

(2002) 09 AHC CK 0038
In the Allahabad High Court
Case No : C.M.W.P. No. 27894 of 2000

U.P. Urdu Development Organisation and Another	APPELLANT
Vs	
State of U.P. and Another	RESPONDENT

Date of Decision : 10-09-2002

Acts Referred:

Constitution of India, 1950 — Article 14, 309
Uttar Pradesh Competitive Examination (Medium of Written Examination) Rules, 1994
— Rule 4
Uttar Pradesh Official Language Act, 1951 — Section 3

Citation : (2002) 5 AWC 3519

Hon'ble Judges : S.K. Sen, C.J; R.K. Agrawal, J

Bench : Division Bench

Advocate : Ravindra Singh, M.S. Haq and Parwaz Ulum, for the Appellant;
Sabhajit Yadav, S.C, for the Respondent

Final Decision : Dismissed

Judgement

R.K. Agrawal, J.—This writ petition has been filed by U.P. Urdu Development Organisation through its Hon"ble General Secretary Dr. Parwaz Ulum, and Dr. Parwaz Ulum in his individual capacity, under Article 226 of the Constitution of India, seeking the following reliefs:

(i) to issue a writ, order or direction in the nature of certiorari to quash the Instruction-4 of the Advertisement No. A-1/E-1/2000 (Annexure-2).

(ii) to issue a writ, order or direction in the nature of mandamus commanding the Respondents to amend Rule 4 (Para III) of the "Uttar Pradesh Competitive Examination" (Medium of Written Examination) Rules, 1994 "and provide the question paper" Examination Paper in Bilingual language (Hindi and Urdu Official Language of the State of U.P.) in compliance of Section 3 of the U.P. Official Language Act, 1951.

(iii) to issue any other writ, order or direction which this Hon"ble Court may

deem fit and proper in the circumstances of the case.

(iv) to award the cost of this petition to the Petitioners against the Respondents.

2. We have heard Dr. Parwaz Ulum, Petitioner No. 2 in person on behalf of Petitioner No. 1 also and Shri Sabhajit Yadav, learned standing counsel for the Respondents.

3. The Petitioners are espousing the cause of Urdu Language and Urdu speaking persons in the State of U.P. The grievance of the Petitioners is that even though the State Government has permitted the candidates appearing in the competitive examination to answer the question papers in English (Roman Script) or Hindi (in Dev Nagri Script) or Urdu (in Persian script) except that, language paper must be answered in the same language and the question paper as a whole must be answered in any of the above scripts and not for each question separately, it has not provided that the question papers shall also be printed in Urdu language. According to the Petitioners, Urdu language has been declared by the State of U.P. to be second official language in the State of U.P. and thus, the question papers should also be printed in Urdu language along with Hindi and English. The Petitioners at the first instance took up the matter with the concerned authorities of the State Government and also sent representations to the President of India who forwarded the same to the Chief Secretary of the U.P. Government for appropriate action. However, no action has been taken so far.

4. The Petitioners contend that in the year 1994, the State Government had issued an order by which the compulsory English Language paper from the competitive examination conducted by the U.P. Public Service Commission was done away and in its place a General Hindi paper was introduced. Since the question papers are not supplied in the second official language, i.e., Urdu, it is clear cut violation of fundamental right of Urdu speaking people depriving them from appearing in competitive examination and answer the question papers in their mother-tongue, i.e., Urdu as they are unable to answer the questions which are not given in Urdu language. It is further submitted on behalf of the Petitioners that the U.P. Public Service Commission, in the Instruction No. 4 to the Main Examination-2000 had provided that preference for those candidates shall be given for answering the question in English or Hindi, is illegal and violative of fundamental right guaranteed under Articles 14 and 16 of the Constitution of India.

5. The Petitioners relied upon the decision of the Hon"ble Supreme Court in the case of V.N. Sunanda Reddy and others Vs. State of Andhra Pradesh and others, , wherein Hon"ble Supreme Court has held that weightage given to the candidates who have studied and qualified the examination in regional Telgu language is arbitrary.

6. In the counter-affidavit filed by Shri Brij Behari Lal, Section Officer in the U.P. Public Service Commission, affirmed on 13.7.2000, it has been stated that the setting of question papers in Urdu language is not feasible as question papers

are set by the experts of different subjects, who send the same in sealed covers to the Commission, which sends it as such to the moderators who after moderating, send back to the Commission in the sealed cover. On receipt of all the question papers in the above manner, the Commission sends these papers in those sealed covers to the Printing Press. At no point of time, the Commission opens the papers. It has further been stated that the experts of various Universities of Hindi speaking States are generally adept in Hindi as well as English so there is no difficulty in setting of question papers in Hindi and in English by them as is required by the Rules of 1994. It has also been stated that if these question papers are set in Urdu (Persian Script) in addition to Hindi and English, a large number of experts will be required who should be well versed in all these 3 languages which is not possible. In such a situation, the question papers will have to be sent to Urdu knowing people for translation in Urdu which cannot be done as it will be difficult to manage the secrecy. The Commission has further taken a stand that Instruction No. 4 challenged by the Petitioners shall not be given effect to and in future advertisement, no such instruction will be given.

7. The learned standing counsel submitted that the U.P. Competitive Examination (Medium of Written Examination) Rules, 1994, have been framed by the Governor under the proviso to Article 309 of the Constitution of India. It only confers upon the candidate to answer the question papers as a whole in either of three scripts viz. English (Roman Script), Hindi (Dev Nagari Script) or Urdu (Persian Script). It also provides for script in which the question papers shall be set, i.e., English (Roman Script) and Hindi (Dev Nagri Script). The said provisions have been made taking into consideration the difficulties in the interest of the candidates and also for maintaining secrecy of the question papers and examination as sufficient number of experts knowing all the three languages and scripts are not easily available. He submitted that the Urdu language has been declared second official language for certain specified purposes and not for all purposes. Thus, the Petitioners cannot claim as a matter of right to have the question papers in Urdu (Persian Script) also. He further submitted that the Petitioners cannot enforce personal right to have question papers in Urdu (Persian Script) by invoking a writ of mandamus from this Court in the absence of any statutory or constitutional provisions in that behalf.

8. After hearing the rival submissions as mentioned above, we find that the Urdu has not been declared the second official language in the State of U.P. for all purposes. Section 3 of the U.P. Official Language Act, 1951, which was inserted by the U.P. Official Language (Amendment) Act, 1989, provided for use of Urdu language as second official language for such purposes as may be notified by the State Government from time to time. By Notification No. 4171/XXI-89-1-1980, dated 7.10.1989, the Governor had notified only the following 7 purposes for which Urdu language shall be used as second official language:

(1) entertaining petitions and applications in Urdu and replies thereof in Urdu ;

- (2) receiving documents written in Urdu by the Registration Office ;
- (3) publication of important Government Rules, Regulations and Notifications in Urdu also ;
- (4) issuing Government orders and circulars of public importance in Urdu also ;
- (5) publication of important Government advertisements in Urdu also.
- (6) publication of Urdu translation also of the Gazette ;
- (7) exhibition of important signposts in Urdu.

9. The U.P. Official Language Act, 1951, as amended by the U.P. Official Language (Amendment) Act, 1989, does not make Urdu as second official language for all purposes in the State of U.P. By virtue of Notification dated 7.10.1989, Urdu language is to be used for specified purposes only. From a perusal of the aforesaid purposes as mentioned above notified by the Government of U.P. for which Urdu language is to be used, it is clear that it does not provide setting of question papers in Urdu language. Thus, the contention that the U.P. Public Service Commission ought to set question papers in Urdu language also is devoid of any substance and has to be rejected.

10. So far the question regarding violation of Petitioners' fundamental rights guaranteed under Article 14 are concerned, it may be mentioned here that the Respondents have been able to place sufficient material on record to justify their stand is not providing question papers in Urdu language. The Petitioners have no fundamental right to insist upon the question papers to be provided in a particular language or in the language of their choice. They have failed to establish violation of any statutory Rule or Order in this behalf. The action of the Respondents is not providing question papers in Urdu language cannot be said to be arbitrary or violation of Article 14 of the Constitution of India.

11. It may further be mentioned here that in view of the categorical stand taken by the U.P. Public Service Commission that they shall not give effect to instruction No. 4 to the main Examination-2000 which provided that preference for those candidates shall be given for answering the question in English or Hindi, we are not going into this controversy.

12. In view of the foregoing discussions, we do not find any merit in this petition. It is accordingly dismissed.