanskrit Studies Outside India". There were many contributions to that. Conference from persons far and near. From the papers presented by the participants it will be seen that Sanskrit is being studied in most of the Universities in West Germany. It is offered for higher studies in Italy, Belgium, Latin American countries, Denmark, Austria, Rumania, Poland, etc. HUANG XINCHUAN in his contribution on "A Survey of Sanskrit Studies in China" says: "The teaching of Sanskrit and Pali in China can be traced back to the remote past. We had edited a number of Sanskrit texts for the students in the different periods. From the beginning of twentieth Century to date, Sanskrit has been systematically taught in universities and institutes."

In JAPAN: There are two different lines of Sanskrit learnings. Dr. Sengaku Mayeda, Professor of Indian Philosophy, University of Tokyo, says:

"At present Sanskrit studies and Indology are seriously pursued at the Universities of Tokyo and the University of Kyoto, both of which are governmental institutes. At least five more governmental Universities i.e., Tohoku, Hokkaido, Nagoya, Hiroshima and Kyushu have chairs of Indology or Indian philosophy and offer courses of Sanskrit and Indology. Besides, private Buddhist Universities such as Komazawa, Rissho, Taisho, Toyo, Aichigakuin, Otani, and Ryukoku teach Sanskrit and are concerned with Indology in addition to Buddhist studies."

In BELGIUM, the study of Sanskrit was started at the University of Leuven (Louvain) in 1841 and at present Sanskrit is taught at the Universities of Ghent and Leuven (Louvain). (18) Paper presented to the said Seminar by Dr. W.M. CALLEWAERT on SANSKRIT Studies in Belgium.

In CANADA: The University of TORONTO and the University of BRITISH COLUMBIA offer instructions in Sanskrit from the elementary to the Ph.D level. (19) The Contributions by Dr. A.N. AKLUJKAR of University of Columbia.

10.3 Coming nearer home, in the past, royal houses wherever they were, contributed very much for the development of Sanskrit. They took pride and

pleasure in that regard. The old Mysore was more fortunate in that respect. The royal house of Mysore all along extended enlightened and generous patronage to Sanskrit. There are then 88 pathshalas and five colleges in the State. These include forty-four institutions for the study of pure veda, two Government Sanskrit colleges. One at Mysore and the other at Bangalore, and three private college at Siddhaganga, Melkote and Udupi. The examinations are in five grades, prathama, Kavya, Sahitya, Vidvat-Madhyama and Vidvat-Uttama and together extend over 13 years. There are separate examinations for Veda and Agama. As in the other south Indian courses, not only are all the Sastras including Ayurveda and Jyotisa provided for in Karnataka examinations, but there are also all branches of Veda and Sruta, Dharma, Virasaiva Darsana, Jaina Siddhanta and History of Literature and comparative Philosophy. (20) Report of the Sanskrit commission (1956-57) Government of India; pages 39 & 40.

10.4 As on today, there are 232 Sanskrit pathshalas run by the private institutions under the Grant-in-aid Scheme. There are 3 Government Sanskrit colleges and five private colleges run by private institutions. Sanskrit is also offered for study as one of the Second languages in many public schools.

11. Recently the Sanskrit Wing of the Hindu Seva Pratisthana, which has its headquarters in Bangalore, has been making some efforts to popularise Sanskrit language. It is reported to have trained more than 200 teachers who could give a working knowledge of Sanskrit in 10 days through a 400-word vocabulary. It appears, a crash course was also held at Delhi by the pratisthana for 30 Members of parliament at the instance of the Speaker of Lok Sabha Mr. Balaram Jakkar. (21) SUNDAY TRIBUNE Editorial, April 17, 1983,

The Said pratisthana appears to have popularised Sanskrit in the Mattur village in Shimoga District where nearly 100 Kannada speaking families were alleged to have adopted Sanskrit as their family language. (22) TIMES OF INDIA EDITORIAL, MAY 26, 1983.

12. But these are only bits-and-pieces. Sanskrit has remained a "Static" language and "Margiya" Sanskrit has not been growing from generation to generation. That is because at no time there was any organised programme to take Sanskrit to masses.

The Pandits and priestly class who were well versed in the Scriptures, preserved it close to their chest. They did not make any attempt to impart it to others. The Maths who were in dominant positions did not employ Pracharaks (Preachers). They rarely published religious literature in easily intelligible form the teachings of Vedas and Upanishads.

There was also no positive programme at any time to propagate truths of Hindu religion. That, of course, is understandable because in the first place "the preaching religion" is a phrase which was and is out of place in the context of Hinduism. From the days of Upanishadic sages to the present itinerant Swamis, Hindu emphasis has been not on preaching but teaching-the explication of

obstruse religious doctrine. The purpose of such teaching was to bring the small group of disciples through a course of self-discipline towards the goal of mystic union with the Absolute. (23) *India as a Secular State* by D.E. Smith (Princeton University press, New Jersey) (1963) page 164.

In the second place, Hindu religion has had remarkable tolerance towards all heterodox opinions.

Justice J.M. Shelat, the former Judge of the Supreme court in his Lala Lajpatrai Memorial lectures while referring to the dictum of S. Radhakrishnan (*The Hindu view of Life*, 1929, (1927), explains the reasons for such liberal attitude of Hinduism in the following Manner: (24) *Secularism: Principles and Application* by J.M. Shelat, pages 69 & 70.

"The reason for such liberal latitude was the fact that Hinduism was never a militant religion, never given to proselytism. It is, in essence, a way of life, evolved from diverse experiences of the great, each trying to reach the realization of the ultimate Reality. None of these could be tabooed, for doing so would be shutting out one possible way towards such realization. It has neither a book, nor a dogma, it being only an ethnic religion. It has no canonical scriptures, no common prayer book, nor a Mecca, or a Rome or a Canterbury or a Jerusalem, where the clerical order could centre its strength. It is a mode of living of one particular people rather than an international missionary religion, spread amongst peoples of different races, cultures, and climes...."

Dharma is the most vital and basic concept of Hindu philosophy and Hindu law. It was historically with the Vedic Concept of Rita, (Eternal order, discipline of eternal law) the universal order of the nature of things. It is the repository of all laws universally applicable. It is a mode or life or code of conduct regulating man's work and activities as a member of the society. Its promotion was the principal aim, the *raison d'être* of the state. The King was as much subject to Dharma as his subjects (25) *Ibid* Note (24) page 67.

Justice V.R. Krishna Iyer explains the Concept of Dharma in the following terms: (26) *Law and Justice From the perspective of Consciousness*, pages 7 & 8.

"Dharma means, essentially, the fulfilment of the true nature of a thing. Thus the Dharma of a man is to be human, of being true to the dignity and worth of the human person, of showing reverence for life, love, compassion and equal regard for fellow beings. In societal terms, Dharma, through its root meaning, tells us that it is a system of norms which holds society consensually together, sustains it so that it may develop its full resources. It is developmental and distributive justice which commands the willing assent of thinking people of the community...."

Thus by usage, the term "Dharma" is used in many senses like common duty, virtue, religion, justice and law. In short, it contains norms for an individual to develop himself gradually and to reach the realization of the ultimate reality.

Leaving this pursuit, at this stage, we can only say that Sanskrit with so much of mental and spiritual riches of unique value, unfortunately without teaching and little preaching has failed to become the means of communication. Consequently, the "Margiya" Sanskrit could not grow from generation to generation, while it remained with its past glory, the regional languages marched over and established a firm grip over the masses. Dr. Gokak Committee has neatly summarised the inherent limitations of Sanskrit in these words: (27) Supra Note (1), page 22.

"But it cannot be said that a "Static" language has the creative ability as ancient languages. It cannot become the mother tongue. No mother will teach her child that language. The "Static" "Margiya" Sanskrit, which we know, is not growing from generation to generation and no changes have taken place unknowingly in its grammar or structure of its sentences and as Sanskrit of Chaturveda Samhita became Upanishad Sanskrit and Upanishad Sanskrit became Epic-Sanskrit, the development of "Static" Sanskrit has not attained completion. Though we find such imitations hither and thither, due to impact of English, development found is only in a artificial language form. The "Margiya" Sanskrit is not that language which can develop naturally while boys play marbles, people quarrel in the lanes, husband and wife abuse each other, baby speaking alone in a corner, the cowherd gathering his cows by calling the cows in rhetoric names and in many other ways. Having experienced mother-hood in past, Sanskrit became the mother of prakrit and North Indian religion languages and foster-mother of Dravivadian languages. The "Margiya" form of Sanskrit can regain such mother-hood by the stamina it attained in the past. For this, however, only a strange circumstance has to come into existence"

Dr. Gokak committee consisting of some eminent Sanskrit professors has also recorded a finding that Sanskrit being a "Static" language has no creative ability as ancient languages. It cannot become the mother tongue and no mother will teach her child that language.

13. Prima Facie we have to accept this finding and it is for the petitioners to prove the contrary. But there was no attempt by the petitioners in this regard. No material has been produced to indicate that Sanskrit is their-mother-tongue. Not merely that, the petitioners have not been able to show that they belong to ""a section of the citizens" having Sanskrit as a distinct language. Article 29(1) provides:

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

The term "any section" referred to under this Article is no doubt broad enough to encompasses certain cultural and linguistic groups, but such a section of citizens must have its own language, script or culture. It is only such a section of citizens gets the right under Article 29(1) to conserve the language script or culture.

Since the petitioners have not been able to prove that they belong to a section of the citizens having Sanskrit as their distinct language, Article 29(1) of the constitution does not come to their rescue

14. Mr. Sundaraswami, learned counsel for some of the petitioners made an attempt to add a new dimension to the claim of the Sanskrit loving persons by bringing their case within the protective fold of religious practices as well. This is how, he has put it in writ petitions Nos. 18883 to 18885 of 1982:

".....All Hindu Religious works including the Vedas, Upanishads, Brahmasutras, Geetha, Prakarana Granthas by Acharyas and the principal puranas are all in Sanskrit. For a Hindu to understand the tenets of his religion to practice it and to propagate it properly a study of the original Texts is necessary and for that purpose knowledge of Sanskrit is indispensable; f) An important body of Religious works of Hindu Religion consists of Hymns and verses in praise of God as also deliniation of the manner of performance of various religions. All these are in Sanskrit language. Even those who may ordinarily converse in Kannada or any other language, so far as Hindus are concerned they sing the prayers and perform their religious activities and rites in Sanskrit. Recitation of Sanskrit Slokas and mantras in the course of performance of various rituals is a necessary part of the practice of their religion in the case of a large section of the Hindus including the 1st petitioner and the members of the 3rd petitioner. By denying the right to petitioners due opportunity to learn a language which is so much bound up with their religion and culture and so necessary for its practice, the state is denying to petitioner the rights guaranteed under Article 25 and 29 of the Constitution."

This is really an interesting question. All original texts of Hindu religions are found in Sanskrit. Almost all the religious works and practices which may be termed as "acts of religion" are also found recorded in Sanskrit. No Hindu ritual is complete without recitation of Sanskrit slokas and mantras. Sanskrit can, therefore, be said to be closely connected or inter-related with the Hindu religion. But this is not peculiar to Hinduism alone. It is common in other countries and in other religions as well. Professor D.E. Smith traces the mutual relationship of language and religion thus; (28) Supra Note (23), pages 397 & 398.

"Religion and language are two areas of culture which are inter-related at many points as one writer expressed it: "If we were to single out the one sociological factor that has the deepest influence on the history of language and has in turn been most deeply influenced by language, religion would probably be that factor (Mario Pei, The story of Language, J.B. Lippincott company, Philadephia, 1949, P. 196). Most languages in chance have as their which written document a religious text. One of the most dramatic illustrations of the intimate relationship between language and religion is found in the history of Hebrew. Hebrew was replaced by Armaic as the spoken language of Palestine before the time of Nehemiah, and for twenty-three centuries was a dead language. "For all this length of time, until within living memory". Toynbee noted, "Hebrew survived only as the language of

the liturgy of the Jewish church and of the Scholarship that concerned itself with the Jewish law. (Arnold J. Toynbee, A study of History, oxford University press, New York, abridged., 1947, P.511). Hebrew has now been brought of the synagogue to become the vibrant living language of the new state of Israel".

Hebrew which was a dead language for twenty-three centuries was brought out of the synagogue and made the vibrant living language. It was possible for the jews who founded a new state with Hebrew as their national language. It shows that with the state patronage even a dead language could be made the living language. But the Sanskrit has had no such opportunity. It has lost the State's patronage when Article 343(1) of the Constitution of India directed that "the official language of the Union shall be Hindi in Devanagari Script".

15. The question, however, to be examined is whether the denial of an opportunity for the petitioners who are students to study Sanskrit as First language or Second language in Public schools would be violative of Article 25 of the Constitution. Article 25 so far as it is relevant provides:

"25(1) Subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion".

Article 25 guarantees four aspects of religious liberty. (1) the freedom of conscience, (2), the right freely to profess, (3), the right to practice, and (4), the right to propogate one's own religion or belief. The freedom so guaranteed is, however, subject, firstly, to the requirements of public order, morality and health; secondly, to the other provisions of part III, and thirdly, to the reservation of the State's power to regulate non-religious activities which may be associated with religious practice.

To make the picture complete on the religious freedom guaranteed to the citizens, we may also read Article 26. "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".

16. With these two Articles embodied in the Constitution, India has emerged as a secular state in the mid-twentieth century. It is a remarkable political, social and religious achievement particularly in contrast with the policies of neighbouring countries. A quite different pattern has emerged in the new independent countries which were closely linked to India during the period of British rule. Pakistan which was created by the partition of India in 1947, later proclaimed itself an Islamic Republic which required the head of state should be Muslim and

forbade the enactment of laws "repugnant to the Holy Koran". Burma, which was a province of British India until 1937, after independence embarked on a course of extensive promotion of Buddhism through legislation and state patronage. In 1961, the constitution of Burma was amended to make Buddhism the State religion. Recently, Bangladesh has joined this rank by proclaiming as an Islamic state. India, on the other hand, has rejected an ethnic religion, Hinduism, as the basis for its national development and deeply committed to the principle of a secular state.

17. Secularism too, like democracy, has come to mean different things to different people, political leaders no less than scholars have used it in the wide variety of meanings. Some emphasised on the Universality of spiritual values. While others equated secularism with atheism. Indian constitution, on the other hand, has attempted to present the pre-elements of Indian culture and largely helped the State to keep itself away from the religious faith and beliefs of the people. The state is not constitutionally connected with any particular religion nor does it seek either to promote or interfere with religion. The state, however, guarantees to individuals freedom of religion and deals with an individual as a citizen irrespective of his religion.

18. To ensure secular character of the State and neutrality towards all religions, educational institutions, wholly maintained by the State funds, are prohibited from imparting religious instruction of any kind. This constraint, however, does not apply to educational institutions established by minorities or those who receive grants-in-aid. This shows that the state in India is not anti-religious or indifferent towards any religion.

Article 30(2) provides that the State shall not, in granting aid to educational institutions, discriminate on the ground that it is under the management of a minority based on religion or language.

The religious and linguistic minorities are also given the protection to preserve their language, script or culture under Article 29(1). To make such protection purposeful, Article 29(2) directs that no citizen shall be denied admission in any educational institutions maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them. Educational institutions established by minorities could also impart secular education for their children to attain intellectual attainments as would fit them as useful citizens of this country. The State could only prescribe reasonable regulations to ensure efficiency and proper standards and to prevent maladministration.

Article 15(1) provides that the state shall not discriminate any citizen on grounds only of religion, race, caste etc.,

Article 16(2) provides that no citizen shall on grounds only of religion, race, caste, etc., be ineligible for, or discriminate against in respect of, any employment or office under the state.

This being the constitutional arrangement, the petitioners cannot passionately plead for facilities to study Sanskrit in the public schools for the purpose of practising their religion. The petitioners have no such right recognised under the constitutional law of this country. Nor the state has any obligation to provide facilities for the petitioners to study their religion. The State comes nowhere near anybody's religion either to promote or to interfere, the State only guarantees religious freedom to every person. That means, if the petitioners want to enrich their knowledge in Sanskrit to facilitate the study of Vedas and puranas, the State has no right to prevent them. The petitioners could very well join pathshalas or Sanskrit Colleges where education is imparted only in Sanskrit. As rightly contended by the learned Advocate General, the State does not and indeed cannot prevent the petitioners from joining such institutions. It is, therefore, futile to contend that the state has denied the petitioners the rights guaranteed under Article 25 or 26 of the Constitution.

19. Mr. Seshagiri Rao urged that the impugned order has no legal effect, since it is solely based on the legislative resolution which has no constitutional sanction. Learned counsel, in order to prove his point, has referred to us several provisions of the constitution such as Articles 61, 67, 90(c), 94(c), 123(2), 169(1), 179(c), 183(c), 213(2) and 249(1) etc. These articles provide power to the Legislature to pass specified resolutions which will have the force of law. There is no such specific provisions in the constitution empowering the Legislature to pass a resolution of the kind with which we are concerned. In that sense, the learned counsel may be justified in urging that the resolution of the Legislature, which formed the foundation of the impugned order has no constitutional sanction. But we are not concerned in these cases with the validity of the said resolution as such. That resolution has been merged with the executive order, the constitutional validity of which alone falls for our consideration. It is, therefore, immaterial whether the resolution passed by the Legislature has the force of law or not.

20. This takes us to the question whether the Government order is violative of Article 14 of the Constitution. This is the contention urged by all the counsel for the petitioners. In order to appreciate this contention, we have to again hark back to the Government order. The Government order provides that Kannada should be the First language for study from the academic year 1987-88 at the secondary schools, but students joining VIII standard from the academic year 1982-83 should not be permitted to take Sanskrit as First language or as composite First language. But there is no such constraint on other languages, mother tongue or ancient, and the existing pattern of study would continue till 1987-88.

The Government order, however, provides that students may take Sanskrit as Third language in the VIII standard onwards till 1987-88. But this third language though carries the maximum of 50 marks will not be relevant for promotion to higher class. Even if a student fails in the Third language, he will not be detained

if he has passed in the other subjects.

According to the learned counsel for the petitioners, the elimination of Sanskrit from the school curriculum at the secondary school level till 1987-88 as First language or composite first language is arbitrary, discriminatory and violative of Article 14 of the Constitution.

20.1. Article 14 of the Constitution provides:

"The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India".

The phrase "equality before the law" occurring in the first part of the Article 14 is an expression of English Common Law and taken from the Irish constitution, while the other expression "equal protection of the laws" owes its origin to the American Constitution and is based on the last clause of the first section of the Fourteenth Amendment of the American Constitution.

20.2 The concept of Article 14 is consistent with Universal Declaration of Human Rights and also in conformity with the Covenant on Human Rights.

Article 7 of the Universal Declaration of Human Rights provides:

"All are equal before the law and are entitled to, without discrimination, equal protection of the law".

Article 20(1) of the Covenant on Human Rights, 1950 runs thus:

"All are equal before the law and shall be accorded equal protection of the law".

The two expressions "equality before the law" and "equal protection of the laws" may mean, different things and may carry different meanings depending upon the context in which they are used. The former may mean the absence of any special privilege in favour of any individual and the latter may be a more positive concept implying equality of treatment. But the entire concept with which the expressions are used in Article 14 is fundamentally the same that is, "like should be treated alike". This is the highest concept of equality. This principle appears to have proceeded on the premise that men generally are unequal in many respects, but those who are similarly situated should not be treated differently. Those who are similarly situated should be similarly treated. This principle of law out of necessity has evolved a theory of permissible classification under Article 14 of the Constitution.

20.3 The true meaning, scope and effect of Article 14, have been the subject matter of discussion and reiteration in several decisions of the Supreme court beginning with the case of CHIRANJITLAL v. UNION OF INDIA. (29) AIR 1951 SC 41. It is now well settled that Article 14 forbids class legislation, but not a reasonable classification for the purpose of legislation. In order to pass the test of reasonable classification, two conditions must be fulfilled, namely, (1) that the classification must be founded on an intelligible differentia which distinguishes

those that are grouped together from others; and (2) that the differentia must have a rational relation to the object sought to be achieved by the enactment.

20.4. In *MOHD. HANIF QUARESHI v. STATE OF BIHAR*, (30) AIR 1958 SC 956, the Supreme court has laid down:

"It is now well established that while art. 14 forbids class legislation it does not forbid reasonable classification for the purposes of legislation and that in order to pass the test of permissible classification persons or things that are grouped together from others left out of the group and (ii) such differentia must have a rational relation to the object sought to be achieved by the statute in question. The classification, it has been held, may be founded on different bases, namely, geographical, or according to objects or the occupations or the like and what is necessary is that there must be a nexus between the basis of classification and the object of the Act, under consideration..."

These propositions have been reiterated in the later decisions of the Supreme court including the constitutional Bench of seven Judges in the case of *Re. KERALA EDUCATION BILL*, (31) AIR 1958 SC 956 1957.

20.5 A still larger Bench of the Supreme court in *R.C. Cooper v. UNION OF INDIA*, (32) AIR 1970 SC 564 at page 602, para-78, observed:

"By Article 14 of the Constitution the State is enjoined not to deny any person equality before the laws within the territory of India. The Article forbids class legislation, but not reasonable classification, in making laws. The test of permissible classification under the Act must be founded on an intelligible differentia distinguishing persons, transactions or things grouped together from others left out of the groups; and (ii) the differential has a rational relation to the object sought to be achieved by the Act".

20.6 The law has been again summarized by the present learned Chief Justice in *Re. SPECIAL COURTS BILL*, (33), 1978 case as follows:

"(i) The constitutional command to the State to afford equal protection of its laws sets a goal not attainable by the invention and application of a precise formula. Therefore, classification need not be constituted by an exact or scientific exclusion or inclusion of persons or things. The courts should not insist on delusive exactness or apply doctrinaire tests for determining the validity of classification in any given case. Classification is justified" if it is not palably arbitrary.

(ii) The principle underlying the guarantee of Article 14 is not that the same rules of law should be applicable to all persons within the Indian territory or that the same remedies should be available to them irrespective of differences of circumstances. It only means that all persons similarly circumstances shall be treated alike both in privileges conferred and liabilities imposed. Equal laws would have to be applied to all in the same situation, and there should be no discrimination between one person and another if as regards the subject matter

of the legislation their position is substantially the same.

(iii) The law can make and set apart the classes according to the needs and exigencies of the society and as suggested by experience. It can recognise even degree of evil, but the classification should never be arbitrary, artificial or evasive". (para-73)

21. In the light of these principles, let us now examine the Government order dated July 20, 1982. Clause. 1(A) of the order provides that Kannada should be the sole First language to carry 125 marks at the secondary school level. Clause 1(B) sets out a list of languages in which Sanskrit finds itself included out of which the students are required to study two other languages carrying 100 marks each. The list contains the following languages: Urdu, Tamil, Telugu, Marathi, English, Hindi, Sanskrit, Arabic, Persian,

Malayalam and Kannada.

This pattern of study comes into force only from the academic year 1987-88. That means till 1987-88, there is no disturbance in the existing syllabus prescribed for the secondary school level. The curriculum prescribed by the Government upto April 30, 1982 and continued till to-day for Higher" secondary classes (VIII, IX, and X standards) is as follows:

(A) Students are required to take First language from only one of the following: Kannada, Telugu , Tamil, Hindi, Urdu, Marathi, English, and Sanskrit or

Composite course of one of the following languages consisting of three periods: Hindi, Urdu, Tamil, Telugu, and Marathi.

AND (II) those who have not taken English as First language shall study English as Second language.

Two periods in one of the following languages: Sanskrit, Arabic, Persian and Hindi.

The First language consisted of two papers. Paper I and paper II to carry 100 and 50 marks respectively.

(B) Students are also required to study Second language; the condition being;

(i) those who have taken English as First language shall study either Kannada, Hindi, Urdu, Tamil, Telugu or marathi;

AND (c) students are also required to study Third language;

(i) Those who have taken Kannada as first language shall study Sanskrit or Hindi as Third language;

(ii) Those who have taken Kannada as second language shall study Hindi as third language;

(iii) Those who have taken Kannada either as First language or Second language, shall study Kannada as third language;

(iv) The third language consisted or only one paper carrying 50 Marks and to be studied compulsory but it would not be relevant for promotion. It is left to the student to appear or not to appear for the examination in that paper.

22. If the impugned order had allowed the above language pattern to continue till 1987-88, the petitioners, most of whom are in VIII standard, could not possibly have any serious grievance. But the order did not stop at that. It has made Sanskrit as an untouchable for the petitioners. Clause (4) of the order reads:

"Students joining VIII standard from the academic year 1982-83 could not be permitted to take Sanskrit as First language or as composite First language. They can, however, take Sanskrit as third language and this will continue till the language pattern prescribed in para-1 above takes effect from the academic year 1987-88."

Learned Advocate General sought to justify that restraint on the students by no other basis except stating that Sanskrit is a class by itself and cannot be compared with other languages. On the other hand, the learned counsel for the petitioners urged that that constraint on Sanskrit is arbitrary and whimsical and it has no relation to the object sought to be achieved by the impugned order.

If we analyse the impugned order and recall its purpose or object, the submission made by the learned counsel for the petitioners must be accepted as correct. The purpose of the impugned order was that Kannada should be studied at all levels and by all students upto Higher secondary stage. The purpose was also to give primacy to Kannada at the secondary school level from the academic year 1987-88. Consequently, Sanskrit and other languages have been included in the list out of which the students are required to study two other Languages.

23. This appears to be the outline of the scheme incorporated under the impugned order. Assuming for a moment that this scheme is valid and permissible within the constitutional parameters, how the said interdict on the petitioners during the interregnum will have nexus to the objects of the scheme is beyond our comprehension.

In the first place, if the petitioners are prevented from taking Sanskrit as First language, they may take any one of the other languages such as Telugu, Tamil, Urdu, Marathi or English as the First language. There is no compulsion to take Kannada as the First language in the existing pattern of study. Secondly, if they are prevented from taking Sanskrit as composite First language, they may take the composite course with Arabic, Persian or Hindi and not at any rate with Kannada because Kannada does not find a place in the combination.

24. When we turn to the new dispensation that comes into force in 1987-88 Kannada will be the First language and all other languages will be the second languages. It is, therefore, seen that the bar imposed by the said clause (4) on the students of VIII standard has no nexus to the object of the impugned order.

It has neither a short term gain nor a long range reward for Kannada.

25. There is yet another aspect. At no time, in the history of this country, Sanskrit was treated as an untouchable. During the vedic period, Sanskrit was used for both religious and conversational purposes. Right from the beginning of Indian history to about 10th Century A.D. or 30 (with the exception of Tamil) it was only Sanskrit which was the Lingua-franca and the official language of administration etc., it was only when the Muslims came to India just about 10th Century A.D., two classical languages, namely Arabic and Persian came with them. With the ascendancy of Muslim power, those two languages were increasingly used in Islamic education and also in the administration in Muslim ruled states. After the British introduced its own administrative machinery, giving more importance to English, Sanskrit was considered as an ancient language and clubbed with Arabic and Persian. This pattern was continued in almost all the syllabus prescribed by states for educational institutions. Dr. Gokak committee has also proceeded on those lines. There is, therefore, no reasons why Sanskrit should be made to part company at least with Arabic and Persian till 1987-88 to the prejudice of the petitioners. Clause (4) of the Government order dated July 20, 1982 does not prohibit students of VIII standard from taking composite first language with Arabic and persian. The restraint is only as to Sanskrit. It is, therefore, a patent instance of hostile discrimination and perhaps the most baffling in law and logic. It is ex-facie arbitrary and violative of Article 14 of the constitution.

In the result, we allow these petitions in part and quash clause (4) of the impugned Government order with a direction to respondents not to enforce that clause (4) as against the concerned students.

In the circumstances of the case, we make no order as to costs.