

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. _____ OF 2017

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

In the matter of:

VEENAYAK SHAH

...Petitioner

Versus

UNION OF INDIA

...Respondents

PAPER BOOK

(FOR INDEX KINDY SEE INSIDE)

Advocate for Petitioner: Mr Satya Mitra

RECORD OF PROCEEDINGS

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SYNOPSIS

The present writ petition is being filed in the public interest under Article 32 of the Constitution of India in response to the “Revised Education Code of Kendra Vidhalaya Sangathan”. The Petitioner herein is seeking the indulgence of this Hon’ble Court for reliefs to ensure that there occurs no violation of fundamental rights under Article 28(1) and Article 19 of the Constitution of India.

Kendra Vidhalaya Sangathan (KVS) :

The Kendriya Vidyalayas are a system of Central Government schools in India that were instituted under the aegis of the Ministry Of Human Resource Development (MHRD). The network expands to a massive 1,125 schools in India, ensuring a uniform curriculum and syllabus all over India, thus making it one of world's largest chain of schools. The schools have been operational for over 50 years.

Administration

The administration of Kendriya Vidyalaya Sangathan, is based on various levels:

Chairman :

Chairman of Kendriya Vidyalaya Sangathan is always the Minister of Human Resource Development of the Government of India;

Deputy Chairman :

The Deputy chairman is Minister of State of MHRD.

Commissioner :

The real working power lies with the Commissioner of KVS; there are additional commissioners to accompany Commissioner in the administration of KVS in different fields.

Deputy Commissioner :

The head of a KVS region is Deputy Commissioner accompanied by an Assistant Commissioner.

Principal :

There are individual principals of every KVS administering the school.

REVISED EDUCATION CODE :

1.The Institution is divided among 25 regions, thus ascertaining the fact that it expands over regions with diverse languages, culture and traditions. As per Article 92 of the Revised Education Code of Kendra Vidhalaya Sangathans,

herein after referred to as “The Code”, the Kendra Vidhalayas shall have a Common Prayer and a Common Uniform.

2.This petition impugns Article 92 of Chapter 10 of the Revised Education Code for Kendra Vidhalayas Sangathans, in so far as it relates to the common prayer prescribed. As per Article 92 of The Code, the School day shall begin with the morning Assembly and all Students, Teachers and the Principal shall attend the Assembly. It states the Conduct and Procedure in which the Morning Assembly is to be carried out, The said Article 92 is at **Annexure P1** hereto and the relevant part is as under :

“ CHAPTER X

MORNING ASSEMBLY :

Article 92 :

All Kendriya Vidyalayas shall have a common prayer and a common uniform .

(A) Morning Assembly - The school day shall begin with the Morning Assembly.All students, teachers and the Principal shall attend the Assembly.

(i) The morning Assembly shall begin with the common prayer which shall include a Sanskrit Shloka :

‘सर्वे सन्तु सुखिनः । सर्वे सन्तु सुखिनः । सर्वे सन्तु सुखिनः ।
सर्वे सन्तु सुखिनः । सर्वे सन्तु सुखिनः । सर्वे सन्तु सुखिनः ।
सर्वे सन्तु सुखिनः । सर्वे सन्तु सुखिनः । सर्वे सन्तु सुखिनः ।’

followed by the prayer in Hindi and shall end with another shloka ‘

‘सह सहाय्य सह सहाय्य सह सहाय्य , सह सहाय्य
सहाय्य सह सहाय्य , सहाय्य सहाय्य सहाय्य सह सहाय्य
सहाय्य सहाय्य / सह सहाय्य ! सहाय्य सहाय्य
!सहाय्य सहाय्य!// ’

(ii) The prayer shall be followed by

- (1)The students pledge
- (2)Thought for the day
- (3)Other activities like daily/weekly news, talks by students and teachers
- (4)Quiz/moral talk
- (5)Silent prayer for two minutes
- (6)The National Anthem
- (7) The marching song on dispersal

(iii) The principal shall ensure that the Morning Assembly is managed and organized by students themselves under the overall guidance and supervision of the concerned teachers. Various Houses shall be given the responsibility of organizing the Assembly on a rotation basis. The common prayer shall be as given in Appendix-XXX.”

COMPULSION IN RECITATION OF PRAYER

3. The Common prayer is in Sanskrit and Hindi, and all the students irrespective of their faith and belief have to perform the prayer in a respective manner by closing their eyes and folding their hands. The Common prayer is given in Appendix XXX of The Code and is herein set out below :

Sanskrit Shloka :

‘ॐ नमो भगवते वासुदेवाय, ॐ नमो भगवते वासुदेवाय,
ॐ नमो भगवते वासुदेवाय गमय’
ॐ नमो भगवते वासुदेवाय ! ॐ नमो भगवते वासुदेवाय ! ॐ नमो भगवते वासुदेवाय ! // ’

English Translation :

Om, (O Lord) Keep me not in the Unreality (of the bondage of the Phenomenal World), but lead me towards the Reality (of the Eternal Self)

(O Lord) Keep me not in the Darkness (of Ignorance), but lead me towards the Light (of Spiritual Knowledge),

(O Lord) Keep me not in the (Fear of) Death (due to the bondage of the Mortal World), but lead me towards the Immortality (gained by the Knowledge of the Immortal Self beyond Death),

Om, (May there be) Peace, Peace, Peace (at the the three levels
- Adidaivika, Adibhautika and Adhyatmika).

Which is then followed by the prayer in Hindi :

Prayer :

Daya kar daan vidya ka hamein parmatma dena.

Daya karna, hamari atma mein, shuddhata dena.

Hamare dhyaan mein aao, Prabhu, aankhon mein bas jao.

Andhere dil mein aa karke, param jyoti jaga dena.

Baha do prem ki Ganga, dilon mein prem ka sagar.

Humein aapas mein mil-jul kar, prabhu rehna sikha dena.

Hamara dharm ho seva, hamara karm ho seva.

Sada eeman ho seva, va sevak jan bana dena.

Vatan ke vaaste jeena, vatan ke vaaste marna.

Vatan par jaan fida karna, prabhu humko sikha dena.

English Translation :

Oh God, give us knowledge

Grant us abundant spirit

Give us purity of soul

Enter our consciousness

Dwell in our vision

Deliver our hearts from darkness to light

Make knowledge flow towards us like the Ganges

Make love flow out from our hearts like a river

Show us how to live in harmony

Teach us the joy of noble deeds

Show us how to be honest

Give us the strength to be hardworking

Show us how to love our country and die for her

Show us how to sacrifice

Lead us to knowledge

Show us the way to purify our souls.

The prayer is then eventually followed by another Sanskrit Shloka.

Sanskrit Shloka :

‘ॐ सह ॐ सह ॐ सह , सह ॐ सह
ॐ सह , ॐ सह ॐ सह
ॐ सह ! ॐ सह ! ॐ सह
!ॐ सह!|| ”

English Translation :

Om, May God Protect us Both (the Teacher and the Student)
(during the journey of awakening our Knowledge),
May God Nourish us Both (with that spring of Knowledge
which nourishes life when awakened),
May we Work Together with Energy and Vigour (cleansing

ourselves with that flow of energy for the Knowledge to manifest)

4.All the Students irrespective of their Faith and Belief, have to compulsorily attend the Morning Assembly and recite the Prayer. All the Teachers share the collective responsibility of supervising the Assembly and making sure that every student folds his/her hands, closes his/her eyes and recites the Prayer without fail. Any student failing to do so is punished and humiliated in front of the entire school.

5.The above prayer is being enforced throughout the country in all Kendra Vidhalayas. As a result, parents and children of the minority communities as well as Atheist and others who do not agree with this system of Prayer such as Agnostics, Sceptisists, Rationalists and others would find the imposition of this prayer constitutionally impermissible.

- Agnostics are defined in the Oxford dictionary as : A person who believes that nothing is known or can be known of the existence or nature of God.
- Rationalists are defined in the Oxford dictionary as : A person who bases their opinions and actions on reason and knowledge rather than on religious belief or emotional response.
- Sceptisits are defined in the Oxford dictionary as :

- Atheist are defined in the Oxford dictionary as : A person who disbelieves or lacks belief in the existence of God or gods.

6.The impugned Article 92 requires the Teachers to guide and supervise the Prayer. Incase a student does not stand with his palms folded and does not recite the prayer then the Teacher is expected to bring the student on the stage to correct them in Public. Similarly if the teacher does not enforce the folding of the palms and the saying of the prayer then the Principal is expected to reprimand the teacher. This is happening in schools throughout the country.

7.One example of the above is reflected in the letter dated 14.6.17, sent by a teacher of the Kendra Vidhalaya I, Sagar, Madhya Pradesh, to the Commissioner, Kendra Vidhalaya Sangathan, New Delhi. This is at **Annexure P3**.

8.There was no reply and the practice continues.

9.A perusal of the above prayer shows that it is based on Hindu religion and it is very different both in substance and form from the prayers of the other religious/ non-religious orientations mentioned above. The issue that arises therefore is whether the state may impose the above mentioned “common prayer” on students and teachers throughout the country.

Article 28(1)

“No religious instruction shall be provided in any educational institution wholly maintained out of State Funds”

10. The expression Religious Instruction has a restricted meaning. It conveys that teaching of customs, ways of worships, practices or rituals can not be allowed in educational institutions wholly maintained out of State funds.

11. Petitioner submits that the above common prayer is a “religious instruction” within the meaning of Article 28 of the Constitution of India and should therefore be prohibited.

12. Imposition of the prayer constitutes a breach of Article 19 (1) (a) of the Constitution of India which is as under :

“All citizens shall have the right -
(a) to freedom of speech and expression;”

13. The imposition is also in breach of Article 25 (1) which is as under:

“Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.”

14. Therefore, according to the Petitioner, students and teachers are entitled either to pray according to the prayer practices of

their religion and according to the teachings, customs, ways of worship and practices and rituals; or not to pray at all. The exercise of these Constitutional rights includes the Right to not pray at all.

15. Petitioner relies on the decision of the Supreme Court in Ms. Aruna Roy v/s Union of India (citation....) the relevant parts of which are as under :

“Special care has to be taken of avoiding possibility of imparting “Religious Instructions” in the name of “Religious Education”

16. Petitioner also relies on the Constitutional bench decision of the Supreme Court in S.R Bommai v/s Union of India (citation.....) the relevant parts of which are as under :

the state has no religion.....The state stands apart from religion.....

Lack of Reasoning and Scientific Temperament among Students:

All the Students have to begin their day by reciting the Common Prayer also followed by silent prayer. This practice creates a lot of obstacles in developing a Scientific

Temperament among the students as the whole idea of God and Religious Faith is given immense priority and the same is instilled as a thought process among the students as well. Students as a result learn to develop an inclination towards seeking Refuge from Almighty instead of developing a Practical Outcome towards the Obstacles and hurdles faced in everyday life and spirit of enquiry and reform seems to be lost somewhere.

LIST OF DATES AND EVENTS	
1965	Kendra Vidhalaya Sangathan was established under the supervision of MHRD, GOI.
28.12.2012	The Education Code was Revised by A Meeting held By Board Of Governors.
	Petitioner makes a representation to the concerned authorities seeking abolition of Prayer from the Education Code.
	Hence this Petition.

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WRIT PETITION (CIVIL) NO. _____ OF 2017
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In the matter of:

1.	Veenayak Shah S/o Sh.Ram Kumar Shah R/o 30, Chitarav Kala, Gram: Chitavaikala, Tehsil : Singrauli, Distt.: Sidhi (M.P) – 486890.	Petitioner No. 1
VERSUS		
1.	UNION OF INDIA, Ministry Of Human Resource Development, Through The Secretary, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi - 01	Respondent No. 1

2.	Kendra Vidhalaya Sangathans Through its Commissioner, 18, Institutional Area, Shaheed Jeet Singh Marg, New Delhi - 110 016	Respondent No. 2
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**WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA SEEKING DIRECTIONS
AGAINST THE RESPONDENTS**

TO

THE HON'BLE CHIEF JUSTICE AND

COMPANION JUSTICES

THE HUMBLE PETITION

OF THE PETITIONERS

MOST RESPECTFULLY SHOWETH THAT:

1. The present writ petition is being filed in the public interest under Article 32 of the Constitution of India in response to the "Revised Education Code of Kendra Vidhalaya Sangathan". The Petitioner herein is seeking the indulgence of this Hon'ble Court for reliefs to ensure that scientific temperament among students is promoted instead of religious knowledge being imparted in schools and that there occurs no violation of fundamental rights under Article 28(1) and Article 19 of the Constitution of India.

1A. The Petitioners have not approached the concerned authorities for similar reliefs.

- 2.** That the Petitioner No.1 herein is an Advocate and practises in the High Court of Jabalpur at Madhya Pradesh. The Voter Card number of the Petitioner is MPC7255946 and the email address is vpshah76@gmail.com and contact number is 8109870226. The Petitioner's annual income is Rs.1,90,000.
- 3.** The Petitioner No. 1 is not involved in any pending civil, criminal or revenue litigation, which has or could have a legal nexus with the issues involved in this Public Interest Litigation. No Government Authority has been moved for relief sought in this petition.
- 4.** That Respondent No. 1 is Union of India and is represented through Ministry of Human Resource

Development that is the nodal agency responsible for the governing of the Kendra Vidhalya Sangathans.

5. That the facts leading to the filing of the present petition are as under :-

REVISED EDUCATION CODE :

1.The Institution is divided among 25 regions, thus ascertaining the fact that it expands over regions with diverse languages, culture and traditions. As per Article 92 of the Revised Education Code of Kendra Vidhalaya Sangathans, herein after refered to as “The Code”, the Kendra Vidhalayas shall have a Common Prayer and a Common Uniform.

2.This petiton impugns Article 92 of Chapter 10 of the Revised Education Code for Kendra Vidhalayas Sangathans, in so far as it relates to the common prayer prescribed. As per Article 92 of The Code, the School day shall begin with the morning Assembly and all Students, Teachers and the Principal shall attend the Assembly. It states the Conduct and Procedure in which the Morning Assembly is to be carried out, The said Article 92 is at **Annexure P1** hereto and the relevant part is as under :

“ CHAPTER X

English Translation :

Om, (O Lord) Keep me not in the Unreality (of the bondage of the Phenomenal World), but lead me towards the Reality (of the Eternal Self)

(O Lord) Keep me not in the Darkness (of Ignorance), but lead me towards the Light (of Spiritual Knowledge),

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Show us how to be honest

Give us the strength to be hardworking

Show us how to love our country and die for her

Show us how to sacrifice

Lead us to knowledge

Show us the way to purify our souls.

The prayer is then eventually followed by another

Sanskrit Shloka.

Sanskrit Shloka :

‘ॐ सह ॐ सह ॐ सह , सह
ॐ सह ॐ सह ॐ सह ,
ॐ सह ॐ सह ॐ सह ॐ सह ॐ सह ॐ सह
ॐ सह ॐ सह ॐ सह | ॐ सह ॐ सह ॐ सह !
ॐ सह ॐ सह !ॐ सह ॐ सह!!! ”

English Translation :

Om, May God Protect us Both (the Teacher and the Student) (during the journey of awakening our Knowledge),

May God Nourish us Both (with that spring of Knowledge which nourishes life when awakened),

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5.The above prayer is being enforced throughout the country in all Kendra Vidhalayas. As a result, parents

and children of the minority communities as well as Atheist and others who do not agree with this system of Prayer such as Agnostics, Sceptisists, Rationalists and others would find the imposition of this prayer constitutionally impermissible.

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- Rationalists are defined in the Oxford dictionary as : A person who bases their opinions and actions on reason and knowledge rather than on religious belief or emotional response.
- Sceptics: are defined in the Oxford dictionary as : A person who doubts the truth of Christianity and other religions; an atheist.
- Atheist are defined in the Oxford dictionary as : A person who disbelieves or lacks belief in the existence of God or gods.

6. The impugned Article 92 requires the Teachers to guide and supervise the Prayer. Incase a student does not stand with his palms folded and does not recite the

prayer then the Teacher is expected to bring the student on the stage to correct them in Public. Similarly if the teacher does not enforce the folding of the palms and the saying of the prayer then the Principal is expected to reprimand the teacher. This is happening in schools throughout the country.

7. One example of the above is reflected in the letter dated 14.6.17, sent by a teacher of the Kendra Vidhalaya I, Sagar, Madhya Pradesh, to the Commissioner, Kendra Vidhalaya Sangathan, New Delhi. This is at **Annexure P3**.

8. There was no reply and the practice continues.

9. A perusal of the above prayer shows that it is based on Hindu religion and it is very different both in substance and form from the prayers of the other religious/ non-religious orientations mentioned above. The issue that arises therefore is whether the state may impose the above mentioned “common prayer” on students and teachers throughout the country.

2. Article 28(1)

“No religious instruction shall be provided in any educational institution wholly maintained out of State Funds”

10. The expression Religious Instruction has a restricted meaning. It conveys that teaching of customs, ways of worships, practices or rituals can not be allowed in educational institutions wholly maintained out of State funds.

11. Petitioner submits that the above common prayer is a “religious instruction” within the meaning of Article 28 of the Constitution of India and should therefore be prohibited.

12. Imposition of the prayer constitutes a breach of Article 19 (1) (a) of the Constitution of India which is as under :

“All citizens shall have the right -

(a) to freedom of speech and expression;”

13. The imposition is also in breach of Article 25 (1) which is as under:

“Subject to public order, morality and health and to the other provisions of this Part, all person are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.”

14. Therefore, according to the Petitioner, students and teachers are entitled either to pray according to the prayer practices of their religion and according to the teachings, customs, ways of worship and practices and rituals; or not to pray at all. The exercise of these Constitutional rights includes the Right to not pray at all.

15. Petitioner relies on the decision of the Supreme Court in Ms. Aruna Roy v/s Union of India (1996 3 SCC 212) the relevant parts of which are as under :

“A distinction, thus, has been made between imparting "religious instructions" that is teaching of rituals, observances, customs and traditions and other non-essential observances or modes of worship in religions and teaching of philosophies of religions with more emphasis on study of essential moral and spiritual thoughts contained in various religions. There is a very thin dividing line between imparting of 'religious instructions' and 'study of religions.' Special care has to be taken of avoiding possibility of imparting 'religious instructions' in the name of 'religious education' or 'Study of Religions'.”

Lack of Reasoning and Scientific Temperament among Students:

All the Students have to begin their day by reciting the Common Prayer also followed by silent prayer. This practice creates a lot of obstacles in developing a Scientific Temperament among the students as the whole idea of God and Religious Faith is given immense priority and the same is instilled as a thought process among the students as well. Students as a result learn to develop an inclination towards seeking Refuge from Almighty instead of developing a Practical Outcome towards the Obstacles and hurdles faced in everyday life and spirit of enquiry and reform seems to be lost somewhere.

Grounds

- A. Because the right to enshrined under Article 21 of the Constitution of India guarantees protection of life and personal liberty. Further, the Schools have bound the students to recite and conduct the Prayers without giving them a liberty to refrain from the same.
- B. Because under Article 19 of the Constitution, the citizens have been guaranteed Freedom of Speech and expression and as a result the students shall not be put under any compulsion to recite the prayer or even as to recite in particular manner by folding their hands and closing their eyes.
- C. Because immense emphasis is laid down on the recitation of prayer and its importance thus curbing the growth of Scientific temperament among students and young minds.
- D. The above prayer is being enforced throughout the country in all Kendra Vidhalayas. As a result, parents and children of the minority communities as well as Atheist and others who do not agree with this system of Prayer such as Agnostics, Sceptisists, Rationalists and

others would find the imposition of this prayer constitutionally impermissible.

- E. The above prayer is based on Hindu religion and it is very different both in substance and form from the prayers of the other religious/ non-religious orientations mentioned above, hence, can the state impose the above mentioned “common prayer” on students and teachers throughout the country.
- F. Because this Hon'ble Court in *Aruna Roy & Ors. Vs. Union of India & Ors.* (1996) 3 SCC 212 held the distinction between “Religious Instructions” and “Study of Religions. The Court held that “Special care has to be taken for avoiding possibility of imparting “Religious Instructions” in the name of “Religious Education”.
- G. Because the Petitioners have not filed any other petition or application before this Hon'ble Court or any other Court or forum for adjudication on same set of facts and circumstances.
- H. Because there is no personal gain, private motive or

oblique reason in filing the Public Interest Litigation.

- I. Because there is no civil/ criminal/ revenue litigation involving petitioners are pending before any court which have a legal nexus involved in this petition.
- J. Because there is no efficacious remedy available to the Petitioners than to approach this Hon'ble Court.

Prayers

In the facts and circumstances stated herein above, it is most respectfully prayed that this Hon'ble Court may graciously please to:

- (i) Issue a writ of mandamus or any other appropriate writ, order or direction to Respondents to forthwith discontinue any form of Prayer from the Morning Assembly or otherwise in Kendraya Vidhalaya Sangathans and to promote Scientific learning among the students.

- (ii) Pass such other or further order/s as may be deemed just, fair and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE PETITIONER
AS IN DUTY BOUND SHALL EVERY PRAY.

DRAWN BY : ADV. PALLAVI SHARMA

FILED ON : .11.2017

DATED :

FILED BY :

SATYA MITRA

ADV. FOR PETITIONER