

IN THE HIGH COURT OF JUDICATURE AT PATNA

Ravi Kumar

vs

State of Bihar and Other

Criminal Writ Jurisdiction Case No. 326 of 2023

15 February 2024

(Hon'ble Mr. Justice P. B. Bajanthri and Hon'ble Mr. Justice Ramesh Chand Malviya)

Issue for Consideration

For allowing the petitioner to argue the matter in Hindi is correct or not?

Headnotes

Constitution of India, 1950—Article 348—Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.—language to be used in Hon'ble Supreme Court and High Court shall be in English until parliament may make law otherwise provide—Governor of a State may with the previous consent of the President, authorized use of Hindi Language.

Held: Decision of Full Bench is aptly applicable in so far as filing of petitions in Hindi under Article 226 & 227 shall be accompanied by English translation as well—if a petition under Article 226 & 227, is filed in Hindi (Devnagari Script) and the Court insists a translated copy of the same in English, the petitioner is duty bound to provide the same. (Paras 5, 14 and 15)

Case Law Cited

Prabandhak Samiti vs Zila Vidyalay AIR 1977 ALL 164; Madhu Limaye and another vs Ved Murti and Others AIR 1971 SC 2608—**Relied Upon.**; Krishna Yadav vs State of Bihar & Others (**FB**), Cr. WJC No. 435 of 2015—**Referred To.**

List of Acts

Constitution Of India, 1950

List of Keywrods

Constitution Of India, 1950, Article 348, Language of Court, hindi, Article 226, Article 227

Case Arising From

Recalling of order passed on 11.12.2023

Appearances for Parties

For the Petitioner: Mr. Indradeo Prasad, Advocate.

For the Respondents: Mr. Amit Prakash, AC to GA13

For the IA: Mr. Harpal Singh Raja (In-person)

Headnotes Prepared by Reporter: Abhas Chandra, Advocate

Judgment/Order of the Hon'ble Patna High Court

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.326 of 2023

Arising Out of PS. Case No.-14 Year-2021 Thana- NARDIGANJ District- Nawada

Ravi Kumar, Age-21 Years, Male, Son of Brijnandan Prasad @ Brajnandan Prasad, Resident of village - Akauna, P.S.- Muffasil, District - Nawada

... .. Petitioner/s

Versus

- 1. The State of Bihar through the District Magistrate, Nawada. Bihar
- 2. Home Secretary, Government of Bihar, Patna. Bihar
- 3. The Director General of Police, Government of Bihar, Patna. Bihar
- 4. The Superintendent of Police, Nawada. Bihar
- 5. The Deputy Superintendent of Police, Nawada Sadar. Bihar
- 6. The Station House Officer, Nardiganj, Nawada Bihar
- 7. Mohan Kumar, Police Sub Inspector, Nardiganj P.S., Nawada, Bihar

... .. Respondent/s

Appearance :		
For the Petitioner/s	:	Mr.Indradeo Prasad, Advocate
For the Respondent/s	:	Mr.Amit Prakash, AC to GA13
For the I.A.	:	Mr. Harpal Singh Raja (In-person)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA

CAV ORDER

(Per: HONOURABLE MR. JUSTICE RAMESH CHAND MALVIYA)

6 15-02-2024 Orders on I.A. No. 5 of 2024.

Heard learned counsel for the petitioner and respondent.

2. The petitioner has prayed for recalling of order passed on 11.12.2023 by this Court.

3. The present IA has been filed by the petitioner to allow the petitioner to argue the matter in Hindi and also consider the writ petition which is filed in Hindi (Devnagari



Script). Considering the present Interlocutory Application filed by the Counsel for the petitioner on 08.02.2023 which is drafted in Hindi Devnagari Script which issue stands herein. Learned Counsel has stated in his IA that order passed in **CWJC No. 2825 of 1995 (Swaran Singh Bagga vs N.N. Singh, Registrar)** covers the present issue and the precedent has to be followed.

4. Considering the present matter, several issues are to be looked in deciding the present IA like constitutional provision viz. Article 348 of Constitution of India -

“348. Language to be used in the Supreme Court and in the High Courts and for Acts, Bills, etc.

1. Notwithstanding anything in the foregoing provisions of this Part, until Parliament by law otherwise provides—
 - a) all proceedings in the Supreme Court and in every High Court,
 - b) the authoritative texts—
 - i. of all Bills to be introduced or amendments thereto to be moved in either House of Parliament or in the House or either House of the Legislature of a State,



ii. of all Acts passed by Parliament or the Legislature of a State and of all Ordinances promulgated by the President or the Governor of a State, and

iii. of all orders, rules, regulations and bye-laws issued under this Constitution or under any law made by Parliament or the Legislature of a State,

shall be in the English language.

2. Notwithstanding anything in sub-clause (a) of clause (1), the Governor of a State may, with the previous consent of the President, authorise the use of the Hindi language, or any other language used for any official purposes of the State, in proceedings in the High Court having its principal seat in- that State:

Provided that nothing in this clause shall apply to any judgment, decree or order passed or made by such High Court.



3. Notwithstanding anything in sub-clause (b) of clause (1), where the Legislature of a State has prescribed any language other than the English language for use in Bills introduced in, or Acts passed by, the Legislature of the State or in Ordinances promulgated by the Governor of the State or in any order, rule, regulation or bye-law referred to in paragraph (iii) of that sub-clause, a translation of the same in the English language published under the authority of the Governor of the State in the Official Gazette of that State shall be deemed to be the authoritative text thereof in the English language under this article.”

5. In Article 348 of the Constitution of India, it is mentioned that the language to be used in Hon’ble Supreme Court and High Court shall be in English until parliament may make law otherwise provide. In Article 348 (2) of Constitution of India, it is stated that the Governor of a State may with the previous consent of the President, authorized use of Hindi



Language.

6. Our constitution has not been drafted in just one day, it took 2 year 11 months and 17 days, and debates for every article, every clause and every small details went on for hours, it is important to understand the views of the Drafting Committee on Article 348 to understand the reason for deciding English as the Language of the Court, Shri Gopalaswamy Ayyangar went on to say that we could not afford to give up the English language at once.

"We had to keep the English language going for a number of years until Hindi could establish for itself a place, not merely because it is an Indian language, but because as a language it would be an efficient instrument for all that we have to say and do in the future and until Hindi established itself in the position in which English stands today for Union purposes. We then proceeded to consider the question of the language that should be used in our Legislatures and the highest courts of justice in the land and we came to the



conclusion after a great deal of deliberation and discussion that while the language of the Union 'Hindi' may be used for debates, for discussions and so forth in the Central Legislature, and where while the language of the State could be used for similar purposes in the State Legislature, it was necessary for us, if we were going to perpetuate the existing satisfactory state of things as regards the text of our laws and the interpretation of that text in the courts, that English should be the language in which legislation, whether in the form of Bills and Acts or of rules and orders and the interpretation in the form of judgments by Judges of the High Court – these should be in English for several years to come. For my own part I think it will have to be for many many years to come. It is not because that we want to keep the English language at all costs for these purposes. It is because the languages which we can recognize for



Union purposes and the languages which we can recognize for State purposes are not sufficiently precise for the purposes that I have mentioned, viz., laws and the interpretation of laws by Courts of law".

7. Hon'ble Judges of Supreme Court supporting English as the Language of the Court for the general public have given their views on this issue-

Hon'ble Mr. Justice Y.V. Chandrachud, Former Chief Justice of India-

“Neither the Supreme Court or the High Courts should be asked to deliver their judgements in Hindi. The judges of these courts are drawn from all over India and they are not all conversant with Hindi. The English language is now acquiring importance as the language of the world. We should not deny the new generation the benefit of English language”

Hon'ble Justice K.T. Thomas-

“All the law books remaining in various High Courts including all the law journals



are in English language and translation of all those books would involve crores of rupees. When we do not have sufficient money to meet the urgent needs of the poor people, it would be a waste of public money in spending whopping sum simply for satisfying a few of the linguistic jingoists.”

8. Hon’ble Apex Court in case of **Prabandhak Samiti vs Zila Vidyalay AIR 1977 ALL 164** has held that “Once Governor issues such notification, an individual acquires a legal right to use the language prescribed by the notification for writing a petition under Article 226.

9. The notification dated 9th of May, 1972 was passed by the Governor stating an exception that the alternative use of Hindi apart from English is permissible for "227 of the Constitution of India and references arising out of Tax matters. The said Notification is extracted here-under: -

मंत्रिमंडल (राजभाषा) सचिवालय

अधिसूचना

9 मई, 1972

सं० 31 हि 3-5043168.....185 रा० संविधान के अनुच्छेद 348 के खंड (2) एवं आफिसिलय लैंग्वेजेज ऐक्ट, 1963 (अधिनियम 19, 1963) की धारा



7 के अधीन प्रदत्त शक्तियों का प्रयोग करते हुए बिहार राज्यपाल राष्ट्रपति की पूर्व सम्मति से, उच्च न्यायालय में निम्नांकित कार्यवाहियों के लिए हिन्दी भाषा का वैकल्पिक प्रयोग करने के लिए प्राधिकृत करते हैं:-

(1) पटना उच्च न्यायालय के समक्ष दीवानी तथा फौजदारी मामलों में बहस करने के लिए।

(2) शपथ-पत्रों सहित आवेदन प्रस्तुत करने के लिये:

किन्तु अपवाद स्वरूप भारतीय संविधान के अनुच्छेद 226 और 227 के अधीन प्रस्तुत किए जाने वाले आवेदनों के लिए अंग्रेजी का प्रयोग किया जाता रहेगा। आवेदनों से संलग्न अनुबंध का अंग्रेजी में होना आवश्यक नहीं होगा। इसी प्रकार का निर्देश (टैक्स रेफरेंसेज) से संबंधित आवेदन भी केवल अंग्रेजी में प्रस्तुत किये जाते रहेंगे। खास-खास मामलों में, पटना उच्च न्यायालय हिन्दी के कागजात का अंग्रेजी में अनुवाद कराने का आदेश दे सकेगा।

(3) पटना उच्च न्यायालय द्वारा पारित या दिए जाने वाले किसी निर्णय डिक्री या आदेश के लिये किन्तु जहां कोई निर्णय डिक्री या आदेश हिन्दी में पारित किया या दिया जाएगा, वहां पटना उच्च न्यायालय के प्राधिकार से निकाला गया अंग्रेजी अनुवाद साथ में दिया जायेगा।

10. In the matter of Krishna Yadav vs State of Bihar



and others (FB) in Cr. WJC No. 435 of 2015 dated 30.04.2019, Hon'ble Chief Justice has categorically decided the matter and it is held as under:

“Judgment of the case of **Swaran Singh Bagga (Supra)** while proceeding to interpret the notification dated 9th of May, 1972 has rightly come to the conclusion that the Phrase “इसी प्रकार = in the same = similarly” has been rightly construed in conjunction with the word “केवल = Only” to mean that the Notification is categorical in its application with a clear exception in respect of writ petitions under 226 and 227 of the Constitution of India and tax references. I do not find any reason to disagree with the same as the golden rule of interpretation is to read the statutory provision with its literal expositions for the purpose for which it has been framed. In my opinion, Hindi has not been provided as an alternative language in respective language in respect of these three categories namely



writ petitions under article 226 and 227 of the constitution of India and tax references. According to the plain meaning of the words used in the notification dated 9th of May, 1972 such pleadings presented for official use have to be necessary in English according to the said notification and which is fortified by the Rules of the High Court. In my considered opinion, it would not be appropriate to construe that there was no prohibition in the Notification dated 9th of May, 1972 for using the Hindi Devnagari Script. The Notification only recites not that petitions under Article 226 and 227 of the Constitution of India as well as tax references will be presented “only” in English. This does not expressly prohibit the use of Hindi to the exclusion of English. It is open to a litigant to present his pleadings in Hindi but the authoritative text of it has to be in English to the extent as provided for in the Notification”



11. The Hon'ble Chief Justice in the above matter as also affirmed the contention that the Notification of 9th May, 1972 suffers no infirmity. The Hon'ble Chief Justice has also held that the said Notification includes an exception in respect to petitions presented under Art. 226 & 227 and upheld the Judgment passed in **Swaran Singh Bagga (supra)** case with observing that a petition under Article 226 & 227 of the Constitution of India or a tax reference can be filed in Hindi but it will have to be accompanied by an English version as well which shall be the authentic version of the petition for all legal purposes. Further, the Full Bench also endorsed their approval to the opinion delivered by The Hon'ble Chief Justice.

12. In the case of **Madhu Limaye and another v. Ved Murti and others AIR 1971 SC 2608**, the Apex Court stated the following :-

“The Attorney-General, Mr Daphtary who is opposing him and some of the members of the Bench could not understand the arguments made in Hindi yesterday. In these circumstances, it is futile to permit Mr Raj Narain to continue his arguments in Hindi.”

13. The Apex Court thereby in **Madhu Limaye and**



another v. Ved Murti and others (Supra) declined the request seeking permission to argue in Hindi. It is known to everyone that this Court has diversification of Hon'ble Judges hailing from different states where different languages are used to read/write/speak. India is not a Country which only uses one language, India is a multilingual country and to be precise, Bharat is a country where there are 22 official languages and if we further look into the details, there are more than 780 languages in our Country. Hindi is official language of the Union under Article 343 of the Constitution. We are not going against the Notification of 9th May, 1972 and the Judgment passed in **Krishna Yadav Vs State of Bihar & others (FB) (supra)** which is binding on us.

14. Keeping in view the above contentions, the Full Bench's Decision is aptly applicable in so far as filing of petitions in Hindi under Article 226 & 227 shall be accompanied by English translation as well. Coming to the present case, we are bound by the decision of the Full Bench and as such the present IA filed by the petitioners is in Hindi and the same is not endorsed with a translated English copy with it to this Court. The IA is hereby dismissed. The Court hereby directs the petitioner to file a translated version of the petition filed before



this Court within 4 weeks failing which the present writ petition will be dismissed accordingly.

15. We also hereby give our observation that if a petition under Article 226 & 227, is filed in Hindi (Devnagari Script) and the Court insists a translated copy of the same in English, the petitioner is duty bound to provide the same.

(Ramesh Chand Malviya, J)

(P. B. Bajanthri, J)

Brajesh Kumar/-

AFR/NAFR	AFR
Uploading Date	16.02.2024
Transmission Date	16.02.2024

