

Daily Orders for Case WP 7525/2024

Sl. No	Judge(s) Name	Date of Order	Daily Order
1	M.NAGAPRASANNA	18/03/2024	<p>a. The petitioners, 8 of them, including the retailers Association of India are before this Court calling in question a legislation by the State i.e., Kannada Language Comprehensive Development Act, 2022 ('Act' for short). b. Learned counsel for petitioners Sri Manu Prabhakar Kulkarni submits that the statement of objects and reasons of the legislation takes its foundation from Article 345 of the Constitution of India. He would further rely on a particular paragraph of the preamble, which reads as follows: ".... Considering the scenario, to ensure the extensive use and propagation of Kannada Language and to co-ordinate the activities relating to the implementation of Kannada as Official Language new law is essential. In order to provide reservations for Kannadigas in private industry and establishment getting the benefit of Land, Concession of Tax or grant-in-aid etc., and also other industries and establishments in the state and to supervise the proper implementation of the Act, it is necessary to provide a machinery with investigating powers. c. Learned counsel further takes this Court through the Act seeking to contend that it is not yet notified in the official gazette. Therefore, it becomes unenforceable as on today. Learned Advocate General would clarify that the Act has been gazetted and would place the copy of the gazette. d. Learned counsel for petitioners would submit that Section 17(6) of the Act becomes the fulcrum of challenge inter alia in the petition. Section 17(6) of the Act prior to amendment reads as follows: "17. General measures to be taken for extensive use and propagation of Kannada Language.— (6) The upper half portion of boards displaying the names of Commercial, Industrial and Business Undertakings, Trusts, Counseling Centre's, Hospitals, Laboratories, Amusement Centres and Hotels etc., functioning with the approval and sanction of Government or Local Authorities, shall be in Kannada and lower half can be in any other language." This is amended by the impugned amending Act, the Kannada Language Comprehensive Development (Amendment) Act, 2024 and the amendment to Section 17(6) of the Act reads as follows: ".... 3. Amendment of section 17:- In section 17 of the Principal Act, for sub-section (6), the following shall be substituted, namely:- "(6) The name boards of Commercial, Industrial and Business Undertakings, Trusts, Counseling Centre's, Hospitals, Laboratories, Amusement Centers and Hotels etc., functioning with the approval and sanction of the Government or Local Authorities, shall ensure that their name board displays 60% in Kannada language and Kannada shall be displayed in the upper half of the name board."" (Emphasis supplied) The difference between the unamended Section 17(6) of the amended act is, the unamended provision mandated 50% of the Boards in all commercial establishments and business undertakings to be in Kannada language which is increased to 60% by the amended Act, the tenability or otherwise of the legislation requires to be considered. e. Learned counsel submits that an attempt was made by the State to amend the Karnataka Shops and Commercial Establishments Act, 1961 by enforcing Kannada language invoking Article 345 of the Constitution inter alia. It became the subject matter of challenge before this Court in W.P.No.1901 of 2009. This Court allowed the writ petition on 05.06.2009 striking down the said amendment and several attempts being made by issuance of circulars to repeatedly bring, in what is now notified in terms of the legislation, are all pending consideration at the hands of this Court. f. What has immediately driven the petitioners to this Court at this juncture is, a circular issued by the State Government on 28.02.2024. The circular, according to the learned Advocate General is issued in furtherance of the Act and for its implementation while the first of two paragraphs appear to be the intention of the State in the first blush, the 3rd paragraph therein travels beyond what is in the enactment. It would indicate that if 60% of the Boards are not in Kannada, those business establishments or undertakings would be sealed down. This, prima facie,</p>

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			<p>is untenable. g. Learned Advocate General would also submit that the intention of the State is not to seal down any business undertakings and to enforce 60% of the Boards to be in Kannada. The matter would require consideration and for the purpose of consideration would require the statement of objections by the State, as the Act is called in question. Therefore, the State shall not insist on the contents of the circular dated 28.02.2024 only in regard to sealing down of the premises. h. Learned counsel for petitioners projects a bona fide difficulty with regard to the implementation and the time of such implementation. Learned Advocate General would assure that all the retailers and the business undertakings would be given complete clarity as and when any clarifications are sought. j. At this juncture, learned counsel for petitioners submits that the amending Act i.e., Act of 2024 which the learned Advocate General places before the Court today, has not come into force, as the learned counsel would submit that Section 1(1) of the amending Act mandates that the State Government by a notification in the official gazette shall appoint a date for it to come into force. If that be so, learned Advocate General shall place on record as to on what date the Act has come into force. k. Till the clarification is issued, no precipitative action shall be taken against the petitioners, only if the Act has not come into force, as observed in paragraph (j), and if the Act has come into force, the order as aforesaid in paragraph (g) shall operate. List the matter on 22.03.2024.</p>