



WEB COPY

W.P.(MD).No.17006 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

W.P. (MD) .No.17006 of 2020

and

W.M.P. (MD) .Nos.14214 & 14216 of 2020

S.Venkatesan,
S/o.Subburam,
Rani Mangammal Chathiram,
Opp. to Railway Station,
Periyar Bus Stand,
Mdurai 625 001.

... Petitioner

Vs

1.Minister of State for
Home Affairs,
Government of India,
North Block, New Delhi 110001.

2.The Joint Secretary,
Government of India,
Department of Official Language,
Ministry of Home Affairs,
NDCC-II Bhawan,
'B' Wing 4th Floor, Jain Singh Road,
New Delhi - 110001.

3.The Director General,
Central Reserve Police Force,
Level-IV, East Block-7,
R.K.Puram, New Delhi - 110001.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to ensure that all communications between the Union of India and the State of Tamil Nadu and its people and also with Members of Parliament belonging to the State of Tamil Nadu shall be in English language alone and appropriate action should be taken against the concerned officials responsible for violating the said procedure.

For Petitioner : Mr.M.Purushothaman

For Respondents : Mrs.L.Victoria Gowri
Assistant Solicitor General of India



O R D E R

N.KIRUBAKARAN.J.

India is multi linguistic;

India is multi racial;

India is multi religious;

India is multi ethnic and

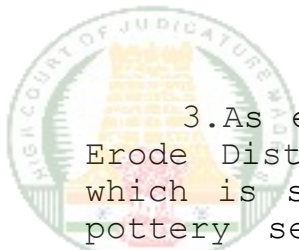
India is multi cultural.

Unity in diversity represents India. When a country's masses have different cultural, linguistic, ethnic and religious identities, the same shall be maintained and protected in the interest of the unity of our great country. If Any attempt is made to disturb or destroy or interfere with any of the aforesaid issues, especially languages, it could become a sensitive issue. During freedom struggle, many leaders of our country, have shed blood, lost their lives, undergone incarceration and sacrificed their properties and profession, out of patriotism, for our motherland. Their sacrifices would be honoured only by respecting the identities of the citizens. Be it language, race, religion or region, any discrimination would definitely cause an uprising in the society which may lead to splitting of the country which should be avoided. Any kind of fanaticism is not good for any society. Fanaticism, in any form, is to be condemned, if it is exhibited. Linguistic fanaticism is more dangerous as it would give an impression that one language alone is superior and being imposed upon the people speaking different languages. When even an apprehension should not be created that a particular language is surpassed or sidelined in a multi-linguistic country like ours, a few chosen languages are getting princely status with enormous money allotted for development of those languages alone.

2.The VIII Schedule of our Constitution speaks about 22 languages and they are as follows:

1. Assamese. 2. Bengali. 3. Bodo. 4. Dogri. 5. Gujarati.
6. Hindi. 7. Kannada. 8. Kashmiri. 9. Konkani. 10.
- Maithili. 11. Malayalam. 12. Manipuri. 13. Marathi. 14.
- Nepali. 15. Oriya. 16. Punjabi. 17. Sanskrit. 18.
- Santhali. 19. Sindhi. 20. Tamil. 21. Telugu. 22. Urdu

It is not as if 22 languages alone are spoken in India, but more than thousands of languages are spoken. It is very interesting and surprising to note that certain languages, which are being spoken by a few hundreds of people, are included in VIII Schedule, whereas languages, like Gondi, which is spoken by more than one crore people belonging to different States, like Andhra Pradesh, Uttranchal, Odiya, Madhya Pradesh and Karnataka are not included for the reasons best known to the successive Union Government. It should be the endeavour of the Government, especially, the Union Government to develop all the languages of the country, so that, the languages are protected and are passed on to the next generation.

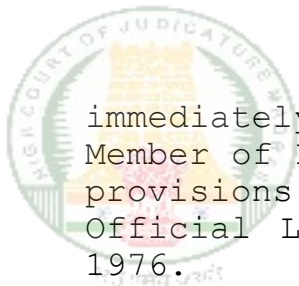


3.As evident from the reports of Kodumanal excavation site in Erode District, Tamil language had developed even before 400 BC, which is scientifically proved by doing Carbon Dating Test on the pottery sets found with Tamil inscriptions. Keeladi excavation reports proved that Tamil language was used during 500 BC. The above facts should not be mistaken and misunderstood that Tamil was used only during 500 BC. Even before 500 BC, the said language was used by the masses. Therefore, Tamil should have been the language of masses, atleast, around 3000 to 4000 BC. It is not to promote the literary value of Tamil language, but it is only to see that the ancient language is protected if it is continued to be used by the masses and used by the Government.

4.The Central Government understood the importance of all the languages of the country and formulated a National Educational Policy, which gives much thrust and importance to mother tongue in education. As per the said educational policy, the elementary education should be in mother tongue upto V Standard. The Government's policy should be welcomed as it is in the interest of all the languages. When such is the importance given to the languages of the country, it seems that a few officials in the Respondent Government either without understanding the sensitivity of the issue or by inadvertence, are bent upon using Hindi in communications and other official matters, which make the people to think that the said language is being thrust upon them contrary to the provisions of the Official Languages Act, 1963 as amended by the Official Languages (Amendment) Act, 1967.

5.One such person who is none other than the Member of Parliament representing Madurai Constituency has knocked the doors of this Court against the use of Hindi in the reply given to him on 09.11.2020, pursuant to the representation, dated 09.10.2020 given by him with regard to non-notifying any centre in Tamil Nadu for the recruitment of 24 posts of Group 'B' and 'C' staff on all India basis for a total number of 780 declared vacancies. Aggrieved over the reply given in Hindi, the Petitioner has come before this Court by way of Public Interest Litigation, seeking direction to ensure that the communication between the Union of India and the State of Tamil Nadu, its people and also with the Members of Parliament shall be in English alone and take appropriate action against the concerned officials, who are responsible for violation.

6.A counter affidavit has been filed by the Respondents admitting the provisions of the Official Languages Act, 1963 and the necessity to use English language in the communication between the Union and the States, which has not adopted Hindi as their official language. However, in Paragraph 6, it has been stated that inadvertently, in the instant case, reply was submitted in Hindi and



immediately, English version of the same was communicated to the Member of Parliament. Further, there is no intention to violate the provisions contained in the Official Languages Act, 1963 and the Official Languages (Use for Official Purpose of the Union) Rules, 1976.

7. Heard Mr.M.Purushothaman, learned counsel appearing on behalf of the Petitioner and Mrs.L.Victoria Gowri, learned Assistant Solicitor General of India appearing on behalf of the Respondents.

8. Mr.M.Purushothaman, learned counsel appearing on behalf of the Petitioner would submit his case relying upon the provisions of the Official Languages Act and the Rules and Article 343 of the Constitution of India and a judgment of Uttarakhand High Court in the case of **State Consumer Disputes Redressal Commission Vs. Uttarakhand State Information Commission and Ors.**, reported in **MANU/UC/0700/2010** equivalent to **AIR 2010 Utr 55**.

9. However, Mrs.L.Victoria Gowri, learned Assistant Solicitor General of India appearing on behalf of the Respondents would contend that the Central Government goes by the Official Languages Act and the Rules and there is no intention on the part of the Central Government to violate any provisions of the Official Languages Act, 1963 and the Rules, 1976 and all the communications from the Central Government to the State Governments are being made only in English and she would seek disposal of the Writ Petition based on the explanation given in the counter affidavit. In paragraph 6 of the counter affidavit, it has been stated that inadvertently, reply was given to the Member of Parliament in Hindi and there is no intention to violate the provisions contained in the said Act. Paragraph 6 of the counter affidavit of the Respondents is extracted as follows:

"6. It is most humbly submitted that, in response to Para Nos.9, 10, 11 & 12 of the affidavit, the Hon'ble Member of Parliament (Lok Sabha) in his affidavit has submitted that as per proviso to Section 3 of the Official Languages Act, 1963, English Language shall be used between the Union and the State, which has not adopted Hindi as its official language. In terms of provisions contained in Official Languages Act, 1963 and Official Languages Rules, 1976, the official communication with the States which have not adopted Hindi as its official language is being made in English alone. However, inadvertently, in the instant case, reply was submitted to the Hon'ble Member of Parliament (Lok Sabha) in Hindi and immediately English version of the same was communicated to the Hon'ble Member of Parliament (petitioner). However, there was/is no intention to violate the provision contained in the



Official Languages Act, 1963 and Official Languages Rules, 1976, and all communication by the Central Government with the State Government of Tamil Nadu are being made in English only."

WEB COPY

10.The object of the Official Languages Act, 1963 as amended by 1967 Act, is extracted as follows:

"An Act to provide for the languages which may be used for the official purpose of the Union, for transaction of business in Parliament, for Central and State Acts and for certain purpose in High Courts. "

The Act is to identify and state the languages which could be useful for the official purpose of communication in Parliament for Central Government and State Governments. Section 3 of the Official Languages Act, 1963 is usefully extracted as follows:

"3 Continuation of English Language for official purposes of the Union and for use in Parliament-

1.Notwithstanding the expiration of the period of fifteen years from the commencement of the Constitution, the English language may, as from the appointed day, continue to be used in addition to Hindi,

- a.for all the official purposes of the Union for which it was being used immediately before that day; and*
- b.for the transaction of business in Parliament:*

Provided that the English language shall be used for purposes of communication between the Union and a State which has not adopted Hindi as its Official Language:

Provided further that where Hindi is used for purposes of communication between one State which has adopted Hindi as its official language and another State which has not adopted Hindi as its Official Language, such communication in Hindi shall be accompanied by a translation of the same in the English language:

Provided also that nothing in this sub-section shall be construed as preventing a State which has not adopted Hindi as its official language from using Hindi for purposes of communication with the Union or with a State which has adopted Hindi as its official language, or by agreement with any other State, and in such a case, it shall not be obligatory to use the English language for purposes of communication with that State.



2. Notwithstanding anything contained in sub-section (1) where Hindi or the English Language is used for purposes of communication-

- i. between one Ministry or Department or office of the Central Government and another;
- ii. between one Ministry or Department or office of the Central Government and any corporation or company owned or controlled by the Central Government or any office thereof.;
- iii. between any corporation or company owned or controlled by the Central Government or any office thereof and another,

Translation of such communication in the English language or, as the case may be, in Hindi shall also be provided till such date as the staff of the concerned Ministry, Department, office or the corporation or company aforesaid have acquired a working knowledge of Hindi.

3. Notwithstanding anything contained in sub-section (1) both Hindi and the English languages shall be used for-

0. resolutions, general orders, rules, notifications, administrative or other reports or press communiques issued or made by the Central Government or by a Ministry, Department or office thereof or by a corporation or company owned or controlled by the Central Government or by any office of such corporation or company;
- i. administrative and other reports and official papers laid before a House or the Houses of Parliament;
- ii. contracts and agreements executed, and licenses, permits, notices and forms of tender issued, by or on behalf of the Central Government or any Ministry, Department or office thereof or by a corporation or company owned or controlled by the Central Government or by any office of such corporation or company.

4. Without prejudice to the provisions of sub-section (1) or sub-section (2) or sub-section (3) the Central Government may, by rules made under section 8, provide for the language/languages to be used for the official purpose of the Union, including the working of any Ministry, Department, Section or Office and in making such rules, due consideration shall be given to the quick and efficient disposal of the official business and the interests of the general public and in particular, the rules so made shall



ensure that persons serving in connection with the affairs of the Union and having proficiency either in Hindi or in the English language may function effectively and that they are not placed at a disadvantage on the ground that they do not have proficiency in both the languages.

WEB COPY

5.The provisions of clause (a) of sub-section (1), and the provisions of sub-section (2), sub-section (3) and sub-section (4) shall remain in force until resolutions for the discontinuance of the use of the English language for the purposes mentioned therein have been passed by the legislatures of all the States which have not adopted Hindi as their Official Language and until after considering the resolution aforesaid, a resolution for such discontinuance has been passed by each House of Parliament."

From the above, it is clear that the use of English language has been continued in addition to Hindi for official purposes for a period of 15 years. Further, the English language shall be used for communication between the Union and the States, which have not adopted Hindi as official language. Therefore, it is clear that English language should be used for the purpose of communication between the Union and the States which have not adopted Hindi as their official language.

11.The issue raised by the Petitioner is squarely covered by the aforesaid provision. From the above, it is clear that for the States which have not adopted Hindi as their official language, English will be used for the purpose of communication between the Union and the States. Admittedly, the State of Tamil Nadu has not adopted Hindi as its official language, whereas it has adopted two languages formally viz., Tamil and English. As per Proviso to Section 1(a) of the Act, the Central Government is bound to use English for the purpose of communication with the State of Tamil Nadu.

12.As per Article 345 of the Constitution of India, the State can use languages of the State. Article 345, is extracted as follows:

"345. Official language or languages of a State.—Subject to the provisions of articles 346 and 347, the Legislature of a State may by law adopt any one or more of the languages in use in the State or Hindi as the language or languages to be used for all or any of the official purposes of that State: Provided that, until the Legislature of the State otherwise provides by law, the English language shall continue to be used for those official purposes within the State for which it was being



used immediately before the commencement of this Constitution."

The Government of Tamil Nadu passed the Official Languages Act, by which, only two language formula is being adopted viz., Tamil and English. Therefore, the Central Government is also expected to respect the sentiments of the people. It would be appropriate and it is expected that the Central Government gives its reply to the citizens, in their respective language as stated in Article 350. If a representation is given as per Article 350 of the Constitution, reply should be given in the same language, so that, the people could understand the information. This Court hopes that the Central Government would seriously consider to amend Article 350, so that, not only representation is given in the languages of the Union or the States, but also reply is given in the same language used by the citizens.

13.Under Section 8 of the Official Languages Act, 1963, the Central Government made "The Official Languages (use for Official Purpose of the Union) Rules, 1976". Rule 1(ii) states that the Rules shall not be applicable to the State of Tamil Nadu. The same is extracted as follows:

"ii.They shall extend to the whole of India, except the State of Tamilnadu."

The exception given to the State of Tamil Nadu would make it clear that the Central Government shall use English for official purposes. To put it in other words, the official language of India (Hindi) cannot be used for official correspondence with the State of Tamil Nadu. When the Act of Parliament states about the use of English language for official purpose of communication between the Union and the States which have not adopted Hindi as their official language, the Central Government is duty bound to follow the enactment.

14.In this case, admittedly, the Petitioner as a Member of Parliament in the interest of candidates from Tamil Nadu on 09.10.2020 wrote a letter requesting for examination centres at Chennai and Puducherry for recruitment of CRPF Paramedical Staff Exam, 2020, as there was no centre notified. Though an interim reply was given on 19.10.2020 by the Director General of Central Reserve Police, New Delhi, subsequently, the first Respondent viz., Minister of State for Home affairs, Government of India, North Block, sent a reply. A perusal of the same shows that it is only in Hindi and only those who know Hindi can understand the said communication, which is contrary to the provisions of the Official Languages Act. The Petitioner protested and wrote a letter to the first Respondent on 19.11.2020 quoting the provisions of the Official Languages Act and the necessity to reply in English and



asked the first Respondent to respond to the letters of Members of Parliament from Tamil Nadu in English. The relevant portion of the letter, dated 19.11.2020, is extracted as follows:

"I give below the excerpts of the Section 5(x) of the original circular No.11013/4/2011-Estt (A) dated 01.12.2011.

"Wherever any letter from a Parliament is in English and the reply is required to be given in Hindi in terms of OL act 1963 and the rules framed under, an English translation should also be sent along with the reply for the convenience of such members from Non Hindi is speaking areas"

Though it may not be applicable to Tamilnadu which is specifically exempted from the purview of OL act, it makes mandatory to send translated version in English to MPs belonging to Non Hindi speaking states if letter from the MP concerned was in English.

Hence the reply sent by your ministry in Hindi without translated version in English is violation of latest OM also which was necessitated due to earlier violations of the same kind.

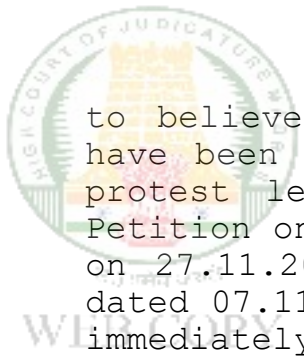
I strongly feel the solemn assurances given by the earlier Prime ministers of this country are to be honoured by the present government also. Yet it is disheartening to note that Government itself violates laws and procedures repeatedly. Hence, I would request you to ensure honouring of unique assurance given to TN and implementation of legal provisions in this regard.

India is a country having rich legacy of preserving "Unity in diversity" and such outlook has to be reflected in each and every action of the government. That would strengthen integrity and federal structure of this great country.

Hence I would request you to advise the officials of the ministry to respond to the letters of MPs from Tamilnadu in English as per existing practice.

Expecting your early response."

15.Since the Petitioner's representation did not evoke any response, the Petitioner approached this Court on 23.11.2020 seeking a Writ of Mandamus. This Court ordered notice on 27.11.2020, when the matter came up for admission. Thereafter, when the matter was called on 10.12.2020, Mrs.L.Victoria Gowri, learned Assistant Solicitor General of India filed a copy of letter, dated 09.11.2020, written by the first Respondent along with a covering letter, dated 07.11.2020, in which, the first Respondent regretted for not sending English version of the letter dated 09.11.2020. Though it is made



to believe that the mistake occurred inadvertently, it could not have been done for the simple reason that the Petitioner sent his protest letter, dated 19.11.2020 and thereafter, filed the Writ Petition on 23.11.2020. Only after notice was ordered by this Court on 27.11.2020, it seems that the first Respondent sent the letter dated 07.11.2020. If really the mistake had inadvertently occurred, immediately, on the Petitioner's representation, dated 19.11.2020, the first Respondent ought to have sent a reply along with English version. This Court is of the firm view that the first Respondent would not have sent the reply dated 07.11.2020 along with English version, if the notice was not ordered by this Court. The regret letter dated 07.11.2020 has been belatedly given only to avoid any adverse orders from this Court. Therefore, the reason given on 07.11.2020 by the first Respondent cannot be *bonafide*.

16.It is not only in this case, but there are many incidents, in which, the officials of the Central Government are responding in Hindi alone. It is available in public domain that information sought by the people of non Hindi speaking States, especially, from Tamil Nadu, is given only in Hindi. It is also stated that one bank official from Ariyalur District wrote to one of the parties only in Hindi. Right to expression or freedom of speech is definitely enshrined in Article 19(1) of the Constitution of India. One could understand the information and expression only in the known languages. In VIII Schedule, there are 23 languages in India. When a right is given under Article 19 (1) of the Constitution regarding freedom to write and freedom of expression, it is the duty of the Central Government to use English. People from various States would feel very happy, if the communications are given in their own language, whereas the Central Government has confined only to English and Hindi.

17.The language issue is a very sensitive one and it should be approached very sensibly. For example, in Tamil Nadu, it is a historical fact that when Hindi was made as compulsory, protest erupted, leading to change of Government in 1967. Till date, language issue continues to be an important issue in Tamil Nadu. While dealing with Appeal against the dismissal of bail petition under the NIA Act by the alleged accused, this Court while condemning linguistic fanaticism, observed as follows:

"26.Any action of the Government, which is likely to create an apprehension or give an impression that their language is discriminated or any other language is given prominence, would amount to adding fuel to the mischievous propaganda made by these secessionist forces. This Court is interested in safeguarding the integrity and independence of this country which our ancestors got by shedding their sweat and blood and laying down their precious lives. At no cost, the



integrity and security of the nation should be jeopardized.

27. Our country is a multiracial, multicultural, multilingual and multi-religious nation. Peace and Harmony have to be maintained. For that, Governments should make every citizen to feel that his language, culture, religion, race are preserved and protected and not interfered with or suppressed by any action of the Governments. Even an apprehension should not be created in the minds of the people which would be certainly counter productive.

...

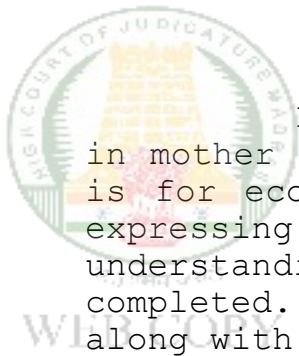
30...

Therefore, what is expected from the Governments is that,
(i) Not to create an impression in the minds of the people that their language is being discriminated or suppressed;
(ii) Not to create any apprehension in the minds of the people that only a few chosen languages are given prominence and recognition especially when there are about 22 languages recognized and listed in the VIII Schedule of the Constitution of India which are entitled to equal treatment and protection so that all Indian languages are well-developed and preserved.

..."

The above observation would be equally applicable to this case. Even if an inadvertent mistake is made regarding the use of language that will be a cause for many issues in the society. Therefore, the Central Government is duty bound to follow the provisions of the official languages Act.

18. Though English is not a very ancient language, it is considered to be the World's language and language of science. Knowledge in English is like a Passport and with good English knowledge, one can travel to any country for work and settle. If that is the position, there is no point in discontinuing the use of English. World has become a global village. Much water has flown under the bridge, after the Constitution of India came into force in the year 1950. Constitution framers would not have thought that English would become so popular and they would have thought English could be used as a substitute and the same could be replaced by Hindi. However, one can learn the language of any of the countries in the World. Those who are working in foreign countries know English. English knowledge is an asset to Indians. Therefore, English can no way be dispensed with. However, it should not be taken that this Court is only for English and not for the Indian languages.



19.As already observed, thrust is to be given to education in mother tongue as that of English language. Knowledge in English is for economical reasons. The knowledge of mother tongue is for expressing one's own expressions in mother tongue. Without understanding anything in mother tongue, one's knowledge will not be completed. The Central Government should continue to use English along with Hindi which can act as a binding force.

20. It is also settled position of law that whenever land acquisition proceedings are initiated, as per the Act, 4(1) Notification should be issued in dailies in vernacular languages and in English. The purpose of publication in vernacular languages is only to see that the information regarding cases reaches the local people, particularly, the land owners who are likely to be affected.

21.This is an era of communication and information. For information and communication, language is important. A few languages of India are thousands of years old and many are hundreds of years old. For preservation of all languages and for development of the languages, efforts should be taken by the Governments. One could understand the importance of language as the States were reorganised based on languages. Article 350 of the Constitution, is an important Article, with regard to the rights of the citizens to give representations in the languages used in Union or in the States. Article 350 of the Constitution, is reproduced as follows:

"350. Language to be used in representations for redress of grievances.—Every person shall be entitled to submit a representation for the redress of any grievance to any officer or authority of the Union or a State in any of the languages used in the Union or in the State, as the case may be."

From the above, it is clear that one is entitled to submit a representation to any Agency or Officer of the Union or the States in any of the languages used in India or in the States. Once a representation is given in English, it is the duty of the Union Government to give a reply in English only which will also be in consonance with the statute, viz., the Official Languages Act.

22.Though it has been stated that inadvertently, reply was given in Hindi, the Respondents have not categorically stated that hereinafterwards, there will not be any violation of the Official Languages Act, 1963 and the Official Languages Rules, 1976. It is only stated that there is no intention to violate the provisions of the Act and the Rules.



23.Taking into consideration the above facts and the provisions of the Official Languages Act 1963 and the Official Languages Rules 1976, this Court directs that the Union Government, other officers and instrumentalities shall follow the provisions of official languages Act 1963, especially, Section 3 of the Act and the Official Languages (Use for Official Purpose of the Union) Rules, 1976.

With the above direction, this Writ Petition is allowed.
No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sai

To

- 1.Minister of State for Home Affairs,
Government of India,
North Block, New Delhi 110001.
- 2.The Joint Secretary,
Government of India,
Department of Official Language,
Ministry of Home Affairs,
NDCC-II Bhawan,
'B' Wing 4th Floor, Jain Singh Road,
New Delhi - 110001.
- 3.The Director General,
Central Reserve Police Force,
Level-IV, East Block-7,
R.K.Puram, New Delhi 110001.

+1 CC to M/s.M.KANNAN, Advocate (SR-27078[F] dated 24/08/2021)

W.P. (MD) .No.17006 of 2020

Dated:19.08.2021

RK (06.09.2021) 13P 5C