

in favour of defendants No.2 and 3. The suit had been originally filed only for declaration that the Civil Court decree was collusive and not binding. During the pendency of the suit itself, the 1st defendant was died and the mere declaratory action could not have proceeded and when the Court found that the mere relief of declaration could not have been persisted by the plaintiff when the property had fallen to the hands of the defendants No.2 and 3, it must have noticed that the bequest through a Will does not amount to an impermissible alienation after the Hindu Succession Act, 1956. It failed to take note of the subsequent development in law and the Appellate Court completely was off the mark in not making the reference to the Section. The plaintiffs' suit ought to be dismissed in view of the specific finding entered by the trial Court, which was not being modified in appeal that the Will had been established through the witnesses, who had spoken to the genuineness of the document. As a matter of fact, the trial Court had also found that the suit had been instituted in the year 1976 and the Will had been executed by the 1st defendant on 17.01.1968 when he was still in a sound health. Consistent with the finding regarding the genuineness propounded by the defendant, the plaintiffs' suit was liable to be dismissed.

(6) The decisions of the Courts below are set aside and the appeal is allowed with costs.

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*P.S.Bajwa*

*Before K. Kannan, J.*

**SHAMBHU NATH SHASTRI,—Petitioner**

*versus*

**STATE OF PUNJAB AND ANOTHER,—Respondents**

**CWP No. 8447 of 1989**

29th September, 2011

*Constitution of India - Art.226/227 - Appointment - Petitioner prayed for direction that only those teachers who were qualified Sanskrit teachers be appointed when a teacher from Sanskrit faculty retires from High or Higher Secondary Schools - State had appointed Hindi teachers against posts meant for Sanskrit teachers only when*

***Sanskrit teachers were not available - After noticing the policy of the State Govt. - Held that only qualified Sanskrit teachers should be appointed against posts meant for Sanskrit teachers.***

*Held*, That the Government has clearly taken the stand that even in situations where there was no arrangement existing for teaching of Sanskrit or Urdu, the school would have to make an arrangement for the study in these two languages if the number of students taking a particular language in the 9th or 10th class are more than 10 or above. The authorities are bound to enforce this policy of filling up the languages teachers only in the particular stream for which vacancies exist. Before any attempt is made to abolish any particular language teacher's post, data must be collected as to whether or not there exists at least 10 candidates, who are willing to learn the language. We cannot simply afford to neglect the treasure that ancient languages such as Sanskrit holds. Sanskrit cannot be allowed to wither by our own negligence. The culture of every nation is fostered through its language. It is the medium of language that is the carrier of a country's ethos. The State through the Director of Public Instructions shall circulate a definite mandate that a vacancy in Sanskrit teacher's post shall be filled up only by a trained, qualified Sanskrit teacher and even if new classes in Sanskrit are not opened, the existing one shall not be abolished without definite data in that regard. Appointments shall be so made that when a vacancy is caused in Sanskrit language post, it shall be directed to be filled up by a trained teacher in the same language and there shall be no breach of this direction.

(Para 3)

Satya Pal Jain, Senior Advocate, with Mr. Dheeraj Jain, Advocate,  
*for the petitioner.*

Navdeep Sukhna, DAG, Punjab.

**K. KANNAN, J. (ORAL)**

(1) The petition is at the instance of a President, Punjab Hindi Sanskrit Vikas Parishad, seeking for direction to the State represented through the Director of Public Instruction (Schools), Punjab, Chandigarh, that it shall appoint only a teacher each in the subject of Sanskrit in Government High School and Government Girls Senior Secondary School

at Batala every time when a vacancy arose in the same subject. The petitioner rues over the fact that every time when a teacher from Sanskrit faculty retires, the fresh appointee is brought for some other language and in the process Sanskrit teaching schools are getting marginalized to a state of extinction. The State has filed counter denying that there is any violation of the policy laid down by the State Government and in response to the particular averment that they were appointing only a Hindi teacher for teaching Sanskrit, such a situation arose only because there was no Sanskrit teacher available at that time. Meeting the allegation contained in the petition that one Smt. Nirmal Kumari, who was a Hindi teacher and was working on the post as a Sanskrit teacher, the reply by State is that the appointment was made in good faith and in the interest of students and in public interest.

(2) From what is stated in the written statement of the State, I find that the State is not prepared to scuttle its own policy but would take a plea of bona fides in the manner in which they have appointed Hindi teachers against the posts which were created for teaching Sanskrit. There is a clear-cut policy stated by the Government of Punjab, Department of Education, as evident from the communication to the Chairman, Punjab School Education Board, through a memo dated 19.09.1985. The reproduction of the whole memo is relevant for that will set the tenor of the State's policy:-

“Regarding note 9 serial No.7 of the letter under reference, you are requested clarify to the Head of High and Higher Secondary Schools in the State that the intention of this note is not to withdraw the existing facilities for the teaching of Sanskrit and Urdu where they are available and that in such schools any number of students, even less than 10 can take Sanskrit or Urdu in 9th and 10th classes and where there are no arrangement existing for teaching of Sanskrit or Urdu, the school will have to make arrangements for the study of either or both of these languages if the number of students taking a particular language in 9th and 10th class is 10 or more.”

(3) The Government has clearly taken the stand that even in situations where there was no arrangement existing for teaching of Sanskrit or Urdu, the school would have to make an arrangement for the study in these two languages if the number of students taking a particular language in the 9th

or 10th class are more than 10 or above. The authorities are bound to enforce this policy of filling up the languages teachers only in the particular stream for which vacancies exist. Before any attempt is made to abolish any particular language teacher's post, data must be collected as to whether or not there exists at least 10 candidates, who are willing to learn the language. We cannot simply afford to neglect the treasure that ancient languages such as Sanskrit holds. Sanskrit cannot be allowed to wither by our own negligence. The culture of every nation is fostered through its language. It is the medium of language that is the carrier of a country's ethos. The State through the Director of Public Instructions shall circulate a definite mandate that a vacancy in Sanskrit teacher's post shall be filled up only by a trained, qualified Sanskrit teacher and even if new classes in Sanskrit are not opened, the existing one shall not be abolished without definite data in that regard. Appointments shall be so made that when a vacancy is caused in Sanskrit language post, it shall be directed to be filled up by a trained teacher in the same language and there shall be no breach of this direction.

(4) The writ petition is disposed of as above.

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*P.S.Bajwa*

*Before K. Kannan, J.*

**SWARAN SINGH (DECEASED) THROUGH L.RS.,—Petitioner**

*versus*

**STATE OF PUNJAB AND OTHERS,—Respondents**

**CWP No. 2792 of 1986**

18th October, 2011

*Constitution of India - Art.226/227 - Punjab Security of Land Tenures Act of 1953 - Ss. 2(3), 10, 10-A(b) & 18 - Punjab Land Reforms Act of 1972 - S. 15 - Punjab Utilization of Surplus Area Scheme of 1973- Rl.13 - Punjab Security of Land Tenures Rules - Rl.20-A - Tenant allotted land under Act of 1953 - Jamabandi entries stood in his name - Form K 6 issued to him - Tenant filed an application under S.18 of 1953 Act for proprietary rights - By that time, the Act of 1953, repealed by the Punjab Land Reforms Act,*