
(2001) 11 SC CK 0043

In the Supreme Court Of India

Case No : Writ Petition (Civil) No: 239 of 1998

Rangnath Misra

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 22-11-2001

Acts Referred:

Citation : (2001) 8 SCALE 474 : (2003) 7 SCC 137

Hon'ble Judges : S. P. Bharucha, C.J.; Shivaraj V. Patil, J; S. S. M. Quadri, J; S. N. Variava, J; N. Santosh Hedge, J

Bench : Full Bench

Final Decision : Disposed Of

Judgement

1. This is a writ petition that arises out of a letter dated 18-3-1998 written by a former Chief Justice of India to the then Chief Justice of India. It draws attention to the fact that it is the obligation of the State to educate the citizen in the matter of fundamental duties so that a proper balance between rights and duties may be achieved and submits that the teaching of fundamental duties in educational institutions is required. The writer submits that the letter should be treated as a writ petition in the public interest.

2. On 4-5-1998, the then Chief Justice of India treated the letter as a writ petition and it was so numbered.

3. A counter-affidavit was filed by the Union of India which indicated that a committee had been set up to operationalize a countrywide programme for teaching fundamental duties in educational institutions as a measure of in-service training. Mr. K. Parasaran, learned counsel, was required to assist the Court on 9-10-1998. The Committee aforementioned met on two occasions and its minutes were placed before the Court. The minutes referred to the need to learn the national anthem by heart and sing it. On 9-4-1999, notices on the writ petition were issued to all the States. On 19-2-2001, the writ petition was adjourned to frame a question which might require reference to the Constitution

Bench, in view of the judgment of this Court in *Bijoe Emmanuel v. State of Kerala*, the following order was passed:

"After hearing learned counsel for the parties, it appears that following questions may fall for decision in the writ petition, besides other questions:

1. Whether legally obliging the singing of national anthem in an assembly by all those present in the assembly when national anthem is sung is unconstitutional?
2. Does the judgment in *Bijoe Emmanuel v. State of Kerala* require reconsideration?

The writ petition is, therefore, required to be heard by a Constitution Bench. We, accordingly, refer the writ petition to be heard by a Constitution Bench. Keeping in view the importance of the issues, it is desirable that the writ petition is heard at an early date.

Let the papers be placed before the Hon"ble the Chief Justice for constitution of the Bench."

4. It is thus that the matter comes to be placed before us.

5. The letter of the former Chief Justice of India is general in its terms and refers to the importance of teaching fundamental duties in educational institutions. It does not specifically mention the obligation to sing the national anthem nor the judgment in *Bijoe Emmanuel*. We have ascertained that, in the course of the hearing of this writ petition before the Bench of three learned Judges which made the reference, neither party in the course of argument relied upon the judgment in *Bijoe Emmanuel* nor, therefore, was there any question of that Bench finding it difficult to accept the correctness of what was stated therein.

6. In the circumstances, it is difficult to see how in this writ petition, the Constitution Bench is required to consider the questions aforementioned. We think that it is appropriate, accordingly, to recall the orders dated 19-2-2001 and 9-4-2001. The writ petition shall now be placed before a Bench of three learned Judges who will decide it on its merits, having regard to the issue raised therein.

7. The application for impleadment is now unnecessary and is disposed of.