

Problem for the Grand Intra Moot Court Competition

State of Bongia is the largest state in terms of both population and land in the Union of Tikula, a democratic republic. Chi-chi is the official language of Tikula as the majority of Tikuli (as the citizens of Tikula are popularly known) speak Chi-chi; though in different states of Tikula, different languages are spoken and recognized as the first language of the state concerned. Incidentally, the majority of the population is Chi-chi speaking in the state of Bongia; in other words, Chi-chi is the mother tongue of majority of the people in Bongia. In Bongia, there is a linguistic minority community Domili, originally from the state of Domil, whose mother tongue is also known as Domili and a religious minority community which speaks Kurdu. There are very few or no primary schools offering Domil or Kurdu as medium of instruction at the primary level in the state of Bongia and children of the two communities are forced to study in either public schools or private schools. The government run primary schools in Bongia follow a one language system and children in the age group of 5-14 are taught in their mother tongue. The private schools in Bongia put much emphasis on learning English as well.

Many other states in Tikula adopt a two language system in primary education and teach primary students two languages, one being English, which is widely recognized as language for international communications and expertise in English is considered as an asset in the global world and the second being the official language of the state. But in Bongia, it is only later at the College level that the medium of instruction is bilingual and the students have the option to opt for either Chi-chi or English as the medium of instruction.

Due to its size and population of people in the age group of 19-30, a lot of private Universities are coming up in the state of Bongia. These Universities have been established under different Acts of the state legislature of Bongia. With the mushrooming of such Universities and also with the opening up of various study centers of other private Universities established in other states of Tikula, the higher education sector appears to be in a complete mess and the students are a harried lot in the state of Bongia.

There is neither uniformity nor uniform standard in imparting education and managing affairs of the Private Universities in the State of Bongia. This has resulted in exploitation of students and also lowering down the standard of education. In order to regulate the activities of the Private Universities in the state of Bongia the state legislature passed the Private Universities (Regulation) Act, 2009(hereinafter the Act) for the regulation of Private Universities. The Act makes following provisions:

Section 3, dealing with application of the Act, provides that the Act shall apply to all those Private Universities which have already been established or to be established under the Act. Further, this Act shall also apply to any linguistic or religious minority Private University. Section 8 allows the Private Universities to raise their funds through donations and could charge fee as per their requirement without any upper limit. Section 9 provides that the number of seats for each course shall be decided by the Private Universities keeping in view its infrastructure. Section 11 makes it mandatory for all the private Universities to offer courses in Chi-chi medium only. This was done with a view to safeguard the interest of those students of the state of Bongia who had been educated at secondary level in Chi-chi medium, which was the most prevalent medium of instruction in most schools and colleges in state of Bongia. Section 15 talks about

the Admission of students to various courses. Looking into the continuous fall in the standard of education in the state of Domil, and corruption in admission and examination results, the Act in section 15 keeps out the students of state of Domil from admission in the Private Universities in state of Bongia. Only those Domili who are domiciles of Bongia are eligible for admission to the courses in the private Universities and not the domiciles of state of Domil.

A big business house from state of Domili had established a private University, Domili Professional University (DPU) in the state of Bongia and seeks to give admission to all the Domili irrespective of their domicile etc. The DPU offers modern courses in the University in both Domili and English medium and also reserves 50% of the seats in all its courses for the Domili minority community.

After coming in to force of the Act, the state of Bongia objects to the functioning of the DPU and refuses a no objection certificate for starting its new academic sessions from July 2009 as the DPU has admitted Domili students from the state of Domil in violation of the provisions of the Act. Furthermore, the DPU has refused to offer courses in Chi-chi medium.

Milaki is a resident of state of Bongia and is very much interested in pursuing a modern course in Mass Communications which only the DPU offers in English medium. She is frustrated that the DPU will no longer run this course and even if it runs, it would be offered in Chi-chi medium with much diminished value.

Kirkitiya is a Domili but domiciled in Bongia. He has been going to the private schools in the state of Bongia and is quite adept at both the languages, Domili and English.

He is intending to pursue higher education in the state of Bongia but is deterred by the fact that the private Universities are in shambles while the state run Universities offer courses which are either outdated or being offered in Chi-chi.

He is very disappointed by the fact that from this academic year the DPU, the University of his dreams has not been allowed to start its session.

Milaki and Kirkitiya file two different writs in the High Court of Bongia alleging violation of their legal as well as fundamental right to education. The DPU files another writ in the same High Court alleging violation of its fundamental rights guaranteed under the Constitution of the Union of Tikula to establish, manage and administer an educational institution as they are linguistic minority.

Argue from both the sides.

Note: The Constitution, other statutes and case laws are as applicable to the Union of India.