

Javed Niaz Beg and Another

Vs

Union of India and Another

Writ Petitions Nos. 660-661 of 1980

(V. R. Krishna Iyer, O. Chinnappa Reddy, A. P. Sen JJ)

17.04.1980

JUDGMENT

KRISHNA IYER, J. –

1. Language is speech, sentiment, life, literature and other dear values rolled into one and that is why when State policy on language goes away explosive tensions erupt and courts cannot allow legalism to override realism when asked to quash some sensitive linguistic formula with emotive overtones. This prefatory caveat and its profound implications with emotive overtones. This prefatory caveat and its profound implications must be appreciated before we eat the forbidden fruit of policy-making by striking down the Central Government's amendatory notification bearing on language papers for Central Services Examination or the All India Services Examination. The realisation that language is at the root of culture, that communities sometimes sacrifice their very existence for survival of their mother tongue and that tolerance and mutual accommodation on the linguistic front are integral to national integration must persuade the court to keep its hands off the delicate strategic policy of the State relating to the people's language. Indeed, the rich diversity of India and the indispensable unity of the nation make it a linguistic imperative that a spirit of generosity to territorial communities, especially minorities without political pull, is of the quintessence of our constitutional policy. Challenges to the language formula prescribed by the Government of India in the Rules for the Combined Competitive Examinations to the All India Services and the like have to be viewed against this backdrop. In short, the perspective which we propose to adopt has to be perceptive which we propose to adopt has to be perceptive of the linguistic values of India with its plurality of tongues, dialects and languages. Equality before the law is the kernel of our constitutional order. But equality is not a static, rigid, formal or pedantic concept. A sensitized social scientist will easily agree that equality is dynamic, flexible, creative and developmentally sensitive, especially in the Third World conditions like ours. Once this imaginative approach is adopted, the submission of counsel will lose all force. Indeed, it will be counter-productive of the equality on which it is formally founded, as we will presently indicate.

2. These writ petitions are by candidates of the Hindi belt of India, who challenge certain amendments to the rules for the competitive examinations to the All India Services and allied categories. We may extract the relevant part of the Notification dated March 17, 1979 :

No. 13018/5/78-AIS(I) : The following amendments are hereby made in the Rules for the Combined Competitive Examination - Civil Services Examination, 1979 published in Part I Section I of the Gazette of India Extra ordinary dated January 15, 1979 vide this Department's Notification No. 13018/5/78-AIS(I) dated the January, 15, 1979 :-

(3) Note (ii) under para 1 of Section II(B) Appendix I is renumbered as note (iii) and the following is inserted as note (ii) :-

The paper I on Indian languages will not, however, be compulsory for candidates hailing from the North Eastern States/Union Territories of Arunachal Pradesh, Manipur, Meghalaya, Mizoram and Nagaland.

3. The gravamen of the charge against this notification is that candidates hailing from the North Eastern States/Union Territories of Arunachal Pradesh, Manipur, Meghalaya, Mizoram and Nagaland are not obligated to take Paper I on Indian languages. Why should this discrimination be shown in their favour, urges counsel for the petitioners. While favourable treatment for women and children, backward classes, scheduled castes and scheduled tribes is sanctified by the Constitution, the linguistic concession shown to the Indian brethren in the remote regions we have just referred to is castigated as unconstitutional, unequal and invidiously discriminatory. In the familiar jargon, counsel contends that inequality among equals is the intent and effect of the notification and the vice of discrimination much prove lethal to its validity. We are not impressed with this submission.

4. The integrity of India is a supreme value. The languages of India are dearest to the people who speak them. It is notorious that the North Eastern States/Union Territories of Arunachal Pradesh, Manipur, Meghalaya, Mizoram and Nagaland have handicaps in the matter of language. Thus Eighth Schedule to the Constitution has set out the prominent languages of India which are written and spoken by large populations between Kashmir and Kanyakumari. But this rich tapestry, for its very beauty, must afford equal opportunity for those linguistically less advanced groups who are outside the Eighth Schedule and may suffer serious disabilities if forced to take examinations in those languages. Logically, an option for them to take or not to take Paper I on Indian languages is a facility which puts them on par with the rest. Once we understand that equalisation is part of the dynamics of equality, this concession is not contravention of equality but conducive to equality. It helps a handicapped groups and does not hamper those who are ahead.

5. A realistic appraisal of the linguistic landscape of the North Eastern States of our motherland will leave no thinking Indian in doubt that the exemption granted will encourage disabled groups into integrating themselves with the nation. More and more of successful candidates from these border areas coming into the mainstream of our Central Public Services is a tribute to national integration and democratic foundation. On the other hand, procrustean equality by insistence of the linguistic 'have-nots' being treated on a par with the linguistic 'haves' is productive of inequality. Both equalisation as a measure of equality and national integration as a homogenisation of the people of the country, require the step that has been taken. We discern no discrimination. On the contrary, we find a sensitive appreciation of the situation prevailing in those States and operates for a better egalite among unequals.

6. While we dismiss these writ petitions, we hope that the objective of the notification will be fulfilled in the years ahead by more and more of our brothers and sisters from the frontier States participating in national administration at the civil services level.

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