



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2021

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**THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR. JUSTICE P. VELMURUGAN**

W.P. (MD) No. 19912 of 2021

M.Selva Kumar

.. Petitioner

Vs.

1. Union of India
Rep. by its Principal Secretary
of the President of India,
Rastrapathi Bhavan,
New Delhi-110 003.
2. Union of India
Rep. by its Principal and Special Secretary
of Official Languages Department,
Home Ministry,
Lok Nayak Bhavan,
New Delhi-110 003.
3. Union of India
Rep. by its Principal Secretary of
Human Resource Development Ministry,
Lok Nayak Bhavan,
New Delhi-110 003.
4. Union of India
Rep. by its Principal Secretary
of Ministry of Parliament Affairs,
Parliament Building,
New Delhi-110 003.
5. The Secretary of Central Board of Education,
Sixaa Kendra, No.2, Community Centre,
Preeth Vigar, New Delhi-110092.
6. The Commissioner of
Kendriya Vidyalaya Sankethan,
Head Office, Shakit Jee Sing Mark,
Sixaa Kendra, Preeth Vigar,
New Delhi-110 092.



Rep. by its Secretary of
School Education Department,
St. George Fort,
Chennai-600 009.

8. The Zonal Executive Officer of
Central Board of School Education,
Chennai Zone, 3' J Block,
16th Main Road, Anna Nagar (West),
Chennai-600 040.

9. The Assistant Commissioner
of Kendriya Vidyalaya Sankethan,
Head Office of South Zone,
Indian Institute of Technology's Block,
Chennai-600 036.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus (a) Directing the respondents 2 to 9 to make Tamil as the compulsory subject as a medium of instruction and in the language category in all schools functioning under the Union Government and its boards in Tamil Nadu ; (b) similarly other 20 languages which are followed as mother tongues of all other States are the compulsory subject of the schools functioning under the Union Governments be it Kendriya Vidyalaya, CBSE and other form of Schools functioning under any banner under the authority of all respondents in Union Government of India.

For Petitioner	:	Mr.M.Selva Kumar Party-in-person
For Respondents	:	Ms.Victoria Gowri, Assistant Solicitor General of India for RR 1 to 4 Mr.P.Karthick for R5 & R8 Mr.P.Subbaraj, Government Advocate for R7 Mr.E.T.Rajendran for R6 & R9

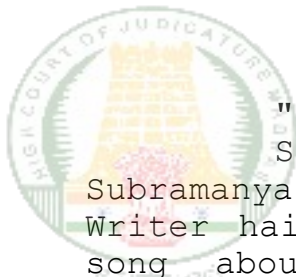
O R D E R

PUSHPA SATHYANARAYANA, J.

முற்பது கோடி முகமுடையாள் உயிர்
மொம்ம்புற வொன்றுடையாள் ? இவள்
செப்பு மொழிபுதி னெட்டுடை யாள்என்ற
சிந்தனை ஒன்றுடையாள் - பாரதியார்

To translate in English verbatim,

<https://hcservices.ecourts.gov.in/hcservices/>



"She has 30 Crore faces, but in spirit she is one.

She speaks 18 languages, but in thought she is one."

Subramanya Bharathi - a Social Reformist Tamil Poet and Polyglot Writer hails from Tuticorin District in Tamil Nadu, composed this song about the Mother India, wherein, he lauded "unity in diversity", though 18 languages were spoken in India with single thought. While celebrating Tamil language, he poetically wrote "யாழ்ந்த

மொழிகளிலே தமிழ்மொழி போல் இனிதாவது எங்கும் காணோம்."

2. The petitioner, who is the son of the same soil, sought a direction to the respondents 2 to 9 to make Tamil as the compulsory subject as a medium of instruction and in the language category in all schools functioning under the Union Government and its boards in Tamil Nadu and also sought further direction to make other 20 languages, which are followed as mother tongues of all other States, as the compulsory subjects of the schools functioning under the Union Governments be it Kendriya Vidyalaya, CBSE and other form of Schools functioning under any banner under the authority of all respondents in the Government of India.

3. The petitioner, claims to be the ardent lover of Tamil, filed this writ petition *pro bono publico* seeking the above directions. His grievance is that in Kendriya Vidyalaya Schools (KV), which are 52 in number in Tamil Nadu and 1228 in the country come under the Central Board of School Education (CBSE) and run by the Government of India, either the Tamil or the regional language/mother tongue of the State is not taught even as an optional language, but, on the other hand, Hindi and Sanskrit are being taught as a Medium of Instruction or one of the subjects, which is a violation of the Constitutional scheme. According to him, about 13 lakhs students of the nation, who constitute 73% of the total pupil population, are from non-Hindi speaking States and forcing them to read Hindi or Sanskrit is tantamount to breach of their fundamental rights. Thus, according to him, Tamil, being the oldest language declared as a "Classical Language", should be made as compulsory subject and also medium of instruction in all the schools functioning under the Government of India and its boards in the State of Tamil Nadu. He sought similar direction to give similar treatment to other 20 languages, besides Hindi and Sanskrit, listed in the Eighth Schedule of the Constitution. He submitted a representation to the respondents and some other higher officials making the said claim on 21.02.2021 followed by e-mails of even date. He also sent reminder on 31.08.2021. Since there is no whisper from the authorities, the petitioner relying upon certain newspaper reports to substantiate his claim, filed this writ petition invoking the jurisdiction of this Court under Article 226 of the Constitution.

4. Heard the Party-in-person, the learned Assistant Solicitor General of India appearing on behalf of the Union of India and the

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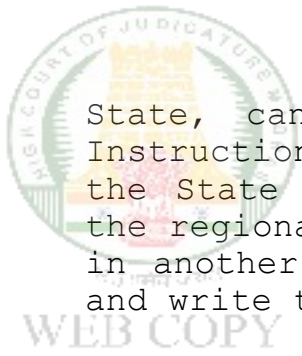
CBSE, learned Government Advocate appearing on behalf of the State of Tamil Nadu and also the learned counsel for the Kendriya Vidyalaya Sangathan.

5. The Party-in-Person contended that the reply dated 15.09.2021 obtained by him from the Kendriya Vidyalaya Sangathan, Regional Office, Chennai, under the Right to Information Act shows the sorry state of affairs in the KVs, as Sanskrit and Hindi are made as compulsory subjects from Class VI to Class VIII, while they are optional subjects among five from Class IX, but Tamil is not a compulsory subject, much less not even taught as a subject to those class students. It is his submission that while 101 Hindi Teachers and 50 Sanskrit Teachers are employed in KVs in the State, not even a single Tamil Teacher is employed, as there is no necessity for the same, which violates the fundamental rights of the students of the State. It is also submitted that the Central Government have been expending huge sums of money to promote Sanskrit language, such treatment was not given to the other Eighth Schedule languages, much less, Classical languages, which is also again violative of the constitutional scheme.

6. It is to be stated that there were two limbs in the prayer made by the writ petitioner. The first one pertains to Tamil language, while the second limb of the prayer relates to 20 other languages found in the Eighth Schedule of the Constitution of India. This Court wonders as to how such a blanket prayer could be made by the writ petitioner. Nevertheless, this Court has no jurisdiction to hear all the stakeholders of the respective States and thus, we are of the view that this writ petition is liable to be dismissed as not maintainable, insofar as the second limb of the prayer is concerned.

7. Now coming to the first part of the prayer, there is no quarrel with regard to the status of Tamil Language, which is the oldest language and declared as "Classical Language". There is no need to prove the same by way of newspaper reports, which, howsoever reliable, trustworthy and authentic, need not be relied upon by this Court to arrive at a just decision in the instant case.

8. At this juncture, it is to be stated that the concept of establishment of Kendriya Vidyalayas is to address the difficulties faced by the wards of transferable Central Government Employees, who have to move from one place to another owing to their official requirements and a uniform school education system across the country is a necessity to those students to seamlessly continue their education, irrespective of the transfer of their parents. Merely because one of the parents hailing from other State has to serve in the State of Tamil Nadu, for a few years, their wards cannot be forced to study Tamil as a Medium of Instruction, so also as a subject. Similarly, wards of Officers, who hail from Tamil Nadu and serve in 'home' state, but later transferred to some other



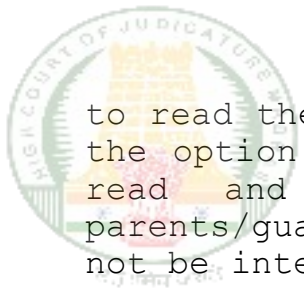
State, cannot be expected to suffer by changing the medium of Instruction from Tamil to Hindi or any other regional language of the State concerned. Even the people of a particular State having the regional language of that State as mother tongue may settle down in another State and their wards may not be in a position to read and write their mother tongue.

9. In such backdrop, as a common scheme of education English is taught compulsorily from Classes I to XII and Hindi is taught compulsorily from Classes I to VIII and it is optional in Classes XI and X and the same can be chosen either as the second language or as an elective by the students in Classes XI and XII. But, Sanskrit is mandatorily taught from Classes VI to VIII alone and it is optional to classes IX and X. Article 111 of the Education Code for Kendriya Vidyalayas captioned 'Medium of Instruction' clearly spells out that "the medium of instruction shall be Hindi and English. Separate classes for Hindi and English medium shall be provided from class I to XII". Thus, it is the right of the students to choose one of these two languages of their choice as medium of instruction through their parents/guardians and the same cannot be found fault with, in view of the circumstances, in which, the Officers are posed, i.e., their transferrable nature of job, etc.,.

10. Now coming to the question of making Tamil as a subject, it is to be stated that having felt the need to provide platform for learning Regional language, as an additional measure within the broad scheme of common school education, Article 112 has been introduced in the Education Code for Kendriya Vidyalayas and there is absolutely no bar to teach Tamil or regional language in KVs, if 20 or more students opt for learning and the said provision reads as follows :

"Article 112. REGIONAL LANGUAGES : Additional arrangement for teaching of the regional language / mother tongue shall be made, provided 20 or more students are willing to opt for the same. For this, part-time contractual teacher shall be appointed after obtaining sanction of the Dy. Commissioner. Teaching of these will be introduced from class VI and will continue up to class VIII and where need be in class IX and X also. The teaching will be during school hours for about two to three periods per week. The teaching of regional language / mother tongue shall be stopped at the end of February each year."

A reading of the above provision would go to show that additional arrangement for teaching of the regional language / mother tongue could be made from class VI to VIII and where need be, it is taught upto class X. Further, for making arrangement for teaching regional language / mother tongue, 20 or more students have to opt it. This makes it amply clear that there are ways and means for the students



to read their mother tongue in KVs also. Keeping all these in mind, the option to exercise the medium of instruction and the choice to read and study a language judiciously is given to the parents/guardians and such policy of the Government of India need not be interfered with by this Court.

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11. At this juncture, it is apposite to quote the judgment of the First Bench of this Court dated 14.12.2015 made in WP No.16440 of 2014 (**Majlis-E-Tahaffuz-E-Urudu, Tamil Nadu rep. by its President K.Nasarullah V. Commissioner and Secretary to Government, Department of Education, State of Tamil Nadu**), in which, one of us (Pushpa Sathyanarayana, J.) is a party, wherein, this Court dealt with the writ petition filed by a religious minority trust questioning the validity of Section 3(1) of the Tamil Learning Act, 2006, as it entrenches the rights of minorities under Articles 29 and 30(1) of the Constitution of India to establish and administer educational institutions of their choice. While dismissing the writ petition, it has been held as follows :

"8. The office memorandum dated 21.8.2014 was issued by the Ministry of Minority Affairs calling for Action Taken Report. This was also in the context of the requirements of all schools affiliated to CBSE to record in the admission form of the students, the mother tongue of the child, the first language preferred and the optional language, as also the requirement stipulated under Section 29(2)(f) of the Right of Children to Free and Compulsory Education (RTE) Act, 2009 to provide for medium of instructions to the students practicably in the child's mother tongue.

9. In pursuant to the responses received, the Ministry of Human Resources Development has instructed all the schools affiliated to the Central Board of Secondary Education by its letter dated 25.9.2014, to record the details of the mother tongue of the child, preference of first language and optional language in the admission form itself so as to ensure that the children belonging to linguistic minority groups are at the reach of the facility for instruction in their mother tongue at the primary stage of education. It is also stated in the comments passed by the Ministry of Human Resources Development that the Government is actively considering bringing out a new policy on education and that during the formulation stage, it will consult all stakeholders including linguistic minorities.

.....

15. Introduction of provincial language is a matter of formulation of policy by the State educational authorities. While fundamental right under Article 19(1)(g) is subject to the reasonable restrictions that could be imposed by the State by virtue of the power under Article 19(6), the fundamental right under Articles 29 and 30(1) is subject to



the power of the State Government to make regulations to regulate the administration of the institutions.

16. The right guaranteed to religious and linguistic minorities by Article 30(1) is two fold namely, (i) to establish and (ii) to administer educational institutions of their choice. The administration of the educational institutions has certain limitation as it is subject to regulation by the State. The Hon'ble Supreme Court has, in a catena of decisions, ruled that High Courts cannot interfere in the Government's policy decisions since the scope of judicial review is limited in questioning such decisions.

17. One cannot dispute the proposition that policy decision alone can decide which policy should be adopted after considering all points from different angles and hence, there can be no second opinion that maintaining policy decisions must be left to the Government.

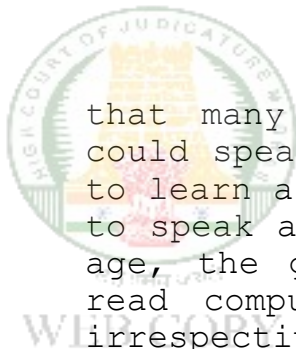
18. Broadly, a policy decision is subject to judicial review on the following grounds :

- "(a) if it is unconstitutional;
- (b) if it is dehors the provisions of the Act and the Regulations;
- (c) if the delegatee has acted beyond its power of delegation;
- (d) if the executive policy is contrary to the statutory or a larger policy."

19. It is a settled principle of law that matters relating to framing and implementation of policy primarily fall in the domain of the Government. It is an established requirement of good governance that the Government should frame policies which are fair and beneficial to the public at large. Under Article 162 of the Constitution, the State Government has executive powers co-extensive with its legislative powers. As such, the State undoubtedly has powers to prescribe any course of study which is in the interest of excellence in education. This power would certainly include the power to prescribe language or languages, as course of study in the educational institutions."

As held in the aforesaid judgment, it is to be reiterated that the settled principle of law is that matters relating to framing and implementation of policy primarily fall in the domain of the Government and it is an established requirement of good governance that the Government should frame policies which are fair and beneficial to the public at large.

12. We are reminded of the fact that Subramanya Bharathi stated to be proficient in around 14 languages, which includes 3
<https://hservices.poodh.gov.in/hservices/> for Indian languages, i.e., foreign languages. It is widely known



that many Indians, including one of our former Prime Ministers, could speak more than a dozen languages. There is no bar for anyone to learn as many as new languages as he or she wants to learn, be it to speak alone, or read and write as well. In the present technical age, the globe became a village and the smart new generation can read computer languages, so also the language of their choice, irrespective of their age, if they have interest. It is for the parents and after certain years, the students, who have to take a call on this issue and the Courts cannot be expected to protrude into these aspects, which are within the domain of the policy-makers and the people concerned.

13. Nevertheless, we are of the view that excepting collecting some paper and web news about the beauty and glory of the Classical Tamil language, the petitioner has not undertaken any spade work to file this writ petition seeking a prayer of this nature, which has ramifications on the future assets of our nation, i.e., children. However, we are refraining from imposing any cost on him.

14. With the observations made hereinabove, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar (W)

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Sub Assistant Registrar(CS)

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To

1. The Principal Secretary
of the President of India,
Union of India,
Rastrapathi Bhavan,
New Delhi-110 003.
2. The Principal and Special Secretary,
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Lok Nayak Bhavan,
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3. The Principal Secretary,
Human Resource Development Ministry,
Union of India,
Lok Nayak Bhavan,
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4. The Principal Secretary,
Ministry of Parliament Affairs,
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+1 CC to M/s.SPL GP (SR-37224[F] dated 03/12/2021)

W.P. (MD)No.19912 of 2021
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