

Education Sector Hotline

February 19, 2018

OPPRESSIVE LANGUAGE LEARNING POLICIES

This article was originally published in the 08th February 2018 edition of



The movement to mandate learning of the dominant official language of states as a compulsory subject has acquired momentum again. In 2017, West Bengal, Karnataka and Telangana took measures to make learning of their official vernacular language in all private schools compulsory irrespective of the boards with which schools are affiliated. Similarly, Punjab and Maharashtra also seem geared to ensure it is compulsorily taught in all schools in their respective states.

This seems to be a growing trend. While some states want the medium of instruction to be the dominant/official state language, other relatively more progressive states want it to be taught as another subject. In either case, the states justify this as an attempt to preserve and promote their cultural heritage. While the pros and cons of these fiat including the political pulls and pushes behind them can be debated, the moot point is whether state governments can legally mandate all schools in their jurisdiction to introduce such compulsory learning. Under the Constitution, education falls within the concurrent list. This means both the Central and state governments have the power to legislate on the subject, i.e. state governments can enact legislation which it believes is in the state's interest and does not conflict with any Central legislation.

This specific question was examined by the Supreme Court in Usha Mehta vs. State of Maharashtra (2004). The issue before the court was whether Maharashtra could legislate teaching of Marathi as a compulsory subject in all schools from class V onward. The constitutional validity of this imposition was challenged by an English-medium school, run by promoters from the Gujarati linguistic community. The petitioners claimed that following this directive, they were obliged to teach four languages (Hindi, English, Marathi and Gujarati), as against the normative three language formula.

Relying on several judgements of the apex court, including the landmark T.M.A. Pai Case (2002), the court concluded that the state can impose reasonable regulations on minority-run institutions in the larger interest of the state and nation. The court reasoned that since Marathi is the official language of Maharashtra state, and official and common business was conducted in Marathi, a proper understanding of the language was essential for ease of living within the state. Therefore, the court ruled that every state has the right to mandate compulsory learning of its official language. Thus the right "not to learn" sought by the petitioners was not accepted by the court, and the policy directive of the Maharashtra government was upheld.

Imposition of laws to learn the native language as a compulsory (and not elective) subject can be cumbersome for out-of-state students and students who may need to keep changing states

However, the judgement of Usha Mehta's Case needs to be distinguished from the ruling of the apex court in State of Karnataka vs. Associated Managements of English Medium Primary and Secondary Schools (2014) in which the court considered the question of whether mother tongue or official state language can be imposed as a medium of instruction in primary education. In this case, the court held that such an imposition is violative of the fundamental rights of minority-run institutions. Going further, the court held that even private schools not established by minority communities can choose the medium of instruction for imparting primary education. Elaborating, the court observed that the power of state governments to impose their official vernacular languages as media of instruction for primary school children contradicts the fundamental rights of parents to choose the medium of instruction for their children. Therefore, such imposition was in violation of the petitioners' fundamental rights under Article 19 of the Constitution in the instant case. Thus the policies of state governments to mandate learning of their official languages as a compulsory subject, but not medium of instruction seem to be in line with Supreme Court decisions.

Nevertheless, having said that, it is important for state governments to reconsider this issue because while it is undisputed that teaching the official/dominant language of every state will equip students to better understand and communicate in the state language, this policy overlooks the fact that today, the world is a global village and each state isn't inhabited only by natives of the state. For professional and other purposes, people choose to live in other than their native states. Therefore, imposition of a rule to learn the native language as a compulsory (and not elective) subject can be cumbersome for out-of-state students and those who may need to keep changing states, because of parental transfers or other reasons.

Research Papers

Structuring Platform Investments in India For Foreign Investors

March 31, 2025

India's Oil & Gas Sector— at a Glance?

March 27, 2025

Artificial Intelligence in Healthcare

March 27, 2025

Research Articles

Re-Evaluating Press Note 3 Of 2020: Should India's Land Borders Still Define Foreign Investment Boundaries?

February 04, 2025

INDIA 2025: The Emerging Powerhouse for Private Equity and M&A Deals

January 15, 2025

Key changes to Model Concession Agreements in the Road Sector

January 03, 2025

Audio

CCI's Deal Value Test

February 22, 2025

Securities Market Regulator's Continued Quest Against "Unfiltered" Financial Advice

December 18, 2024

Digital Lending - Part 1 - What's New with NBFC P2Ps

November 19, 2024

NDA Connect

Connect with us at events, conferences and seminars.

NDA Hotline

Click here to view Hotline archives.

Video

Yyapak Desai speaking on the danger of deepfakes | Legally Speaking with Tarun Nangia | NewsX

Another issue is that compulsory study of a native language (in addition to Hindi and English, as per three language formula) restricts students from learning international languages such as French, German etc. which would become five languages, a great additional burden.

Education is all about experimentation. Educators are consciously trying to innovate within the education system and progress beyond the traditional subjects-based learning model to concept learning. In such times, it's important for state governments to respond to changing times. The focus of governments should therefore be on integration of global skills and use of flexi learning models for improved educational outcomes, rather than on politically motivated compulsory learning of state languages.

– **Aarushi Jain & Vivek Kathpalia**

You can direct your queries or comments to the authors

DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing at the time of preparation. The Hotline is intended as a news update and Nishith Desai Associates neither assumes nor accepts any responsibility for any loss arising to any person acting or refraining from acting as a result of any material contained in this Hotline. It is recommended that professional advice be taken based on the specific facts and circumstances. This Hotline does not substitute the need to refer to the original pronouncements.

This is not a Spam mail. You have received this mail because you have either requested for it or someone must have suggested your name. Since India has no anti-spamming law, we refer to the US directive, which states that a mail cannot be considered Spam if it contains the sender's contact information, which this mail does. In case this mail doesn't concern you, please unsubscribe from mailing list.

April 01, 2025

Vaibhav Parikh, Partner, Nishith Desai Associate on Tech, M&A, and Ease of Doing Business

March 19, 2025

SIAC 2025 Rules: Key changes & Implications

February 18, 2025
