

CASE NO.:

Writ Petition (civil) 98 of 2002

PETITIONER:

Ms. Aruna Roy and Ors.

Vs.

RESPONDENT:

Union of India and Ors

DATE OF JUDGMENT: 12/09/2002 BENCH:

D.M. DHARMADHIKARI

JUDGMENT:

J U D G M E N T

D.M. DHARMADHIKARI, J.

I have carefully gone through the erudite and well considered opinion of learned Brother M.B. Shah J. I am in respectful agreement with his conclusion but I would like to add my own reasons. I am in agreement with the view that education of religions can be imparted even in 'educational institutions' fully maintained out of State funds. But the education on religion which can be allowed to be imparted in 'educational institutions fully maintained out of State funds' as mentioned in Clause (1) of Article 28 of the Constitution has to be education of a nature different from religious education or religious instructions which can be imparted in educational institutions maintained by minorities or those 'established under any endowment or trust' as referred in Clause (2) of Article 28. I have, therefore, found it necessary to give my own opinion on the important issues raised on behalf of the petitioners questioning introduction of religious education in educational institutions fully maintained out of State funds. According to them, it runs counter to the concept of 'secularism' which should guide the activities of the State in the field of education.

Secularism is the basic structure of the Constitution. Clause (1) of Article 28 prohibits imparting of 'religious instructions' in educational institutions fully maintained out of State funds. The case of D.A.V. College Vs. State of Punjab [1971 (2) SCC 269] has been noted. The words "religious instructions" have been held as not prohibiting education of religions dissociated from "tenets, the rituals, observances, ceremonies and modes of worship of a particular sect or denomination". The academic study of the teaching and the philosophy of any great Saint such as Kabir, Gurunanak and Mahabir was held to be not prohibited by Article 28 (1) of the Constitution.

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'.

The English word 'religion' does not fully convey the Indian concept of religion. Hindus believe in Vedas. The word 'Dharma' has a very wide meaning. One meaning of it is the 'moral values or ethics' on which the life is naturally regulated. Dharma or righteousness is elemental and fundamental in all nations, periods and times. For example truth, love, compassion are human virtues. This is what Hindu call Sanatan Dharma meaning religion which is immutable,

constant, living, permanent and ever in existence. Religion, in wide sense, therefore, is those fundamental principles which sustain life and without which the life will not survive. Rig Veda describes Dharma as Athodharmani Dharayan. In this concept of religion or Dharma, different faiths, sects and schools of thoughts merely are different ways of knowing truth which is one. The various sects or religious groups are understood as Panth or Sampradaya. In Western world particularly in Britain, religious education has been understood as nearly identical with the religious instructions. India which is wedded to a secular philosophy by its constitution; 'Religious education' to distinguish it from 'religious instructions' can mean approaching the many religions of the world with an attitude of understanding and trying to convey that attitude to children. This distinction between 'religious instructions' and 'religious education' has to be maintained while introducing a curriculum of religious education and implementing it. This would require a constant vigil on the part of those imparting religious education from primary stage to the higher level otherwise there is a potent danger of religious education being perverted by educational authorities whosoever may be in power by imparting in the name of 'religious education,' 'religious instructions' in which they have faith and belief. Modern philosopher and educationists particularly those who belong to the schools of thought which encourage free thinking and an independence of choice to be given to the children in the matter of inculcating human values and philosophy based on their individual liking or inclination, are very sceptical about imparting religious instructions or religious education by traditional methods. They see that in teaching religions, there is a possibility of indoctrination or brain-washing of the children and thus, curbing their inquisitiveness and free thinking in the name of religion. Indoctrination of children in a particular faith or belief has to be avoided. J. Krishnamurti, a modern renowned philosopher of India in his book 'Education and the Significance of Life' has sounded a note of caution in introducing religious education. His caveat, in his words, is as under :

"What we call religion is merely organised belief, with its dogmas, rituals, mysteries and superstitious. Each religion has its own sacred book, its mediator, its priests and its ways of threatening and holding people. Most of us have been conditioned to all this, which is considered religious education; but this conditioning sets man against man, it creates antagonism, not only among the believers, but also against those of other beliefs. Though all religions assert that they worship God and say that we must love one another, they instil fear through their doctrines of reward and punishment, and through their competitive dogmas they perpetuate suspicion and antagonism.

Dogmas, mysteries and rituals are not conducive to a spiritual life. Religious education in the true sense is to encourage the child to understand his own relationship to people, to things and to nature. There is no existence without relationship; and without self-knowledge, all relationship, with the one and with the many, brings conflict and sorrow. Of course, to explain this fully to a child is impossible; but if the educator and the parents deeply grasp the full significance of relationship, then by their attitude, conduct and speech they will surely be able to convey to the child, without too many words and explanations, the meaning of a spiritual life.

Religious education, therefore, even if permitted to be imparted should consist of "understanding the child as he is without imposing upon him an ideal of what we think he should be". Howsoever highly educated, one may be but without deep integration of thought and feeling, his life is incomplete, contradictory and torn with many fears;

and as long as education does not cultivate an integrated outlook on life, it has very little significance.

"True religion is not a set of beliefs and rituals, hopes and fears; and if we can allow the child to grow up without these hindering influences, then perhaps, as he matures, he will begin to inquire into the nature of reality. That is why, in educating a child, deep insight and understanding are necessary".

True religious education is to help the child to be intelligently aware, to discern for himself the temporary and the real, and to have a disinterested approach to life; and would it not have more meaning to begin each day at home or at school with a serious thought, or with a reading that has depth and significance, rather than mumble some oft-repeated words or phrases. . To educate the student rightly is to help him to understand the total process of himself; for it is only that there is integration of the mind and heart in everyday action that there can be intelligence and inward transformation.

An educator is not merely a giver of information; he is one who points the way to wisdom, to truth. Truth is far more important than the teacher. The search for truth is religion, and truth is of no country, of no creed, it is not to be found in any temple, church or mosque. Without a search for truth, society soon decays. [Source : 'Education and the Significance of Life' by J. Krishnamurti]

A great philosopher, social reformer and religious man of our times, Vinoba Bhave who studied all the religions of India and some of other countries has suggested a balanced approach in the matter of imparting religious education in pluralistic society wedded to secularism. He finds the best co-ordinating formula on study of religions in 'Vedas'. He quotes the following lines of Rig Vedas 'Ekam Sat Vipra Bahuda Vadanti'. Truth everywhere is same; the devotees worship it in different forms. The other meaning of this Sanskrit couplet is "the thought of truth everywhere is the same; we have understood only a part of it, others have understood the other part of it". Therefore, according to him, different religious thoughts can be assimilated and synthesised for creating religious harmony. In the world, different thoughts on relationship of man with God and nature are to be found in various religions like Hindus, Buddhists, Parsies, Jains, Yahudies, Islams, Cristians and many others. These different thoughts influenced crores of people who are following them. The common factor of all these thoughts should be understood as the ultimate truth. If we delve deep into these various thoughts we get this knowledge. These words should inspire the educationists and the people of India in creating a real secular society in which 'religion' in its wider sense is imbibed and a heart felt respect develops in people of one religious faith towards people of another religious faith.

The lives of Indian people have been enriched by integration of various religions and that is the strength of this nation. Whatever kind of people came to India either for shelter or as aggressors, India has tried to accept the best part of their religions. As a result, composite culture gradually developed in India and enriched the lives of Indians. This happened in India because of capacity of Indians to assimilate thoughts of different religions. This process should continue for betterment of multi-religious society which is India.

In a pluralistic society like India which accepts secularism as the basic ideology to govern its secular activities, education can include study based on the 'religious pluralism'. 'Religious pluralism' is opposed to exclusivism and encourages inclusivism.

Exclusivism in religion has been explained to mean - the view that one particular tradition alone teaches the truth and constitutes

the way to salvation or liberation. The Christians believe in the words attributed to Jesus in the 'Gospel of John', "No one can come to the Father, but by me". They also believe as early as the third century that dogma of *extra ecclesiam nulla salus* ('outside the church, no salvation').

Muslims similarly believe that there is only one God and His one messenger 'the Prophet'. Jews cherish their ethnically exclusive identity as God's chosen people.

Hindus revere Vedas as eternal and absolute and Buddhists have often seen Gautama's teachings as the Dharma that alone can liberate human beings from illusion and misery.

The above kind of perception has led to inclusivist theologies and religious philosophies that their own tradition presents the final truth and other traditions are seen as approaches to that final truth.

The comprehensive approach to religion which should be inculcated in a society comprising people of different religions and faiths is described as inclusivism. In explicit pluralism, the view accepted is that the great world faiths embodied different perceptions and conceptions of and correspondingly different responses to, the Real or Ultimate and that within each of them independently the transformation of human existence from self-centeredness to reality-centeredness is taking place.

Education in India which is to be governed by secular ethos contained in its Constitution and where 'religious instructions' in institutions of the State are forbidden by Article 28(1), the 'religious education' which can be permitted, would be education based on 'religious pluralism'. The experiment is delicate and difficult but if undertaken sincerely and in good faith for creating peace and harmony in the society is not to be thwarted on the ground that it is against the concept of 'secularism' as narrowly understood to mean neutrality of State towards all religions and bereft of positive approach towards all religions.

Such religious education permitting 'religious pluralism' having emphasis on inclusivism in religious education instead of allowing exclusivism can be demonstrated by giving instances.

There can be found instances of religious vision capable of either inclusivist or pluralist development within each of the word religion although they may not constitute a central thing.

For instances, in the New Testament, it is written that Logos, which became incarnate as Jesus Christ, was "the light that lightens every man".

In the Hindu Bhagavadgita the Lord says, "However men may approach me, even so do I accept them; for, on all sides, whatever path they may choose is mine". And in the Mahayana stream of Buddhism, the bodhisattva gives himself 'for the salvation of all beings'. In the Quran, a following declaration is found :-

To God belong the East
And the West: whithersoever
Ye turn, there is the Presence [or Face]
Of God. For God is all pervading,
All knowing.

And the Muslim Sufi poet Rumi wrote this of the different religious traditions : "The lamps are different but the light is the same:

it comes from beyond".

The study of religious pluralism can be articulated in generally acceptable way and such attempt has to be made particularly in India which time and again has suffered due to religious conflicts and communal disharmony. What is needed in the education is that the children of this country should acknowledge the vast range and complexity of differences apparent in the phenomenology of religion while at the same time they should understand the major streams of religious experience and thought as embodying different awarenesses of the one ultimate reality. A wider acceptance of a pluralist view of the religious life of humanity must involve developments in the self-understanding of each tradition, a modification of their claims to unique superiority in the interests of a more universal conception of the presence of the Real to the human spirit. [See : Comparative Study of Religion contained in the Encyclopedia of Religion under the heading "Religious Pluralism" p.331-333]

The purpose of making a survey of various thoughts and philosophy of different religions and the views of different philosophers, educationists and thinkers is only to show that the majority of them do not advocate ban on religious education to children from school to college stage. What has been emphasised is that the religious education imparted to children should be one to make them aware of various thoughts and philosophies in religions without indoctrinating them and without curbing their free thinking, right to make choices for conducting their own life and deciding upon their course of action according to their individual inclinations. For an all round development of a child, all educationists feel that mere imparting of information to students to sharpen their intellect is not enough. Inner qualities of head and heart as also capacity to regulate their own life and their relation with society should also be imparted to them for their own and general good of the society as also for achieving the highest goal of life. The attainment of constitutional ideals is possible only if side by side with sharpening intellect, moral character of children, is also developed to make them good citizens.

How best this religious pluralism to accord with 'secular thought' of the country can be achieved by properly selecting the material for inclusion in the text books for children of different ages and different stages in the education, is a matter which has to be left to the academicians and educationists. Their involvement with all dignitaries and with other experts in related fields is necessary. This exercise has to be undertaken by the Government for which any direction from the court is neither required and nor can the court assume such power to encroach on the field of preparation of an educational policy by the State.

The scrutiny of the text books to find out whether they conform to the secular thought of the country is also to be undertaken by the experts, academicians and educationists. The members of NCERT should be open to any such dialogue with the academicians and educationists. On the basis of general consensus, suitable curriculum, which accords with secularism as understood in wide and benevolent sense, has to be evolved.

The expression 'religious instructions' used in Article 28 (1) has a restricted meaning. It conveys that teaching of customs, ways of worships, practices or rituals cannot be allowed in educational institutions wholly maintained out of States funds. But Article 28 (1) cannot be read as prohibiting study of different religions existing in India and outside India. If that prohibition is read with the words "religious instructions", study of philosophy which is necessarily based on study of religions would be impermissible. That would amount to denying children a right to understand their own religion and religions

of others, with whom they are living in India and with whom they may like to live and interact. Study of religions, therefore, is not prohibited by the Constitution and the constitutional provisions should not be read so, otherwise the chances of spiritual growth of human-being, which is considered to be the highest goal of human existence, would be totally frustrated. Any interpretation of Article 28(1), which negates the fundamental right of a child or a person to get education of different religions of the country and outside the country and of his own religion would be destructive of his fundamental right of receiving information, deriving knowledge and conducting his life on the basis of philosophy of his liking.

The debates in the Constituent Assembly when Article 28 of the Constitution was being considered are illuminating and helpful in understanding the expression 'religious instruction' used in the said Article. See the following part of the debates :-

Pandit Lakshmi Kanta Maitra : May I put the Hon'ble Member one question? There is, for instance, an educational institution wholly managed by the Government, like the Sanskrit College, Calcutta. There the Vedas are taught, Smrithis are taught, the Gita is taught, the Upanishads are taught. Similarly in several parts of Bengal there are Sanskrit Institutions where instructions in these subjects are given. You provide in article 22(1) that no religious instruction can be given by an institution wholly maintained out of State funds. These are absolutely maintained by State funds. My point is, would it be interpreted that the teaching of Vedas, or Smrithis, or Shastras or Upanishads comes within the meaning of a religious instruction? In that case all these institutions will have to be closed down.

The Hon'ble Dr. B. R. Ambedkar : Well, I do not know exactly the character of the institutions to which my Friend Mr. Maitra has made reference and it is, therefore, quite difficult for me.

Pandit Lakshmi Kanta Maitra : Take for instance the teaching of Gita, Upanishads, the Vedas and things like that in Government Sanskrit Colleges and schools.

The Hon'ble Dr. B. R. Ambedkar : My own view is this, that religious instruction is to be distinguished from research or study. Those are quite different things. Religious instruction means this. For instance, so far as the Islam religion is concerned, it means that you believe in one God, that you believe that Pagambar the Prophet is the last Prophet and so on, in other words, what we call "dogma". A dogma is quite different from study.

Mr. Vice-President : May I interpose for one minute? As Inspector of Colleges for the Calcutta University, I used to inspect the Sanskrit College, where as Pandit Maitra is aware, students have to study not only the University course but books outside it in Sanskrit literature and in fact Sanskrit sacred books, but this was never regarded as religious instruction; it was regarded as a course in culture.

Pandit Lakshmi Kanta Maitra : My point is, this. It is not a question of research. It is a mere instruction in religion or religious branches of study.

I ask whether lecturing on Gita and Upanishads would be considered as giving religious instruction? Expounding Upanishads is not a matter of research.

Mr. Vice-President : It is a question of teaching students and I know at least one instance where there was a Muslim student in the Sanskrit College.

Shri H.V. Kamath : On a point of clarification, does my friend Dr. Ambedkar contend that in schools run by a community exclusively for pupils of that community only, religious education should not be compulsory?

The Hon'ble Dr. B. R. Ambedkar : It is left to them. It is left to the community to make it compulsory or not. All that we do is to lay down that that community will not have the right to make it compulsory for children of communities which do not belong to the community which runs the school.

Prof. Shibban Lal Saksena : The way in which you have explained the word "religious instruction" should find a place in the Constitution.

The Hon'ble Dr. B. R. Ambedkar : I think the courts will decide when the matter comes up before them.

The above relevant part of the constitutional debates and the concluding remark of Dr. B. R. Ambedkar give an indication of the minds of the framers of the Constitution. They had seen the distinction between "religious instruction" as mentioned in Clauses (1), (2) & (3) of Article 28 and "study of religions" or "religious education" as a philosophical study.

Constitution is a permanent document framed by the people through their chosen and learned representatives for regulating their social and political life in free India. The Constitution has been accepted by the people to govern them for all times to come. The basic structure of the Constitution is unchangeable and only such amendments to the Constitution are allowed which do not affect its basic structure and rob it of its essential character. The Constitution was framed by its makers keeping in view the situations and conditions prevailing at a time of its making; but being a permanent document, it has been conceived in a manner so as to apply to situations and conditions which might arise in future. The words and expressions used in the Constitution, in that sense, have no fixed meaning and must receive interpretation based on experience of the people in the course of working of the Constitution.

The immortal words of the Chief Justice Holmes, should guide us in interpreting words and expressions used in our Constitution. He said, "spirit of law is not logic but it has been experience". His words apply with greater force to constitutional law.

The word "secularism" used in the preamble of the Constitution is reflected in provisions contained in Articles 25 to 30 and Part IVA added to the Constitution containing Article 51A prescribing fundamental duties of the citizens. It has to be understood on the basis of more than 50 years experience of the working of the Constitution. The complete neutrality towards religion and apathy for all kinds of religious teachings in institutions of the State have not helped in removing mutual misunderstanding and intolerance inter se between sections of people of different religions, faiths and beliefs. 'Secularism', therefore, is susceptible to a positive meaning that is developing understanding and respect towards different religions. The essence of secularism is non-discrimination of people by the State on the basis of religious differences. 'Secularism' can be practised by adopting a complete neutral approach towards religions or by a positive approach by making one section of religious people to understand and respect religion and faith of another section of people. Based on such mutual understanding and respect for each other's religious faith, mutual distrust and intolerance can gradually be eliminated.

Study of religions, therefore, in school education cannot be held to be an attempt against the secular philosophy of the Constitution.

The real meaning of secularism in the language of Gandhi is Sarva-Dharma-Samabhav meaning equal treatment and respect for all religions, but we have misunderstood the meaning of secularism as Sarva-Dharma-Sam-Abhav meaning negation of all religions. The result of this has been that we do not allow our students even touch of our religious books. Gandhiji in his lifetime has been trying to create religious and communal harmony and laid down his life in doing so. His ardent follower Vinoba Bhave after independence has not only learnt all the languages and made in-depth study of all the religions of India but covered length and breadth of India on foot to unite the hearts of Indian people by spreading his message of non-violence and love. Based on his in-depth study of all religious books of India, he published, in his life time, their essence in the form of different books. He has very strongly recommended that the essence of various religions, which he published in book forms like Quran Saar, KhistaDharma-Saar, BhagwatDharma-Saar, Manushasanam etc., should be introduced to the students through text books because these religious books have been tested since thousands of years and proved to be useful for the development of man and human society. In a society wedded to secularism, 'study of religions' would strengthen the concept of secularism in its true spirit. In the name of secularism, we should not keep ourselves aloof from such great treasures of knowledge which have been left behind by sages, saints and seers. How can we develop cultured human-beings of moral character without teaching them from childhood the fundamental human and spiritual values. (See Vinoba Sahitya, Vol.17, pg.44-49 and 67).

Article 28(1), therefore, does not prohibit introduction of study of religions in the State educational institutions including those wholly or partly aided by the States. As a matter of fact, study of religions has been considered necessary for the unity and integrity of India. Indian society is composed of people of various religions and faiths. They are expected not only to live together and tolerate each other, but to live a harmonious life in peace and love. Before and after partition in India, religious conflicts and communal disturbances have impeded the growth of this nation and its attempt towards progress. After National Education Policy of 1986, a shift by the impugned National Educational Policy 2002 towards teaching of religions in the schools to educate children to understand common factors in all religions, is not a non-secular step. Even before the government decided to make a shift in the educational policy in that direction, eminent educationalists, thinkers, philosophers and academicians have expressed thoughts that for all round development of child, study of religions should start in rudimentary form from school education and should continue up to the higher education. It has been emphasised that education should not be for the purposes of making a child merely literate and intelligent. The real education is one in which a child gradually realises that he is made up not only of body and mind but also some inner elemental qualities. Some thoughts of Gandhi on religious education were read before us on behalf of the Petitioners to point out that Gandhi was sceptical on introduction of religion in education. His writings, if read in proper context, on the contrary, contain strong recommendations that common and basic tenets of religions be imparted to the children. In 1908 in an article in Hind Swaraj on "Religious Education", Gandhi expressed his thoughts thus :-

"The question of religious education is very difficult. Yet we cannot do without it. India will never be godless. Rank atheism cannot flourish in this land. The task is indeed difficult. My head begins to turn as I

think of religious education. Our religious teachers are hypocritical and selfish; they will have to be approached. The Mullas, the Dasturs and the Brahmins hold the key in their hands, but if they will not have the good sense, the energy that we have derived from English education will have to be devoted to religious education. This is not very difficult. Only the fringe of the ocean has been polluted, and it is those who are within the fringe who alone need cleansing. We who come under this category can even cleanse ourselves, because my remarks do not apply to the millions. In order to restore India to its pristine condition, we have to return to it. (Hind Swaraj (1908), p.107I.

To me religion means Truth and Ahimsa or rather Truth alone, because Truth includes Ahimsa, Ahimsa being the necessary and indispensable means for its discovery. Therefore anything that promotes the practice of these virtues is a means for imparting religious education and the best way to do this, in my opinion, is for the teachers rigorously to practise these virtues in their own person. Their very association with the boys, whether on the playground or in the class room, will then give the pupils a fine training in these fundamental virtues.

So much for instruction in the universal essentials of religion. A curriculum of religious instruction should include a study of the tenets of faiths other than one's own. For this purpose the students should be trained to cultivate the habit of understanding and appreciating the doctrines of various great religions of the world in a spirit of reverence and broad-minded tolerance. This if properly done would help to give them a spiritual assurance and a better appreciation of their own religion. There is one rule, however, which should always be kept in mind while studying all great religions, and that is that one should study them only through the writings of known votaries of the respective religions. For instance, if one wants to study the Bhagavata one should do so not through a translation of it made by a hostile critic but one prepared by a lover of the Bhagavata. Similarly to study the Bible one should study it through the commentaries of devoted Christians. This study of other religions besides one's own will give one a grasp of the rock-bottom unity of all religions and afford a glimpse also of that universal and absolute truth which lies beyond the 'dust of creeds and faiths'. Let no one even for a moment entertain the fear that a reverent study of other religions is likely to weaken or shake one's faith in one's own. The Hindu system of philosophy regards all religions as containing the elements of truth in them and enjoins an attitude of respect and reverence towards them all. This of course presupposes regard for one's own religion. Study and appreciation of other religions need not cause a weakening of that regard; it should mean extension of that regard to other religions.

In this respect religion stands on the same footing as culture. Just as preservation of one's own culture does not mean contempt for that of others, but requires assimilation of the best that there may be in all the other cultures, even so should be the case with religion. (Young India, 6-12-'28)."

Democracy cannot survive and Constitution cannot work unless Indian citizens are not only learned and intelligent, but they are also of moral character and imbibe the inherent virtues of human-being such as truth, love and compassion. Thinkers and philosophers strongly recommend introduction of teaching of religions in education. There may be some difference of opinion between them as to at what stage of education it should be introduced. Whether it should be introduced right from the primary stage, may be a subject of debate and it is not for the Courts but for the educationalists and academicians, to assist

the Government in formulating a sound Educational Policy for primary education. India is mostly composed of people, who are followers of one or the other religions or faiths. A very small section comprises of those who are non-believers. They be described as purely humanists and rationalists. Bertrand Russell in The School Curriculum Before Fourteen, speaking on the teaching history to the school children, advocates imparting knowledge of impact of thinkers and philosophers. He said : "I should not keep silence, but I should not hold up military conquerors to admiration. The true conquerors, in my teaching of history, should be those who did something to dispel the darkness within and without Buddha and Socrates, Archimedes, Galileo and Newton, and all the men who have helped to give us mastery over ourselves or over nature. And so I should build up the conception of lordly splendid destiny for the human race, to which we are false when we revert to wars and other atavistic follies, and true only when we put into the world something that adds to our human dominion. (See Bertrand Russell on "Education" at p. 172).

Bertrand Russell, who was a sceptic and free thinker opined against indoctrinating children by religious teaching. He is, however, not of the opinion that children should be kept away from the knowledge of religion. He has noted a caution that sometimes teaching of history and religion in the schools which are run and maintained by religious sects may indoctrinate children to mould them to their thought and belief and that would certainly be harmful. Because sometimes certain views on these subjects are imparted so as to magnify one country or one religion and denigrate and degrade the other religions. Bertrand Russell is equally critical of the secular teachings that is negative approach to religions. (See Bertrand Russell "Principles of Social Reconstruction" pp. 105-106).

Pt. Jawaharlal Nehru Ex.p.m, Dr. S. Radhakrishnan and Dr. Zakir Hussain, Ex-Presidents of India were also strongly of the view that in the march of human philosophy only science and spirituality will be the two greatest primary forces which will keep human-beings in best state of existence. The opinion of Dr. S. Radhakrishnan on education is thus :-

"The end of education, as envisaged by Radhakrishnan, is self-knowledge. Though man is a composite of body, mind and spirit, he has to live by what is the highest in him, which is the spirit and the latter 'should not degenerate into intellect and/or will'. It is the spirit which is the source of all achievement, creativity, freedom and discipline." (See : The Social and Political Thought of Dr. S. Radhakrishnan by Clarissa Rodrigues, p. 121).

The greatest secular personality of this country, ex Prime Minister Jawaharlal Nehru has expressed following thoughts :-

"All education must have a definite social outlook and must train our youth for the kind of society we wish to have. Politicians may strive for political and economic changes in order to bring that society into existence, but the real basis of that society must be laid in the teaching of our schools and colleges. The real change will have to come in the minds of men, though that change can and will be helped greatly by external changes in the environment. The two processes go together and should help each other."

"The process of education, therefore, must help to build men and women suited to the age and the task they have to perform. It should presumably deal with certain basic factors in the development of boys and girls to give them strength of character and the right outlook on life. I do not mean by this that they should be conditioned only in one particular way, but rather that they should develop, apart from the

essentials of character, a trained receptive and tolerant mind which is capable of considering problems in their entirety and trying to arrive at solutions. They should in effect develop into integrated human beings. Integration means not only a process within themselves, which of course is highly important, but also a measure of integration with the environment." (See : Nehru on Social Issues by S.P. & J.C. Aggarwal)

Swami Ranganathananda of Ramakrishna Mission, in the book "Eternal Values for a Changing Society, Vol. 3: Education for Human Excellence", has identified six objectives, which should be achieved by education. The following objectives which have been culled fully accord with the constitutional philosophy:-

1. The training of our children to an appreciation of our nation's cultural heritage and to equip them with the desire and the capacity to enhance the same and leave to posterity a richer legacy.
2. The training of our children in talents and capacities by which they become productive units of society and the source of its economic strength.
3. The equipment of our children with the qualities of courage and vision to protect our newly won national freedom, to preserve its democratic structure, function, and liberties, and to carry the same to ever wider fields and ever higher levels.
4. The training of our children in virtues and graces that will make them emotionally stable individuals and enable them to live in peace, harmony, and co-operation with their fellow citizens.
5. The training of our children in virtues and graces that will make them international in their outlook and sympathies, and enable them to live in peace, harmony, and co-operation with the emerging world community.
6. The training of our children to an awareness of the spiritual and trans-social dimension of the human personality and to a converging life-endeavour in the realization of this fact in and through life and action.
7. It is only thus that our education will become a fit discipline to help to continue the march of the Indian tradition from an impressive past to a glorious future."

As pointed out by learned counsel on behalf of petitioners, if there are certain offending portions in the curriculum, which are not historically correct or has a tendency to misrepresent, suppress or project a wrong information, they can be removed. The learned Solicitor General on behalf of the Union of India and the counsel appearing for NCERT have very candidly stated that if those portions are identified, there would be no objection to the Government to consider their deletion from the curriculum. It has been emphatically stated that the object of introducing 'study of religions' in the education from primary stage is to ensure all round development of a child and with the object that he grows as citizen with respect for constitutional values.

As has been stated by us above, while dealing with the first point, that a National Policy of school education having effect and implications upon children of whole of India should be prepared after careful and thoughtful deliberations. Learned Solicitor General stated that NCERT before finalising the curriculum has not only held symposiums, conferences, talks and debates, but also elicited opinions not only of members of NCERT, but also ex-officio members of CABE.

It is stated that although a formal meeting of the members of CAGE could not be called for seeking their advice, but each one of them individually was sent a copy of curriculum to elicit their views for and against it. It is after long deliberations, discussions and exchange of views that the curriculum has been finalised. It is submitted that any restraint puts on introduction of curriculum could harm the interest of the students, who have already started their academic session and a very large quantity of text books and literatures prepared by NCERT in conformity with the National Curriculum of 2002, would go waste. It is, therefore, stated that this Court should vacate interim order restraining introduction of National Curriculum on certain subjects as mentioned in the Order of this Court dated 1st March, 2002. We have looked into the Constitution and functions of CAGE, copy of which has been provided to us. The Constitution and functions of NCERT are also given to us for perusal. From the language employed therein, we find that the functions of the two Bodies are not so clearly delineated as to put them in water tight compartments. In evolving a National Policy on Education and based thereon a curriculum, in accordance with long standing practice, it was desirable to consult CAGE although for non-consultation the National Policy and the Curriculum cannot be set aside by the court. In a constitutional democracy, Parliament is supreme and policies have to be framed and approved by the Parliament. Parliament had constituted CAGE and NCERT and if CAGE has any objection to the National Curriculum nothing prevented it from expressing its opinion accordingly. It is ultimately for the Parliament to take a decision on the National Education Policy one way or the other. It is not the province of the Court to decide on the good or bad points of an Educational Policy. The Court's limited jurisdiction to intervene in implementation of a policy is only if it is found to be against any statute or the Constitution. We have not found anything in the Educational Policy or the Curriculum which is against the Constitution. We have found no ground to grant any relief as prayed for by the Petitioners. We would, however, direct the Union of India to consider the matter of filling the vacancies in the membership of CAGE and convening a meeting of CAGE for seeking opinion on the policy and the curriculum.

All bodies created by executive power of the State, are answerable to Parliament which is the supreme legislative body with all powers in suggesting and formulating a National Education Policy. It is open to Parliament to fill nominations to CAGE, re-constitute it or do away with it. The court can have no jurisdiction in that subject. This court can enforce constitutional provisions and laws framed by the Parliament. It cannot, however, compel that a particular practice or tradition followed in framing and implementing the policy, must be adhered to. The court has to keep in mind the above limitations on its jurisdiction and power. It is true that if a policy framed in the field of education or other fields runs counter to the constitutional provisions or the philosophy behind those provisions, this court must, as part of its constitutional duty, interdict such policy.

For the reasons given above, we do not find that the National Education Policy 2002 runs counter to the concept of secularism.

Before parting with this case, we record our appreciation for the efforts and industry put on the subject by the parties and their counsel. Their joint efforts are commendable and we recognise their sincerity and best intentions in seeking judicial intervention for safeguarding the interest of children, their parents and through them the nation as a whole. We have, however, found no ground to grant any directions as prayed for in these petitions. The petitions are, therefore, disposed of with the observations made above. We make no

orders as to costs.

JUDIS