

FREE TO CHOOSE MEDIUM OF INSTRUCTION

- Aishwarya Gupta

The Hon'ble Supreme Court, in the case of *State of Karnataka & Anr v. Associated Management of (Government Recognised – Unaided – English Medium) Primary & Secondary Schools & Ors*, (2014) 9 SCC 485, held that the right to freedom of speech and expression under Article 19(1)(a) included the right of a child to be educated in the medium of instruction of her choice (or on her behalf, her parent's or guardian's choice). Further, it observed that such a regulation would violate the fundamental right of the unaided schools to do business under Article 29(1) and 30.

Facts

The Government of Karnataka in 1994 issued an order which provided that the medium of instruction in all the Government recognized schools for classes I to IV must in the mother tongue or in Kannada. It further said that the students may change over to English or any other language as a medium of their choice. The Associated Management of Primary and Secondary Schools in Karnataka (Respondents) challenged this Order. The Karnataka High Court quashed the order in so far as it was applicable to unaided primary and secondary schools and the State of Karnataka (Appellants) subsequently appealed this decision to the Supreme Court. The Division Bench of the Apex Court referred the matter to the Constitutional Bench.

Contentions

The Respondents contended that the right to choose the medium of instruction was the fundamental right of a child under Article 19(1) (a) and 21A. The Respondents also argued that the even the schools have this right under Article 19(1) (g), 26, 29 and 30(1).

The State (Appellant) relied upon the decision of the Apex Court in *English Medium Students Parents Association v. State of Karnataka*, [(1994) 1 SCC 550] to argue that such regulation on the medium of instruction is in exercise of the regulatory power of the State with respect to primary education. The State also placed emphasis on Article 350A which casts a duty on the State to provide adequate facilities for instruction in mother tongue at primary stage of education.

Judgment

The Hon'ble Apex Court held that the freedom of choice has been guaranteed under Article 19(1) (a). It relied upon *Secretary, Ministry of Information & Broadcasting, Government of India v. Cricket Association of Bengal* to conclude that receiving information or education by a citizen was part of his right to freedom of speech and expression. On the basis of these, the Court opined that freedom of speech and expression under Article 19(1)(a) includes the freedom of a child to receive primary education in a language of his (or his parents') choice. The Court also held that the State cannot infringe upon this right simply because it is of the opinion that a particular language is beneficial for the child.

Further, the Court held that this regulation will affect the rights of minority schools under Article 29(1) and 30(1). It reasoned that the choice of the minority school under Article 30(1) need not be limited to imparting education in the language of the minority community. The Court also ruled out the application of Article 350A on the minority institutions.

While relying upon *TMA Pai Foundation v. State of Karnataka*, it observed that the right of occupation of the private unaided schools under Article 19(1) (g) includes the right to establish a school for imparting education in a medium of instruction of his choice. The Court disregarded the contention of the State that the power to provide regulations for maintaining the standards of education includes the power to prescribe the medium of instruction.

Analysis

Through this decision, the Court has given a wide interpretation to Articles 19(1)(a), 19(1)(g), 29 and 30. The child now has a right to be educated in the medium of instruction of his or his parent's choice. It provides autonomy not only to the minority institutions but also the non-minority private institution. This judgment rules out the possibility of imposition of regional languages on primary classes by the political parties in furtherance of their own political interests.

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