

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24.08.2015

Pronounced on : 27 .08.2015

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.30230 of 2011

R.Ovia

... Petitioner

Versus

1.The Chairman,
IIT Council,
Human Resource Development (MHRD),
Shastri Bhavan,
New Delhi 110001.

2. Union of India,
represented by its Secretary to Government,
Ministry of Human Resource Development (MHRD),
Shastri Bhavan,
New Delhi 110 001. ... Respondents

Petition filed under Article 226 of the Constitution of India
praying for the issue of a Writ of Mandamus, directing the
respondents to include regional languages listed under the VIII
Schedule of the Constitution of India, preferably Tamil in the State
of Tamil Nadu, as a mode of examination in the IIT - Joint
Engineering Examinations scheduled on 8th April, 2012.

For Petitioner ::: Mr.M.Radhakrishnan
for Mr.K.Thilageswaran

For Respondents ::: Mr.Venkataswamy Babu
SPCGOI for R.1 and R.2.

O R D E R

(The Order of the Court was made by The Hon'ble The Chief Justice)

The petitioner claims to be a Company Secretary and Woman
activist working for empowerment of women especially in Tamil Nadu
with special emphasis on rural people and has invoked the Public

Interest Litigation jurisdiction of this Court in December, 2011, with the following prayer:

"Therefore, the petitioner prays that this Hon'ble Court may be pleased to issue any writ, order or direction more particularly in the nature of Writ of Mandamus directing the respondents to include Regional languages listed under the VIII Schedule of the Constitution of India, preferably Tamil in the State of Tamil Nadu, as a mode of examination in the IIT - Joint Engineering Examinations scheduled on 8th April, 2012, and thus render justice."

2. Notice was issued on 03.01.2012, but thereafter the matter was never listed nor was there apparently any endeavour to get it listed. The matter only came up on 24.08.2015 and the learned counsel for the respondents pointed out that the writ petition has become infructuous in view of the prayer made as it was specifically directed in respect of the IIT-Joint Engineering Examinations scheduled on 08.04.2012.

3. The learned counsel for the petitioner however vociferously contended that despite the prayer having worked itself out, the larger picture ought to be obtained by referring to the grievance even if the prayer has become infructuous.

4. We thus examined the merits of the contention also, despite a grave reservation on account of the relief having undoubtedly become infructuous.

5. In sum and substance, the claim of the petitioner is that the students from the rural background suffered a handicap as they have completed 10+2 in Tamil medium of instruction. However, in the brochure for the relevant year, it has been specified that the questions will be objective type designed to test the comprehensive reasoning and analytical ability of candidates with the choice of question paper only in two languages viz., English and Hindi. The petitioner pleads that this would compel the candidates other than who knows Hindi to appear in English and such entrance examination should be held in various categories of regional languages, 32 languages being listed in the 8th Schedule to the Constitution of India.

6. In the course of arguments, it became obvious that more than the grievance of not holding the examinations in regional languages, was the plea of giving option to take the examinations in Hindi. In this behalf, while referring to the counter affidavit filed by the respondents, learned counsel for the petitioner pointed out while admitting that UPSC, Railways Recruitment Board etc., conduct examinations for recruitment for various categories in regional languages, those examinations are only for recruitment of

candidates for employment and not for any education. The medium of instruction at IIT is English and thus inadequacy in English language would cause a problem to the candidates. It has been emphasised that not all students passing 10+2 examinations are eligible, but only those candidates who pass the examination in Physics, Chemistry and Mathematics.

7. In the aforesaid context, learned counsel for the petitioner submits that if that be the position, the examinations should not be conducted in Hindi.

8. On the other hand, learned counsel for the respondents states that in any case, the matter pertains to Government policy, does not require intervention of the Court and it must be left to the Educationists and the Government. In fact, the plea is that the issue is no more *res integra* in view of the observations of the Hon'ble Supreme Court in *Hindi Hitrakshak Samiti and Others vs. Union of India and Others* reported in (1990 (2) SCC 352). The facts in that case are stated to be similar, requiring the Central Government to hold pre medical and pre dental examinations in Hindi and other languages as mandated by Article 229(2) of the Constitution of India. Some affected students were infact added as parties therein. The relevant observations are contained in the following paragraphs:

"7. It is difficult to contend that the actions flowing from non-acceptance of any policy perspective, amount to direct and causal violation of the fundamental right of the citizens guaranteed under the Constitution of India. Court is not the forum to adjudicate upon the questions of policy unless such a policy is the direct mandate of the Constitution.

8. It is well-settled that judicial review, in order to enforce a fundamental right, is permissible of administrative, legislative and governmental action or non-action, and that the rights of the citizens of this country are to be judged by the judiciary and judicial forums and not by the administrators or executives. But it is equally true that citizens of India are not to be governed by the Judges or judiciary. If the governance is illegal or violative of rights and obligations, other questions may arise but whether, as mentioned herein before, it has to be a policy decision by the Government or the authority and thereafter enforcement of that policy, the Court should not be, and we hope would not be an appropriate forum for decision.

9. In the background of the facts and the circumstances of the case and the nature of controversy that has arisen, we are of the opinion that proper and appropriate remedy in a situation where enforcement of the right depends upon the acceptance of a policy of examination for admission in any particular language to the Institution on that basis, is a matter of policy. Whether in particular facts and the circumstances of this case admission to medical or dental Institution by conducting examination in Hindi or other regional languages would be appropriate or desirable or not, is a matter on which debate is possible and the acceptance of one view over the other involves a policy decision. It cannot be appropriately dealt with by this Court, and order under Article 32 of the Constitution in those circumstances would not be an appropriate remedy."

9. In our view, the observations of the Hon'ble Supreme Court aforesaid leave little doubt over the legal position that in matters of this nature, citizens of India are not to be governed by the Judges or Judiciary. The matter in question pertains to the policy of examinations qua admission which falls really within the policy domain. In such a situation, whether the entrance examination should be held in multiple languages or dual language or a single language has to be left open to the institutions conducting the examinations.

10. We may also note that in the present case, in fact, no aggrieved candidates approached the court, but the petitioner/Company Secretary, seeking to raise this grievance has really no connection with the issue.

11. We are thus of the view that:

- a) The petition as framed in terms of the prayer clause has become infructuous.
- b) No aggrieved party on the issue of holding of examination is before the Court and thus the petition is not liable to be entertained.
- c) Even otherwise, the issue is one of policy decision of the authorities concerned, in which language the examinations should be held. (Hindi Hitrakshak Samiti and Others vs. Union of India and Others cited supra)

12.We are thus of the view the writ petition is devoid of merits for the aforesaid reasons and accordingly dismissed. Parties to bear their own costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

ksr

Copy to:

1.The Chairman,
IIT Council,
Human Resource Development (MHRD),
Shastri Bhavan,
New Delhi 110001.

2.The Secretary,
Union of India,
Ministry of Human Resource Development (MHRD),
Shastri Bhavan,
New Delhi 110 001.

1 cc to Mr.Venkataswamy Babu, Advocate, Sr. 45862

W.P.No.30230 of 2011

KV (CO)
kk 8/9

सत्यमेव जयते

WEB COPY