

Bijoe Emmanuel Case

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GS-2 Polity and Constitution

Polity and Constitution

Context:

The Supreme Court delivered a split verdict in the Karnataka hijab ban case, directing the matter to be placed before the Chief Justice of India for appropriate directions.

While Justice Hemant Gupta dismissed the appeals challenging the Karnataka High Court order, Justice Sudhanshu Dhulia allowed them.

In his judgment, Justice Dhulia referred to the Bijoe Emmanuel case, saying it “squarely covers the issue”.

Relevance:

GS II: Polity and Governance

Dimensions of the Article:

1. Bijoe Emmanuel verdict
2. What was the case?
3. What else did the court say?

Bijoe Emmanuel verdict

In August 1986, a Supreme Court bench had, in **Bijoe Emmanuel & Ors vs State Of Kerala & Ors**, granted protection to three children of the Jehovah’s Witness sect, who didn’t join in the singing of the national anthem at their school.

The court held that forcing the children to sing the anthem violated their fundamental right to religion.

The children’s father, VJ Emmanuel, had pleaded that for Jehovah’s Witnesses, only Jehovah should be worshiped.

Since the national anthem was a prayer, his children would stand up in respect when it was playing, but their faith did not allow them to sing it.

What was the case?

In 1985, in Kidangoor in Kottayam district, siblings Bijoe Emmanuel, aged 15 and studying in Class X, Binu and Bindu, 14 and 10, studying in Class IX and V respectively, were suspended from their school after a complaint that they didn't sing the national anthem.

The three were students of NSS High School, run by the Hindu organisation Nair Service Society. The school had 11 students from the Jehovah's Witnesses religious sect at the time.

Their parents, college professor V J Emmanuel and mother Lillikutty moved the high court, where a single bench rejected the plea. Their re-appeal also failed, after which they went to the Supreme Court and received a favourable verdict.

After the win in the court, the three Emmanuel children came back to the school for just one day.

The family then decided not to continue with formal education for any of their seven children.

Their father has said, "I went to court not to protect the right of my children to study in a school. It was meant for freedom of worship of all members of Jehovah's Witnesses."

What else did the court say?

The Supreme Court in the Bijoe Emmanuel case had made other pertinent remarks on **freedom of speech and expression and the right to practise and propagate one's religion.**

"Article 25 [right to practise and propogate your religion] is an article of faith in the Constitution, incorporated in recognition of the principle that the real test of a true democracy is the ability of even an insignificant minority to find its identity under the country's Constitution. This has to be borne in mind in interpreting Art. 25,"

The SC also said that,

“We are satisfied, in the present case, that the expulsion of the three children from the school for the reason that because of their conscientiously held religious faith, they do not join the singing of the National Anthem in the morning assembly though they do stand up respectfully when the Anthem is sung, is a violation of their Fundamental Right to freedom of conscience and freely to profess, practise and propagate religion”

“We, therefore, find that the Fundamental Rights of the appellants under Art. 19(1)(a) and 25(1) have been infringed and they are entitled to be protected. We allow the appeal, set aside the judgment of the High Court and direct the respondent authorities to re-admit the children into the school. We only wish to add: our tradition teaches tolerance; our philosophy preaches tolerance; our constitution practises tolerance; let us not dilute it.”