

**IN THE HON'BLE HIGH COURT OF PANJAB & HARYANA
AT CHANDIGARH**

C.W.P. No 20726 of 2012
PUBLIC INTEREST LITIGATION

Hemant Goswami S/o B. M. Goswami R/o House No. 1726, Sector 33-D, Chandigarh
160 020

.....Petitioner

Versus

- (1) Union of India through Secretary, Ministry of Home Affairs, Ministry of Home Affairs, North Block, Central Secretariat, New Delhi - 110 001
- (2) Union of India through Secretary, Ministry of Minority Affairs, 11th Floor, Paryavaran Bhawan, CGO Complex, Lodhi Road, New Delhi-110003
- (3) State of Haryana through Chief Secretary, Haryana Civil Secretariat, Sector 1, Chandigarh
- (4) State of Punjab through Chief Secretary, Punjab Civil Secretariat, Sector 1, Chandigarh
- (5) Chandigarh Administration through Administrator, UT Secretariat, Sector 9, Chandigarh – 160 009

..... Respondents

CIVIL WRIT PETITION under Articles 226/227 of Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to treat and consider the scheduled language "Sanskrit" as "Minority" within the meaning of Article 29 and 30 of the Constitution of India.

And

for issuance of writ in the nature of Mandamus directing the respondents to consider and notify language "Sanskrit" as "Minority" under Section 2(iii) of the National Commission for Minorities Act, 1992.

And

for issuance of Writ in the nature of Mandamus directing the respondents so as not to discriminate, disadvantage or discourage learning and/or institutions of Sanskrit learning, and education related to Sanskrit must not be discontinued or disadvantaged in any State or State supported/ sponsored institution of learning for any reason what-so-ever.

RESPECTIVELY SHOWETH:

- 1) That the Petitioner is a social worker working on many issues of public importance; for the overall development and well-being of the society. The petitioner is associated with many civil society organisations, including Servants of the People Society, Society for Prevention of Crime and Corruption, Burning Brain Society, Citizens' Voice, etc. and has earned national and international recognition for his work.
- 2) That the petitioner is a citizen of India and is the direct descendant (Great grand-son) of the 19th century social reformed and preacher "Swami Rama Tirtha." The mother tongue of the petitioner family has been Sanskrit form generations; however owing to continuous strategic neglect of Sanskrit by various transgressors, and the continued education policy of the subsequent Governments, the petitioner and other members of the family too have lost the language within their family too and could not be educated in their mother tongue. The petitioner himself is also a directly affected victim who has suffered violation of his fundamental right concerning protection of one's culture, language and education in one's own mother language, right to equality and protection of life and personal liberty. However since the subject matter concerns a much wider section of population, across generations, the present Writ Petition is filed in larger Public Interest.
- 3) That Sanskrit is a scheduled language , mentioned as item number 17, in the

“Eighth Schedule” of the “Constitution of India.”

- 4) That according to the “Census Report” of 2001, under the heading of “Abstract Of Speakers' Strength Of Languages And Mother Tongues – 2001,” the total number of Speakers of Sanskrit are now reduced to 14,135 only out of over 102 crore Population of India. Excerpts and table from the publication “Census Report” of 2001, “Data On Language, Statement 4, Scheduled Languages In Descending Order Of Speakers' Strength - 2001” is annexed as **P-1**.
- 5) That Sanskrit, which is the mother language of all regional languages spoken in India as well as South-East Asia, has been reduced to minority status by continuous neglect, wrong policies and by a well-thought out design of the foreign transgressors in India, which has knowingly or unknowingly continued post Independence too.
- 6) That the provisions mentioned in “Fundamental Rights” i.e. Part III of the Constitution of India, under the heading “Cultural and Educational Rights” provides for Article 29 and 30 to protect the rights of people in minority on the basis of language.
- 7) That Article 29 of the Constitution of India reads as follows;
Article 29: Protection of interests of minorities.- (1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same. (2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.
- 8) That Article 30 of the Constitution of India reads as;
Article 30: Right of minorities to establish and administer educational institutions.- (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice. (1A) In making any law providing for the compulsory acquisition of any property of any educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.] (2) The State shall not, in granting aid to educational institutions, discriminate against

any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

- 9) That protection of culture and language is also necessary for upholding the "Freedom of Speech and Expression" as guaranteed under Article 19 of the Constitution of India as well as an essential element of right to life and personal liberty as guaranteed under Article 21 of the Constitution of India.
- 10) That protection of a language which is the backbone of all languages and in which the cultural heritage and all other documents of great significance are written is also an important right enshrined in Article 14 of the Constitution of India. All individual, immaterial of which scheduled language they speak or educate in, have the same right, as that with regard to any other of the scheduled language as mentioned in "Eighth Schedule" of Constitution of India. All individuals also have the right to be taught in the scheduled language of their choice and have text books and other material in the language of choice. All scheduled languages have to be treated at par and in case any language has been disadvantaged in the course of history, which has the effect of reducing it to a minority language, the same deserves proper protection by the State as per the provisions concerning minorities. Sanskrit has been disadvantaged, discriminated and discouraged for various extrinsic and intrinsic reasons, as also briefly mentioned in "List of Dates and Events," which is a part of this petition.
- 11) That the spirit of the constitution makes it clear that every individual has the right to protect his/her culture and mother tongue and has the fundamental right to seek constitutional protection to safeguard and preserve the language, its institutions and to ensure its propagation and promotion.
- 12) That the United Nations on 18th December 1992 declared that "In order to strengthen the cause of the minorities, the United Nations promulgated the "Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities" on 18th December 1992 proclaiming that: "States shall protect the existence of the National or Ethnic, Cultural, Religious and Linguistic identity of minorities within their respective territories and encourage conditions for the promotion of that identity." India has consented and been a part of the said UN declaration.

- 13) That for the purpose of protecting the minorities, in the spirit of Article 29 and 30, the Government of India has constituted a "National Commission For Minorities," under the "National Commission for Minorities Act, 1992".
- 14) That Section 2(iii) of the legislation, National Commission for Minorities Act, 1992, defines minorities as - "Minority, for the purposes of this Act, means a community notified as such by the Central Government."
- 15) That Government of India has defined only "Religious Minorities," the languages and cultures in neglect and in near state of extinction are still not being given any protection and still not considered, granted, declared as "Minority" by the Government of India. Sanskrit which is spoken by less than 15,000 people across the country has not been considered till date by the Government for according minority status and therefore continue to be discriminated against, directly and indirectly.
- 16) That the States of Punjab, Haryana and Chandigarh are also disadvantaging, discouraging and discriminating education in Sanskrit at School, College and University level. Sanskrit learning has been stopped in many schools by not providing teachers and funds. In College and Universities, courses are being closed down and students are being discouraged; indirect discouragement and strategic discouragement is caused by limiting financial resources. Though Sanskrit is a subject for appearing in Civil Services, the State and Universities are providing no facilities to students for preparing for civil services in Sanskrit, whereas other subjects are being patronized by the State.
- 17) That the scheduled language "Sanskrit" has been reduced to minority status and deserves the special protection within the spirit of Article 29 and 30 of the Constitution of India and must be treated, considered and declared as "Minority" by the Government within the meaning suggested in the scheme of Article 29 and 30 of the Constitution of India, so as to be considered as "Minority;" and thereby, to benefit from all the schemes and protection as are applicable to other minorities, whether religious or otherwise.
- 18) That on declaring and considering "Sanskrit" as "Minority," which Sanskrit has been reduced to; the discrimination against "Sanskrit" is likely to stop and more resources, including grant-in-aid, would be available for

preserving the language. The institutions of learning of Sanskrit will also gain the right to manage their own affairs and protection from discrimination.

The petitioner craves indulgence of this Hon'ble Court for appropriate directions so as to protect fundamental rights of the citizens.

LAW POINTS

- 19) That the law points involved in this Writ petition are as follows: -
 - I. Whether the Constitution of India grants protection to linguistic and cultural minorities too.
 - II. Whether the scheduled language Sanskrit spoken by less than fifteen thousand people (which is about 0.001% of the total population) out of over hundred crore people comes within the meaning of "Minority."
 - III. Whether the scheduled language Sanskrit is to be notified as "Minority."
 - IV. Whether loss of a language/ mother-tongue also affects the citizens' rights guaranteed under Article 14, 15, 16, 19 and 21 of the Constitution.
- 20) That the petitioner has not filed any such Writ petition in this Hon'ble Court or Supreme Court of India.
- 21) That Annexure P-1 is a public document, it's the official record and a public document from the website of "The Registrar General & Census Commissioner, India, New Delhi, Ministry of Home Affairs, Government of India," from the website, www.censusindia.gov.in. Exemption may be granted from filing certified copy of the public record related to Registrar General & Census Commissioner.
- 22) That it is a fit case in which this Hon'ble Court may be pleased to intervene. The matter is also of vital general importance, affecting the entire population, national honour, protection of culture of India, and therefore requires intervention of this Hon'ble Court.
- 23) That there is no other alternative remedy, appeal and revision available to the petitioner except approaching this Hon'ble Court under Article 226/227

of the Constitution of India.

PRAYER

24) It is, therefore, respectfully prayed, that in view of the facts mentioned above this Hon'ble Court may be pleased to allow the following relief:-

- I. Writ in the nature of Mandamus, be issued directing the respondents to treat, consider and declare the scheduled language "Sanskrit" as "Minority" within the meaning of Article 29 and 30 of the Constitution of India.
- II. Writ in the nature of Mandamus, be issued directing the respondents to consider and notify language "Sanskrit" as "Minority" under Section 2(iii) of the National Commission for Minorities Act, 1992.
- III. Writ in the nature of Mandamus, be issued directing the respondents, so as not to discriminate, disadvantage or discourage learning and/or institutions of Sanskrit learning, and education related to Sanskrit must not be discontinued or disadvantaged in any State or State supported/ sponsored institution of learning for any reason what-so-ever.
- IV. Any other appropriate writ, order or direction as this Hon'ble Court may deem fit in the facts and circumstances of the case.

Chandigarh
12.10.2012

Hemant Goswami
Petitioner-in-person

VERIFICATION:-

Verified that the contents of paras No. 1 to 18 and para No. 20 to 24 of the petition are true and correct to my knowledge, whereas, contents in para no. 19 are based on legal advice which I believe to be true and correct. No part of it is false and nothing has been concealed therein.

Chandigarh

Hemant Goswami

12.10.2012

[Public Document]

**Census Data 2001
Data on Language**

STATEMENT 4

**SCHEDULED LANGUAGES IN DESCENDING ORDER OF SPEAKERS'
STRENGTH - 2001**

S. No.	Language	Persons who returned the language as their mother tongue	Percentage to total population **
1	Hindi	422,048,642	41.03
2	Bengali	83,369,769	8.11
3	Telugu	74,002,856	7.19
4	Marathi	71,936,894	6.99
5	Tamil	60,793,814	5.91
6	Urdu	51,536,111	5.01
7	Gujarati	46,091,617	4.48
8	Kannada	37,924,011	3.69
9	Malayalam	33,066,392	3.21
10	Oriya	33,017,446	3.21
11	Punjabi	29,102,477	2.83
12	Assamese	13,168,484	1.28
13	Maithili	12,179,122	1.18
14	Santali	6,469,600	0.63

S. No.	Language	Persons who returned the language as their mother tongue	Percentage to total population **
15	Kashmiri	5,527,698	0.54
16	Nepali	2,871,749	0.28
17	Sindhi	2,535,485	0.25
18	Konkani	2,489,015	0.24
19	Dogri	2,282,589	0.22
20	Manipuri *	1,466,705	0.14
21	Bodo	1,350,478	0.13
22	Sanskrit	14,135	N

* Excludes figures of Paomata, Mao-Maram and Purul sub-divisions of Senapati district of Manipur for 2001 Census.

** The percentage of speakers of each language for 2001 has been worked out on the total population of India excluding the population of Mao-Maram, Paomata and Purul subdivisions of Senapati district of Manipur due to cancellation of census results.

N - Stands for negligible.

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Versus

Union of India and others

...Respondent

LIST OF DATES AND EVENTS

1500 B.C. to 1612

Sanskrit Language is used by common people of India and also as "Lingua Franca" (Language of the masses and bridge language) and all literature, documents, knowledge is stored in Sanskrit. Sanskrit is spoken across Asia and middle east and connects India within and with outside world. All documents, texts, knowledge, literature, mythological texts, religious scripts, etc. is stored and propagated in Sanskrit. Being the only language in the world which is properly and scientifically structured, Sanskrit also give birth to all other regional dialects and languages in Asia and elsewhere.

February 2, 1835

Thomas Babington Macaulay who was was "Secretary to the Board of Control" and looking into the affairs of India for the British Government advocated through a written Minute on the subject of education in India. Macaulay argued that support for the publication of books in Sanskrit and Arabic should be withdrawn,

support for traditional education should be reduced to funding for the Madrassa at Delhi and the Hindu College at Benares, but students should no longer be paid to study at these establishments. The money released by these steps should instead go to fund education in Western subjects, with English as the language of instruction. He summarised his argument in the following paragraph, "To sum up what I have said, I think it is clear that we are not fettered by the Act of Parliament of 1813; that we are not fettered by any pledge expressed or implied; that we are free to employ our funds as we choose; that we ought to employ them in teaching what is best worth knowing; that English is better worth knowing than Sanskrit or Arabic; that the natives are desirous to be taught English, and are not desirous to be taught Sanskrit or Arabic; that neither as the languages of law, nor as the languages of religion, have the Sanskrit and Arabic any peculiar claim to our engagement; that it is possible to make natives of this country thoroughly good English scholars, and that to this end our efforts ought to be directed." Macaulay's Minute formed the basis for the neglect of Indian languages and promotion of English and enactment of Education Act of 1835. Sanskrit suffered irreparable damage.

Year 1612 to 1858

East India Company reaches India. Following the decline of the Mughal Empire in 1707 and after the East India Company's victory at the Battle of Plassey in 1757 and Battle of Buxar, both in Bengal 1764, the Company gradually began to formally expand its dominions and collectively

call the area India and started making legislations and interfering in Indian Education Act. Parts/ Areas/ Region of India come under the rule of East India Company and the British Government by proxy. The East India Company changed its education policy with regard to India by promulgating the "Charter Act of 1813." British Parliament enacts Indian Education Act 1813, Indian Education Act 1835 and thereby made a policy to discourage Sanskrit and promote only English.

1858 - 1950

Company rule in India, however, ended with the Government of India Act 1858. British rule India directly. Sanskrit is discouraged and medium of instruction of Sanskrit in most Universities is changed to "English." Hostility to Sanskrit and to Indian culture in general began to assert itself in Britain in the early 19th century. The hostility was manifest by a neglect of Sanskrit in British academia, as compared to other European countries, and was part of a general push in favor of the idea that India should be culturally, religiously and linguistically assimilated to Britain as far as possible. Continuous decline of Sanskrit continues.

26th January 1950

Constitution of India comes into existence. Article 29 and 30 of the Constitution provides protection to threatened languages by putting it in the category of "Minority." Subsequently the Ministry of Home Affairs notifies "Minorities Commission" by way of Ministry of Home Affairs Resolution dated 12.01.1978 to fulfill the mandate of Article

29 and 30 of the Constitution.

December 18, 1992 India adopts the “Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities” to protect the rights of even linguistic minorities. In order to strengthen the cause of the minorities, the United Nations promulgated the “Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities” on 18th December 1992 proclaiming that: “States shall protect the existence of the National or Ethnic, Cultural, Religious and Linguistic identity of minorities within their respective territories and encourage conditions for the promotion of that identity.”

India accepts and adopts the declaration and thereafter the “National Commission for Minorities” has been observing the 18th December as a Minorities Rights Day every year.

May 17, 1993 National Commission for Minorities Act, 1992 formed and notified. The Minorities Commission became a statutory body and reformed as “National Commission for Minorities.” Vide a Gazette Notification issued on 23rd October 1993 by Ministry of Welfare, five religious communities viz; the Muslims, Christians, Sikhs, Buddhists and Zoroastrians (Parsis) were notified as minority communities.

Linguistic minorities have not been considered for the purpose of awarding protection and the

consequential "Minority" status either by the Union of India or the States.

- Year 2001** "Census Report" of 2001 is released. Under the heading of "Abstract Of Speakers' Strength Of Languages And Mother Tongues – 2001," the total number of Speakers of Sanskrit is shown to be reduced to 14,135 only out of over 102 crore Population of India.
- 1950 to Till date** Union of India continues to neglect Sanskrit and as a result the number of speakers of Sanskrit are reduced to mere 14,000 people according to 2001 Census. Education and institutions of Sanskrit learning are discriminated and forced to close down due to poor financial health and systematic discouragement and neglect. Despite the threatened status, Sanskrit is not given the "Minority" status, as provided under Article 29 and 30 of the Constitution of India.

Hence, this writ petition is being filed before this Hon'ble Court.

Chandigarh
12.10.2012

Hemant Goswami
Petitioner-in-person