**IN THE HIGH COURT OF MADRAS**

W.P. Nos.12882, 12890, 13019, 13037, 13038, 13227, 13293, 13296, 13345, 13381, 13390, 13547 and 16266 of 2011 and W.P. (MD). No. 6143 of 2011 and M.P. Nos. 1, 1, 1, 1, 2, 3, 5, 6, 1, 1, 2, 1, 3, 4, 1, 1, 2, 3 to 12, 1, 1, 2 and 1 of 2011

Decided On: 18.07.2011

Appellants: **K. Shyam Sunder, S/o. O. Kasirajan and Ors. etc. etc.**
**Vs.**
Respondent: **The State of Tamil Nadu, rep. by its Chief Secretary to Government, Government of Tamil Nadu, The Secretary to Government, Education Department and The Director of School Education and Ors. etc. etc.**

**Hon'ble Judges/Coram:**
M.Y. Eqbal, C.J. and T.S. Sivagnanam, J.

**ORDER**

**M.Y. Eqbal, C.J. and T.S. Sivagnanam, J.**

1. About one crore twenty three lakh school children of Standards I to X in the State of Tamil Nadu are without any textbooks and syllabus, and along with their parents, they are in a dilemma as to whether the Uniform Syllabus, which was to commence as per the Tamil Nadu Uniform System of School Education Act, 2010, would be postponed because of the amendment brought in the Act by the new Government immediately after coming into power, and also as to whether the textbooks as per the new syllabus got printed and made ready by spending about 200 crore rupees of public money by the erstwhile Government would be destroyed or disposed of.

2. Before arriving at any conclusion as directed by the Supreme Court, we have to first discuss the brief history of the legislation. For the purpose of achieving social justice and quality education, the erstwhile Government enacted the Samacheer Kalvi Thittam, i.e., Uniform System of School Education Act, 2010 (hereinafter referred to as 'the Act of 2010') and introduced common syllabus, textbooks and examination for the four streams of education prevalent in the State. It is to be noted here that in the State of Tamil Nadu, there are four streams of school education namely, State Board Schools, Matriculation Schools, Oriental Schools and Anglo- Indian Schools and these schools have separate syllabus, textbooks and scheme of examinations and are under the control of different Boards, as a result of which the standard of education in these schools is not uniform. Therefore, the Government was of the view that it is indispensable to evolve a uniform system of school education in the State to ensure social justice and provide quality education in all the schools in the State. For this purpose, the Government constituted a committee under the Chairmanship of Dr. S. Muthukumaran, Former Vice-Chancellor of Bharathidasan University, to examine the possibilities of implementing a Uniform System of School Education. The Committee submitted its recommendations to the Government. The Government constituted a one Man Committee with Thiru. M.P. Vijaya Kumar I.A.S. (Retired) to look into the recommendations of the Dr. S. Muthukumaran Committee. The one Man Committee submitted its recommendations to the Government. It appears that a team of educationists under the Chairmanship of Thiru. M.P. Vijayakumar, I.A.S., visited the States of Kerala, Karnataka, Gujarat and Maharastra and reviewed the education system in those States and submitted its report on various matters regarding the school education. The Government, on a consideration of these reports, accepted the idea that all schools in the State should have a common syllabus, textbooks and examination system as only this will ensure social justice and provide quality education and accordingly enacted the Act 8 of 2010.

3. The Private Schools' Association from various districts challenged the aforesaid Act of 2010 on the ground that the Act interfered with the right of children to choose their preferred system of education and also on various other grounds. The vires of the aforesaid Act of 2010 has been upheld by a Division Bench of this Court by its judgment dated 30.4.2010 in W.P. Nos. 3051 of 2010 and batch of cases (hereinafter referred to as 'the Division Bench judgment' for the sake of brevity).

4. The aggrieved parties moved the Supreme Court by filing Special Leave Petitions, which were ultimately dismissed and the judgment of the Division Bench attained finality.

5. Section 3 of the Act of 2010 needs to be quoted herein below:

3. (1) Every school in the State shall follow the common syllabus and textbooks as may be specified by the Board for each subject,

(a) in Standards I and VI, commencing from the academic year 2010-2011;

(b) in Standards II to v. and Standards VII to X from the academic year 2011-2012.

(2) Subject to the provisions of Sub-section (1), every school in the State shall,

(a) follow the norms fixed by the Board for giving instruction in each subject;

(b) follow the norms for conducting examination as may be specified by the Board.

6. It is, therefore, manifest that the uniform syllabus and common textbooks for Standards I and VI shall be followed from the Academic Year 2010-2011 and for Standards II to V. and VII to X, the uniform syllabus and common textbooks shall be followed from the Academic Year 2011-2012. Indisputably, the uniform syllabus and common textbooks for Standards I and VI are already being followed from the Academic Year 2010-2011.

7. After the judgment was pronounced by the Division Bench, it was submitted by the State counsel that the uniform syllabus and common textbooks for other classes may also be allowed to be followed from the Academic Year 2010-2011. On such submission made by the State counsel, the Division Bench made the following observations:

After orders have been pronounced, the learned Additional Advocate General submitted that a great deal of industry and expenditure has gone into the preparation of textbooks and to postpone the introduction of Section 3 of the Act by one year will cause huge loss to the State. The learned Additional Advocate General has said that if some time is fixed in May, 2010, they would lay down the norms, would publish it in the website and would also make it known to the general public.

2. We accept this statement of the learned Additional Advocate General. But, however, in our judgment, we have held that a school has to have a choice of multiple textbooks. Therefore, we will allow the State to implement Section 3, as modified by us, from this year for Standard I to VI provided the Board fixes the norms before 15th May, 2010 and also gives the list of approved textbooks in every subject before that date.

3. Unless they give a list of approved textbooks before 15th May, 2010 so that the schools have a choice, our direction regarding the implementation of Section 3 of the Act from the next academic year will stand.

[Amended as per the Order of this Court dt. 5.5.2010 and made herein.]

8. As noticed above, pursuant to the Division Bench judgment, the uniform syllabus and common textbooks were to be followed from the Academic Session 2011-2012 onwards, but in the meantime, a new Government came into power and took a decision to postpone the Uniform Education System for the time being and with that object in mind, brought an Amendment in Section 3 of the parent Act by enacting the Tamil Nadu Uniform System of School Education (Amendment) Act, 2011. By the aforesaid Amendment Act, Section 3 of the parent Act was substituted and it now reads as follows:

2. For Section 3 of the Tamil Nadu Uniform System of School Education Act, 2010 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:

3. Schools to follow common syllabus

(1) Every school in the State shall follow the common syllabus as may be specified by the Board for each subject in Standards I to X from such academic year as may be notified by the Government in the Tamil Nadu Government Gazette. The Government may specify different academic years for different Standards.

(2) Until notification under Sub-section (1) is issued, the syllabus and text books for every school in the State shall be as follows:

(a) in Standards I and VI, the system as prevailing prior to academic year 2010-2011 shall continue; and

(b) in Standards II to v. and VII to X, the existing system shall continue.

9. As against the aforesaid Amendment, several writ petitions have been filed, which are before us. In one set of writ petitions, the Petitioners sought a writ of mandamus directing the Respondents to continue with the Uniform School Education System for the Academic Year 2011-2012 as per the Act of 2010. The other set of writ petitions sought to declare the decision taken by the State Cabinet on 22.5.2011, purporting to withhold the implementation of the Act of 2010 for the Academic Year 2011-2012, as null and void, unconstitutional and further to direct the Respondents therein to implement Section 3 of the Act of 2010.

10. The Petitioners in the first batch of writ petitions, seeking a direction to continue the Uniform System of School Education, made a prayer for an interim direction to the Respondents therein not to dispose of the textbooks already printed till the disposal of the writ petitions. The learned Advocate General, in his reply, produced a letter bearing No. 17629/Q/2011-1 dated 1.6.2011 addressed by the Secretary to Government, School Education Department, informing the Advocate General that the Government will not take any action regarding disposal of the Samacheer Kalvi Textbooks printed so far till the next hearing of the case.

11. This Bench after considering the miscellaneous petitions filed by the Petitioners for interim protection and the counter affidavits, and after hearing the learned Counsel appearing for the parties, disposed of the petitions on 10.06.2011. The operative portion of the order is quoted herein below:

27. In that view of the matter, we dispose of the Miscellaneous Petitions by passing the following order:

(i) The provision of Section 3 of the Tamil Nadu Uniform System of School Education (Amendment) Act 2011 (TN Act 10 of 2011) shall remain stayed pending disposal of the writ petitions.

(ii) The order of stay shall not operate as a bar for the State Government to conduct a detailed study of the common syllabus and common textbooks introduced under Act 8 of 2010 and the Government shall be entitled to delete, add, modify, substitute or alter any chapters, paragraphs, portion of the textbooks which indeed included to propagate the achievement of a political party or an individual and issue appropriate instructions in this regard. At this stage, we are constrained to observe that the Government should avoid to include any chapter in any of the textbooks with an intent to propagate a particular political party or an individual.

(iii) The various private Managements have stated that there are several books of high standard and the Government should approve the same in terms of the direction of the Division Bench as the schools should be given option to choose either the Government prescribed textbooks or the Government approved textbooks. In this regard, it shall be open to such Managements of private schools to submit the list of books for approval of the Government and the Government shall conduct a detailed study on such books and take a decision in the matter with a view to comply with the direction of the Division Bench contained in paragraph 63 of the judgment.

(iv) The impleading petitions are ordered and the newly impleaded parties are at liberty to file their counter affidavits.

(v) The State Government shall also file their counter affidavit in the writ petitions filed for declaration of the Amending Act as ultra vires.

12. Aggrieved by the aforesaid order, the Respondent-State moved the Supreme Court by filing Special Leave to Appeals being S.L.A. (Civil) Nos. 16149-16162 of 2011. The Supreme Court disposed of the said appeals on 14.6.2011 with certain directions. For better appreciation, the operative portion of the order passed by the Supreme Court is quoted herein below:

We feel it to be in the interest of justice that the interim order passed by the High Court should be amended and certain further directions be issued to ensure smooth commencement of the academic year 2011-12. Therefore, we direct as follows:

(a) The academic scheme in force for the Academic Year 2010-2011 for Standards I and VI shall continue to be in force in all respects for the Academic Year 2011-2012 as well.

(b) Which textbooks and to what extent the amended syllabus will be applicable to other courses shall be finally determined by the High Court keeping in view the amended provisions of the Act and its impact.

(c) We hereby direct the State to appoint a Committee, which they have already undertaken to appoint, primarily to examine ways and means of implementing the 'Uniform Education System' to the Classes (II to v. and VII to X) in question, common syllabus and the books which are to be provided for the purpose.

(d) This Committee shall also examine the objections which are raised to the books already published or any part thereof. The Committee shall place its recommendations before the High Court within a period of three weeks from today.

(e) It is agreed before us that this Committee shall comprise of two State Representatives (experts in School Education); two representatives from the NCERT; two Academicians (expert in the field of School Education); Secretary (Education), State of Tamil Nadu; Director of School Education, Tamil Nadu and the Committee shall be presided over by the Chief Secretary of the State.

We further direct that this Committee shall endeavour its best to complete the proceedings within three weeks from today and place its final or interim report (if proceedings thereof are not completed) before the High Court to enable the High Court to deal with the matter expeditiously and finally.

Counter affidavit, if any, be filed within two weeks from today by the Petitioners before us (Respondents in the writ petitions) with an advance copy to the other side who may file their rejoinder thereto within one week thereafter. The matter shall be placed before the Division Bench to which the matter is assigned by the Hon'ble the Chief Justice of the High Court for day to day hearing and its conclusion in accordance with law.

Let this order be brought to the notice of Hon'ble the Chief Justice of Madras High Court by the Registrar of this Court forthwith.

The appeals are finally disposed of. The interim order passed by this Court would continue in force unless modified by the High Court. The Registry shall communicate this order to NCERT and the State Government as well as the Chief Secretary for its proper implementation.

13. Pursuant to the order passed by the Hon'ble Supreme Court, the Government of Tamil Nadu by G.O. Ms. No. 101, dated 15.06.2011, constituted a Committee consisting of the following members, to review the quality of the Uniform Syllabus and the common textbooks:

i) Prof. S.P. Thyagarajan, Former Vice-Chancellor, University of Madras

ii) Dr. B. Ponnuswamy, Associate Professor of Economics

iii) Thiru. C. Jaidev, Founder and Secretary, D.A.V. Group of schools, Gopalapuram, Chennai

iv) Mrs. Y.G. Parthasarathy, Dean and Director, Padma Seshadri Bala Bhavan, Group of Schools, Chennai.

v) Prof. B.K. Tripathi, Department of Education in Science and Mathematics, NCERT, New Delhi.

vi) Prof. Anil Sethi, Department of Social Sciences, NCERT, New Delhi.

vii) The Secretary to Government, School Education Department, Secretariat, Chennai -9.

viii) The Director of School Education, DPI Complex, Chennai 6.

14. The Government directed the Committee to submit its recommendations to this Court within three weeks i.e., on or before 6.7.2011. The Government, by a subsequent order in G.O. Ms. No. 102, dated 17.6.2011, issued an amendment to G.O. Ms. No. 101 by deleting the names of two State Representatives namely, Prof. S.P. Thyagarajan, Former Vice-Chancellor and Dr. B. Ponnuswamy, Associate Professor of Economics and substituted them with Thiru. G. Balasubramanian, Former Director (Academics) C.B.S.E. and Tmt. Vijayalakshmi Srinivasan, Formerly Principal, Lady Andal School, Chennai. The Committee so constituted submitted its report before this Court on 5.7.2011, within the time stipulated by the Hon'ble Supreme Court. We may, at this stage, notice that the Committee, in its recommendations, concluded that Samacheer Kalvi textbooks cannot be used for the Academic Year 2011-2012. We shall deal with the recommendations of the Committee in the latter part of this judgment. After the submission of the report by the Committee, these matters have been taken up for hearing and for coming to a conclusion, as directed by the Supreme Court.

15. Mr. N.G.R. Prasad, learned Counsel appearing for the Petitioner in W.P. Nos. 13038 and 13381 of 2011, while reiterating the grounds raised therein, which have been referred to in the later part of the judgment, submitted that the Committee constituted by the Government did not contain any academician. Mr. C. Jaidev, is not by any means an academician, he is only a founder of a school and a businessman by profession and he is neither a teacher nor a principal. The other nominee under the category of the academician belongs to a C.B.S.E. group of institutions similarly the Government nominee, and Mr. G. Balasubramaniam is also a Former Director of C.B.S.E. Tmt. Vijayalakshmi Srinivasan, was the Former Principal of a Matriculation School, which opposed the Uniform System of Education. Therefore, it is contended that the Committee is fully loaded against the introduction of Uniform Syllabus Act and is biased. The learned Counsel submits that the earlier Committee, which was constituted under the Chairmanship of Dr. Muthukumaran consisted of academicians, as Dr. Muthukumaran himself was the Vice-Chancellor of Bharathidasan University and the subsequent One Man Commission constituted with Mr. M.P. Vijayakumar, I.A.S, along with his team, had travelled to other States to study the pattern of education in various States and then submitted a report and the Government, after considering all these matters, which commenced in 2006, brought about the Act 8 of 2010, after thorough deliberations. Therefore, the implementation of the Act has been upheld by the Division Bench of this Court and the Special Leave Petition filed against the said judgment also having been dismissed, the State cannot now bring an Amending Act to nullify the effect of the Division Bench judgment and therefore, the Amending Act is an arbitrary enactment. The learned Counsel relied on various paragraphs of the Division Bench judgment to impress upon us as to the steps taken and the research done prior to the introduction of the common syllabus, which were noticed by the Division Bench. The Hon'ble Supreme Court did not direct the Committee to reject the uniform syllabus and the common textbooks, but only directed it to submit its recommendations as regards the implementation of the Uniform Education System. Therefore, the report of the Committee is far beyond the mandate given by the Hon'ble Supreme Court. Further, the learned Counsel relied on several portions of the report and contended that none of the observations contained in the report justify the conclusion of the Committee that the textbooks which have been already prepared have to be discarded. The learned Counsel placed reliance on the decisions of the Hon'ble Supreme Court in Indira Sawhney v. Union of India and Ors. (2000) I SCC 168, State of Haryana v. State of Punjab : (2002) 2 S.C.C. 507, Sindhi Education Society and Anr. v. The Chief Secretary, Govt. of NCT of Delhi and Ors.  : (2010) 8 SCC 49 and the Full Bench decision of this Court in Tamil Nadu Tamil and English Schools Association v. State of Tamil Nadu 2002 (II) C.T.C. 344.

16. Mr. S. Prabakaran, the learned Counsel appearing for the Petitioner in W.P. Nos. 12890 and 13547 of 2011 submitted that during the year 2006, the Government, by order dated 8.9.2006, constituted a Committee under the Chairmanship of Dr. Muthukumaran, Former Vice-Chancellor of the Bharathidasan University with four members and three ex-officio members. The four members of the Committee were Mr. D. Chrithudass, President, Tamil Nadu Nursery, Primary, Matriculation and Higher Secondary Management Association; Rev. Father. George, Montfort School, Yercaud, Salem District; Mr. S. Khaja Mohaideen, Head Master, Nijam Oriental Higher Secondary School; Dr. S.S. Rajagopalan, Head Master, Sarvajan, High School, Coimbatore and the ex-officio members were the Director of Elementary Schools; the Director of Matriculation Schools; and the Director of Government Examinations, who was also the Member Secretary and Convener of the Committee. The Government thought about the Uniform System of Education bearing in mind Article 38 of the Constitution of India. The learned Counsel referred to the order passed by the Hon'ble Supreme Court on 14.6.2011 and laid emphasis on the observations made by the Hon'ble Supreme Court stating that the Special Leave petition preferred against the Division Bench judgment upholding the validity of Act 8 of 2010 (except Sections 11, 12 and 14) was dismissed by the Supreme Court on 10.9.2010 by a reasoned order and that the judgment with far reaching impact has attained finality. Therefore, it is contended that the State cannot bring about an Amending Act to nullify the Division Bench judgment by postponing the implementation of the parent Act. The learned Counsel further submitted that the New Government was formed on 16.5.2011 and without conducting any study about the Uniform System of Education, on 21.5.2011, floated tenders for printing of textbooks under the old syllabus. The State Cabinet, just on the next date, i.e. 22.05.2011, put on hold the Uniform System of Education. It is, therefore, contended that the floating of tenders to print textbooks under the old syllabus is contrary to Section 3 of the Parent Act. The learned Counsel further submitted that pursuant to the order passed by the Hon'ble Supreme Court, the Committee constituted on 17.6.2011 had only four sittings i.e. on 17.6.2011, 22.6.2011, 23.6.2011 and 29.6.2011, on which date the final draft report was prepared. Though, the Hon'ble Supreme Court granted 21 days' time for the Committee to examine the aspects as directed by the Hon'ble Supreme Court, the Committee effectively spent only 15 hours to decide an issue which is likely to affect the career of about one crore twenty three lakh students in the State. The learned Counsel also attacked the competency of the members in the Committee and stated that they are not experts in the field. The learned Counsel further submitted that the Secretary to School Education Department, who was a Member in the Committee, exceeded her powers by suggesting benchmark for assessment of the books, preparing agenda, etc. as she was not authorised to do so. Further, the Secretary, School Education Department, in the counter affidavit filed in the batch of cases, stated that the policy of Uniform System of Education is an illegal policy. Having taken such a stand, she cannot be a member in the committee as it amounts to judging her own cause. The learned Counsel would further submit that a different political party may come into power, but the Government is one and the bureaucrats cannot take different stands and state that the Samacheer Kalvi is an illegal policy and by doing so, the Secretary of the School Education Department has misdirected the Committee. Further, it is contended that there is no discussion among the Committee Members and the Members of the Committee have not even seen the final report submitted to this Court and the Members, in a careless manner, signed the report. The learned Counsel further submitted that Section 3(2) of the Amending Act nullifies the parent Act, which was upheld by the Division Bench of this Court and confirmed by the Hon'ble Supreme Court and as such, the impugned amendment is illegal. The learned Counsel placed reliance on the decision of the Hon'ble Supreme Court in State of Haryana v. State of Punjab : (2002) 2 S.C.C. 507 and submitted that even if there is a change in political setup, the succeeding Government must be duty bound to continue and carry on the unfinished job of the previous Government rather than putting a stop to the same. The learned Counsel placed reliance on the decision of the Supreme Court in Avinash Mehrotra v. Union of India  : (2009) 6 S.C.C. 398, and submitted that education occupies an important and sacred place in our Constitution and culture.

17. Mr. V. Selvaraj, the learned Counsel appearing for the Petitioner in W.P. No. 13227 of 2011 circulated a note on the observations made by the Committee in its report. The learned Counsel submitted that as per the Committee's report, the State Board syllabus was lastly revised in the year 2004 and the Matriculation Board syllabus was also lastly revised during the year 2004, that the Anglo-Indian and Oriental Boards have a common examination at the X Standard level (State Board). The Committee found that 93% of the schools in the State are State Board schools and 79% of the students are studying in such schools. The learned Counsel submitted that on a careful reading of the summary of the findings on the syllabus and textbooks, it was revealed that there is no impediment for implementing the Uniform System of School Education, that for Standards I and VI, the common syllabus has already been implemented and standards XI & XII are following the uniform syllabus and common examination. For standards II to v. and VII to X, there are five subjects covered by common syllabus and textbooks namely, Tamil, English, Social Science, Science and Mathematics. The Committee in its report has not found any impediment in implementing the common syllabus for the subject Mathematics for Standards II to v. and VII to X. In respect of the syllabus for Tamil, there is no adverse comment by the Committee for Standards II to v. and VII to X. Regarding textbooks for the subject Tamil, there are no adverse comment for standards II to v. & VII. The Committee opined that in the Tamil textbooks for Standard VII, the former Chief Minister is commended too much for his contribution to the world of theatre. For Standard IX, it has been stated that the word order is not followed, for Standard X, it has been stated that the initiative taken by the former Chief Minister for making Tamil a classical language is portrayed too much. According to the learned Counsel, perusal of the Appendix to the report revealed that the objections are trivial and no rightful, thinking person can raise such objections. The learned Counsel further submitted that in the subject Social Science for Standard II, there is no adverse comment on the syllabus or on the textbooks. For Standard III, the report merely states that the syllabus is attached without offering any adverse comments. Similar observation has been made for Standard IV. It is submitted that the objections raised for Social Science syllabus for Standard v. cannot be taken as seriously impeding the cause of Uniform System of Education. For Standard VII, there is no specific comment regarding syllabus except a general statement and three objections have been raised which are not of very serious nature. Similarly, for Standards VIII and IX, the objections appear to be trivial. According to the Petitioner, the objections raised for the syllabus for Standard X in the lesson on Consumer Rights cannot be treated as an objection and the objection regarding the lesson on Freedom Movement is motivated. So far as the subject Science is concerned, there is no adverse remark on the syllabus for Standard II and it has been pointed out that there is a translation error, which according to the counsel, could very well be rectified. So far as Standards III & IV Science subject is concerned, it has been alleged that the information load is heavy. There is no objection for the syllabus and textbooks for Standard v. Science subject. For standard VII Science subject, there is a general observation regarding the syllabus and there is no objection for the textbook. For Standard VIII Science subject, it has been stated that the syllabus is heavy. For Standard IX Science subject, the criticism is that the subject matter lacks critical activities and the book is lacking in not giving proper illustrations, certain concepts should be avoided, and the diagrams are smudged. Regarding Standard X Science subject, there is no comment on the syllabus except a vague reference at page 42 of the report. Regarding the book in Tamil version, certain omissions have been pointed out in the report and there is no note to the teacher. Regarding the subject English for Standard II, there is no comment on syllabus and textbooks; for Standard III, the syllabus has been enclosed and the only criticism is that the new syllabus expects the students to narrate stories on their own instead to listening to them; for Standard IV, the syllabus contained topics originally dealt with in Standards VII to X in the State Board syllabus and there is no comment regarding the textbooks; for Standard V, there is no comment about the syllabus and the only criticism at page 51 of the report is that nursery rhymes have been incorporated, which are too simple; for Standard VII, in respect of syllabus, there is a vague statement made in page 56 of the report and certain errors have been pointed in the book are pages 65-67 of the report; these appear to be mistakes that require correction; for Standard VIII, the comment is that the syllabus is not age appropriate and the grammar is repeated in Standards IX and X; For Standard IX English subject, the committee opined the grammar load is too much and regarding the book, the suggestion of the Committee at page 61 of its report is to add activities to develop oral skills; For standard X English subject, there is no reference to the syllabus and the only comment is the story "Modern Millionaire" cannot be related to personal lives. Therefore, it is submitted that the objection is not worthwhile and there is absolutely no justification for the Committee to conclude that the Uniform System of Education should be abandoned and all the textbooks which have been printed have to be discarded.

18. Mr. R. Viduthulai, learned senior counsel appearing for the Petitioners in W.P.12882 of 2011, 13390 and 16266 of 2011 submitted that the Amending Act is unconstitutional as it is a legislative overruling of a judicial decision which has attained finality. The Amending Act is arbitrary and ultra vires Article 14 of the Constitution in as much as it gives unanalyzed power to the Executive regarding the year of notification of the common syllabus. The terms of reference to the Committee as well as the appointment of the Members in the Committee are not in consonance with the order passed by the Hon'ble Supreme Court. The findings of the Committee are not an institutional decision, but the individual decision of the Secretary of the School Education Department. The learned Counsel further submitted that Section 3 of the Parent Act which was upheld by the Division Bench and confirmed by the Hon'ble Supreme Court has prescribed the academic years for commencement of the Uniform System of Education with a proper intent, since elementary education commences from Standard I and if common syllabus is not implemented for Standard II, the continuity will be lost and it will be detrimental to the interest of the students to go back to the old system which was devised in the year 2004. Likewise, Standard VI is the commencement for High School education. The learned senior counsel placed reliance on the decision of the Hon'ble Supreme court in S.R. Bhagwat v. State of Mysore  : (1995) 6 S.C.C. 16, for the proposition that binding judicial pronouncement between the parties cannot be made ineffective with the aid of any legislative power by enacting a provision, which in substance, overrules the judgment and is not in the realm of a legislative enactment which displaces the basis or foundation of the judgment. The learned senior counsel further relied on the decision of the Hon'ble Supreme Court in A.N. Parasuraman v. State of T.N. : (1989) 4 S.C.C. 683 and submitted that Section 3 of the Amending Act gives too wide a power to the executive and the same is arbitrary. The learned senior counsel also placed reliance on the decision of the Full Bench of this Court in Tamil Nadu Tamil and English School Association v. State 2000 (II) C.T.C. 344, wherein it has been observed that one has to remember that education policy cannot be changed every now and then, it should be precise and complete, and it must be a long term policy. The learned senior counsel referred to the decisions of the Hon'ble Supreme Court in Avinash Mehrotra v. Union of India,  : (2009) 6 S.C.C. 398 and P.A. Inamdar v. State of Maharastra (2005) 6 S.C.C. 637 on the aspect of importance of education. The learned senior counsel submitted that as per the report submitted by the Committee at page 31, there are 1,20,00,000 students in the State, of which 1,07,18,711 students are in State Board schools; 27,21,128 students in Matriculation schools; 54,103 students in Anglo-Indian Schools and 9,985 in Oriental Schools. All that the Uniform System of Education seeks to achieve is to make approximately 3 lakhs students, who are under different Boards, adopt the same Board as studied by over one crore students in the State. It is pointed out that for Standards XI and XII, it is uniform syllabus and textbooks for all the four Boards. The learned senior counsel placed reliance on the order of the Supreme Court dated 14.06.2011 and the observations contained therein and submitted that the Government order in G.O. No. 101, dated 15.06.2011 is a case of contempt of the order of the Supreme Court, as the Supreme Court did not authorize the Committee to review the quality of syllabus and textbooks. Learned senior counsel raised serious objections regarding the Members of the Committee, in particular, the academicians.

19. Mr. T. Mohan, learned Counsel appearing for the Petitioner in W.P. No. 10370 of 2011 submitted that by reason of the amendment, the Central Act has been violated and the objection that the academic authority has not been notified is incorrect, since the same has been notified by the Government in G.O. Ms. No. 209, dated 27.7.2010.

20. Mr. Purushothaman, learned Counsel appearing for the Petitioner in W.P. No. 13296 of 2011 submitted that the Division Bench of this Court had struck down Section 14 of the Act 8 of 2010, and the power under Section14 which was denied to the Government is now indirectly brought in by the Amending Act. The learned Counsel gave a narration about the various Committees which had been constituted from the year 2006 and stated that Mr. Vijayakumar, I.A.S. was formerly in the S.S.A. and was fully competent to suggest the Uniform System of Education and the entire proceedings went on between 2006-2011 and the present Government nor their representatives raised any objections earlier.

21. The contentions raised by the learned Counsel appearing for the Petitioners could be broadly summarized as follows:

(a) Section 3 of the Amending Act is violative of Article 14 of the Constitution of India as its frustrates the principles of equality which was sought to be implemented by Act 8 of 2010.

(b) Section 3 confers arbitrary, unguided and unfettered discretion to fix a date for the implementation of the Act.

(c) The Amending Act is in the nature of a conditional legislation giving power to an external authority and it is a colourable exercise of power and suffers from arbitrariness and unreasonableness.

(d) Section 3 of the Amending Act virtually nullifies whatever has been done under the Principle Act and it is in effect a repeal of the Parent Act.

(e) Section 3 of the Amending Act contravenes Section 8(c) and (d) of the Tamil Nadu General Clauses Act, 1891.

(f) The State has ignored the stress and trauma that would be caused to the children due to the confusion and instability.

(g) More than Rs. 200 crores of public money has been utilized for printing the text books and if they are not utilized and are destroyed, it would be a loss to be Exchequer.

(h) The reasons offered by the State in the Statement of Objects and Reasons of the Amending Act are not supported by any material records.

(i) The Amending Act is against the National Curriculum Frame Work, 2005, besides the directions issued by the N.C.E.R.T.

(j) The Amending Act runs counter to the decision of the Full Bench of this Court in 2000 (II) C.T.C. 344 (supra) and in particular, the observations contained in the paragraph 25 of the said decision.

(k) The date of change of policy of the new Government is on 22.5.2011, when the Cabinet took a decision to put on hold the parent Act and by then, the State Government was fully ready to implement the parent Act since the textbooks had already been printed, published and distributed to the District Educational Officers of the State and the textbooks have also been published in the website prior to 22.5.2011 and 9.00 crores text books have so far been printed and if the Amending Act is to be implemented, all these efforts taken by the State Government would go waste.

(l) It is impossible for the State to now print and distribute the textbooks under the old syllabus as there are more than 45,000 Government Schools; 11,000 Matriculation Schools; 50 Anglo-Indian Schools and 25 Oriental Schools.

(m) Reverting to the old syllabus will not amount to complying with Section 29(1) of the Central Act, since the old syllabus has not been approved as required under the Central Act.

(n) Though the State Government did not constitute the Committee as required under the parent Act, their inaction cannot be a ground to repeal or put on hold the parent Act.

22. Apart from the above contentions, the Petitioners would submit that the report of Committee constituted pursuant to the direction of the Hon'ble Supreme Court is erroneous and against the mandate imposed by the Court and it has transgressed its scope, far beyond the mandate imposed by the Court. The Committee failed to implement the directions of the Hon'ble Supreme Court and it is fully loaded and biased against the introduction of the uniform syllabus Act. The representations of the Petitioners' Association and the Tamil Nadu Science Forum were not taken into consideration, but on the contrary the representation of the Matriculation Schools Associations, which challenged the Act 8 of 2010, finds place in the report of the Committee. Further, there is no specific instance in the report to show the sub-standard nature of the common syllabus or the common textbooks.

23. On the other hand, Mr. P.P. Rao, learned senior counsel appearing for the Respondent-State, at the very outset, submitted that the challenge to the substituted Section 3 of the Tamil Nadu Uniform System of School Education Act, 2010 has become academic in view of the subsequent order passed by this Court on 10.6.2011 and the order dated 14.6.2011 passed by the Supreme Court to conduct a detailed study of uniform syllabus and common textbooks under the Act, to delete, add, modify, substitute, alter any chapter or paragraph or portion of the textbook which includes to propagate the achievement of a political party or individual. Learned senior counsel submitted that the Supreme Court, in its order, had directed the State to appoint a Committee to examine the ways and means for implementing the Uniform Education System for Classes II to v. and VII to X. Learned senior counsel submitted that the matter had been finally rested and remanded to this High Court to finally determine which textbooks and to what extent the amended syllabus will be applicable to classes other than I to VI, keeping in view the amended provisions and its impact.

24. Learned senior counsel, therefore, submitted that appropriate directions be given to the authorities to implement the provisions of the Central Act and State Act harmoniously as early as possible indicating a reasonable time frame for speedy implementation of the Act. The learned senior counsel further submitted that the earlier Division Bench which upheld the 2010 Act mostly while striking down Section 11, 12 and 14 has diluted the rigour of Section 3(2)(a) has held that it may be implemented from the academic session 2011-12 or later and the Division Bench also indicated the various steps to be taken before implementing the State Act, which are yet to be done. The learned senior counsel laid emphasis on the observations of the Division Bench stating that the implementation of the syllabus and textbooks was postponed till the academic session 2011-12 or until the State brings the provisions of the State Act in line with the Central Act and makes known the norms and the syllabus and prepares the textbooks in advance. Therefore, the learned senior counsel submits that until the State was ready to comply with the directions contained in paragraph 55(a) of the judgment of the Division Bench, the Act 8 of 2010 (parent Act), is not capable of being implemented. It is submitted that the directions issued by the Division Bench have not been complied with; the books are not ready; the State Advisory Council is yet to be notified and considering all these aspects, the State Government passed the impugned Amending Act with the object of giving effect to the parent Act. The learned senior counsel referred to the Statement of Objects and Reasons of the impugned Amending Act. The learned Senior counsel submitted that Section 3 of the Amending Act does not contemplate indefinite postponement, but it has to be read as to mean, to be implemented within a reasonable time. In support of his contentions, the learned Senior counsel placed reliance on the decision of the Hon'ble Supreme Court in Mansaram v. S.P. Pathak  : (1984) 1 S.C.C. 125, for the proposition that in the absence of a prescribed period of limitation in a statute, it must be exercised within a reasonable time. The learned senior counsel elaborately referred to the report of the Committee and in particular, to the conclusion arrived at by the Committee and submitted that the Uniform System of Education, by following a uniform syllabus and uniform textbooks, cannot be implemented and the State is compelled to switch over to the old pattern. It is further submitted that the impugned Amending Act states that the Government may specify different academic years for different standards and the intention of the State was not to abandon the uniform system, but to implement it within a reasonable time. The learned senior counsel concluded by saying that the State was not fighting the litigation as an adversarial litigant.

25. Mr. Guru Krishnakumar, learned Additional Advocate General appearing for the State submitted that the Amending Act is not a colourable piece of legislation and no mala fides can be attributed to the legislation and in constitutional law, the only aspect which can be looked into for determining whether a legislation is a colourable legislation is to look into the legislative competence and in this regard, no arguments were advanced by the Petitioners. Therefore, the contentions raised by the Petitioners are misconceived. It is further submitted that the Petitioners have misread and misinterpreted the judgment of the Division Bench of this Court, which upheld the Act 8 of 2010. No Mandamus was issued by the Division Bench, and the Division Bench held that the Act could be implemented only on satisfying certain conditions, but the conditions have not been satisfied till date, though there was sufficient time and therefore, the Uniform System of Education cannot be implemented. Though Section3 of Act 8 of 2010 stipulated time limit for implementation of the Uniform System, the Division Bench postponed it by imposing certain conditions. The learned Additional Advocate General further submitted that the Amending Act only states that the executive Government will decide when to implement the Uniform System and in the interregnum, the existing system will continue as it is a conditional legislation. According to him, the concept of excessive delegation is an anathema to conditional legislation enacted with the twin objective, namely to ensure full compliance of the judicial verdict of the Division Bench and to undertake review of the syllabus and text books, since it is perceived to be faulty and wanting in quality. Further, the Committee constituted was based on an agreed order before the Supreme Court and the Petitioner cannot question the same. The learned Additional Advocate General further submitted that the scope of judicial review on the findings of the Committee is very narrow. Reliance was placed on the decision of the Hon'ble Supreme Court in Welfare Association v. Ranjith P. Gohil  : (2003) 9 S.C.C. 358, as regards the aspect regarding the legislative competence and colourable piece of legislation. The learned Additional Advocate General also placed reliance on State of Kerala v. PUCL  : (2009) 8 S.C.C. 46, which also dealt with the aspects regarding the doctrine of colourable legislation.

26. Mr. R. Krishnamoorthy, Mr. N.R. Chandaran and Mr. S. Silambanan, learned senior counsel appearing for the Federation of Matriculation Schools and their Associations, supported the stand taken by the State Government. It is contended that courts are not experts and cannot go into the findings of the expert committee which was constituted by the Hon'ble Supreme Court, the Committee within a short time, did a remarkable job and submitted its report, which is convincing, and this Court should not interfere with the findings of the expert committee. It is further submitted if the impugned Amending Act was not passed, then the Government would have been guilty of having committed contempt of the order passed by the earlier Division Bench, as the Government did not do anything in the matter for one year. Therefore, it is contended that the stand taken by the State Government is fully justified.

27. First of all, we shall discuss the Report submitted by the Committee constituted by the Government pursuant to the direction of the Supreme Court. As stated above, the Committee consisted of eight Members, including the Secretary to the Government, School Education Department, Secretariat, Chennai. The Committee held its sittings on 4 days i.e., 17.6.2011, 22.6.2011, 23.6.2011 and 29.6.2011. On the first meeting held on 17.6.2011, the Chief Secretary informed the Members about the Supreme Court Order and some materials were handed over to them in order to evaluate the quality of textbooks. On 22.6.2011, the Members appear to have given their opinion based on the parameters and quality of the textbooks. It was decided that they would submit their observations by way of a report to the Secretary, School Education, who in turn, would consolidate their views and prepare a report. On 23.6.2011, it was resolved that the Secretary, School Education, shall mail the preliminary draft of the report to all the Members to incorporate their views and suggestions and forward the same and thereafter, the Secretary, School Education shall finalize the Report, after receiving suggestions from the Members. On 29.6.2011 the Committee unanimously approved the Report. For better appreciation, the minutes of these four sittings are reproduced herein below:

Minutes of the 17.06.2011

Meeting The Secretary to Government, School Education Department welcomed the Members of the Committee and informed them that the Expert Committee has been constituted as per the directions of the Hon'ble Supreme Court with the specific mandate to study the quality of the textbooks prepared under the Uniform System of School Education (Samacheer Kalvi) with respect to Classes II to v. and VII to X.

The Chief Secretary informed the members that copies of the order of the Hon'ble Supreme Court of India along with suggested parameters and bench marks for the review of the syllabus and the textbooks is being placed before the Members of the Committee. He further stated that the following material is being handed over to every Member of the Committee in order to enable them to evaluate the quality of the textbooks.

a) Report of Yashpal Committee

b) National Curriculum Frame Work, 2005

c) Right of Children to Free and Compulsory Education Act, 2009 (RTE Act)

d) The Syllabi of Matriculation, Anglo-Indian and State Board

e) The Common Syllabus prepared under the Uniform System of School Education

f) Copies of Samacheer Kalvi Text Books for Classes II to v. and VII to X.

The Chief Secretary requested the members to offer their opinion if any.

Thiru. V. Jaidev, Founder and Secretary, DAV Group of Schools mentioned that any Text Book prepared by the State should be to match the CBSE Text Books in order to enable the Children to compete in Universities at the all India level.

Tmt. Y.G. Parthasarathy, Dean and Director, Padma Seshadri Bala Bhavan Group of Schools, Chennai offered her view that thinking skills, life skills should be effectively integrated in the curriculum in order to help the child to step into the future without difficulty. She also said that there should be integration

Thiru. G. Balasubramanian, Former Director (Academics) CBSE stated that while evaluating the quality, one should bear in mind structural mistakes, conceptual mistakes and pedagogical errors. He also felt that as prescribed by the RTE Act, 2009 an 'Academic Authority' should be formulated for devising the implementation of the Act, formulating the syllabus and norms.

The members of the NCERT Prof. B.K. Tripathi and Prof. Anil Sethi stressed the importance of four main aspects that are looked into by NCERT while framing a syllabus.

a) Connecting life of the learner from School to the outside world

b) Encouraging process learning to rote learning

c) To move away from textbook learning to practical learning

d) To change the entire evaluation pattern to bring out the analytical skills of the children.

They also stated that the NCF 2005 and RTE Act, 2009 should be the basis for any curriculum, syllabus, textbook to be brought out by any State.

The 'Continuous Comprehensive Evaluation' method of the CBSE should be kept in mind for bringing out the best in any child. However, the Uniform System prescribed by the NCERT for Science and Mathematics subjects should be adopted by all the States in order to make the children competitive at the National level. To summarise, they stated that the content, pedagogy and evaluation combined with teacher training would be the essence of good quality education in any State.

Tmt. Vijayalakshmi Srinivasan expressed her concern about the problems faced by children at the primary level in the State Board Schools and she felt that from the lower class onwards there should be a clear orientation to the children to apply practically what they learn in class-rooms.

The following decisions were taken at the end of the Meeting:

1. The Committee formed by the Hon'ble Supreme Court of India has a specific mandate to review the quality of the textbooks prepared under the Uniform System of School Education (Samacheer Kalvi) for Classes II to v. and VII to X. The findings of the Committee have to be submitted to the High Court of Madras on or before 6th July, 2011.

2. The Secretary, School Education to hand over all the relevant materials namely,

a) a copy of the Matriculation Syllabus, Anglo Indian Syllabus and the State Board Syllabus;

b) the Syllabus prepared for the Uniform System of School Education;

c) the text books of Classes II to v. and VII to X prepared under the Uniform System of School Education (viz., Samacheer Kalvi);

d) National Curriculam Frame Work, 2005;

e) the RTE Act, 2009; and

f) the Report of the Yashpal Committee.

3. The Committee decided to meet again on 22nd June, 2011 and 23rd June, 2011 to discuss in depth after going through all the materials that would be handed over to them by the State Government.

4. The Committee decided that by the 28th of June, 2011, they will finalise the report to be submitted to the Hon'ble High Court of Madras.

The Meeting came to an end with the Chief Secretary thanking the Committee for sparing their valuable time and offering their suggestions.

Minutes of the 22.06.2011 Meeting

The Secretary to Government, School Education Department welcomed the members of the Committee and presented the minutes of the previous meeting for approval. The same was approved by the Committee.

The Secretary, School Education requested the members to present their observations about the uniform syllabus and the quality of the Samacheer Kalvi textbooks.

The members made their observations and gave their opinions based on the parameters/benchmarks in terms of syllabus with specific focus on content, structure, presentation and gradation. They also highlighted their observation on the quality of textbooks in terms of content and presentation, appearance and layout, language, pictorial presentation, linguistic development of values and unwanted and objectionable areas.

After presentation by the Members of the Committee it was decided that they would submit their observations by way of report to the Secretary, School Education Department by the forenoon of 23.06.2011.

The following decisions were taken at the end of the meeting:

a. It was decided by the members of the Committee to request the Secretary, School Education to consolidate the views and suggestions of the members of the Committee into a report and present the same to the Members of the Committee in the next meeting.

b. The Committee decided to meet again on 23.06.2011 at 5.00 p.m. at the Conference Hall of Chief Secretary to Government.

The meeting came to an end with the Secretary, School Education thanking the members of the Committee for sparing their valuable time and offering their suggestions.

Minutes of the 23.06.2011

Meeting The Chairman welcomed the Committee and thanked them for giving their valuable inputs. He mentioned that from the view points of the Committee, he could pick up very good suggestions which can be incorporated for formulating a good quality oriented syllabus for the schools in Tamil Nadu. The minutes of the previous meeting was approved by the Committee.

The Chairman of the Committee requested the Secretary, School Education to present the preliminary draft report which is prepared by consolidating the comments/suggestions made by the members during the meeting held on 22.06.2011. After the presentation made by the Secretary, the members offered their comments on certain additions that could be made to the preliminary draft report.

The following decisions were made:

1. The Secretary, School Education to mail the Preliminary Draft report to all the members.

2. The members were requested to incorporate their views and suggestions and forward the same to the Secretary, School Education.

3. The Secretary, School Education to finalise the report after receiving the suggestions from the members and mail the final report to all the members for their concurrence.

4. On receipt of their final concurrence the final report to be drafted by the Secretary, School Education and presented to the Committee in the next meeting to be held on 29.06.2011 at 11.00 a.m. in the Conference Hall of the Chief Secretary.

Minutes of the 29.06.2011

Meeting The Secretary, School Education welcomed the members of the Committee. The minutes of the previous meeting was approved by the Committee.

The Secretary, School Education presented the draft final report after incorporating the views/suggestions offered by the members. After discussion, the Committee unanimously accepted the draft final report.

The members of the NCERT expressed their thanks to the Chairman and mentioned that they were very happy to be associated with the Committee. They appreciated the professional approach that was adopted by the Committee.

The other members voiced the same opinion and expressed their thanks to the Chairman.

The Chairman informed the members that the final report would be filed in the Hon'ble High Court, Madras on 5th July, 2011 as per the direction of Hon'ble Supreme Court of India. He further stated that it was a very good experience for him to have interacted with the experts. It has definitely given him a lot of insight into the nuances of School Education. He assured the members that the State would strive to offer the best quality education to the children in the State of Tamil Nadu.

The meeting came to an end with the Chief Secretary thanking the Committee for offering good suggestions and for sparing their valuable time.

28. From the minutes, it is evident that the Secretary, School Education has done all the exercise in collecting suggestions/views, including the preparation of the draft report. It is she, who after preparation of the draft final report, placed the same before the Committee on 29.6.2011, which unanimously approved the same. It is, therefore, clear that the Secretary, School Education namely, Smt. D. Sabitha, has played a major role in the preparation of the report where a conclusion has been arrived at that the textbooks seem to have been prepared in a haste and hurried manner and that the same cannot be used for the Academic Year 2011-2012 as they require a lot of alterations, modifications and changes in order to provide good quality education to all the children in the State of Tamil Nadu. For better appreciation, Clauses 9.16 and 9.17 of the report are reproduced herein below:

9.16. The Committee after reviewing both the common syllabus and the Samacheer Kalvi textbooks is of the unanimous opinion that the quality of the textbooks is substandard with no scope for the children to be actively involved in the process of learning. The textbooks seems to be prepared in haste and in a hurried manner. The textbooks have been translated from Tamil to English which in general is very poor and at time atrocious. This process of literal translation has made the science and social science textbooks of all the classes worthless. It does not provide for constructive learning and hence does not give an opportunity to the students to discuss, interact and express their spontaneous reaction. The textbooks in question would not enthuse the child and ignite in him or her a passion for understanding. There are no activities in the textbooks and therefore no opportunity is provided to the children to develop their own innovative findings and observations. With the overloading of information it is felt that the emphasis is laid more on learning and memorising. Hence, the textbook is more a source of stress and would in no way foster creativity and joyful learning.

9.17. The Samacheer Kalvi textbooks cannot be used for the academic year 2011-2012 as they require a lot of alterations, modifications and changes in order to provide good quality education to all the children in the State of Tamil Nadu.

29. It is worthwhile to mention here that the same Secretary, School Education Department, Mrs. D. Sabitha, had defended the State by supporting the amendment made in Section 3 of the Act of 2010 by filing a counter affidavit. In the said counter affidavit, she had stated, inter alia, that quality education does not merely mean identical syllabus, textbooks, etc., but only if the syllabi, textbooks, facilities for teaching learning process, including the quality and number of teachers, better infrastructural facilities, facilities for extracurricular activities and everything connected with learning are of a good quality and appropriate to the learner, it can be said that quality education is made available to every child. It is further stated that in the 12th Chapter of the "Abstract of Report and Recommendations", Dr. S. Muthukumaran Committee has given 109 items, of which items 23 to 50 are on syllabi at school stage, wherein it was suggested to establish an autonomous Tamil Nadu State Board of School Education. However, the Board constituted has not been given any autonomy. It is further submitted that the competency of the Board to frame the syllabus itself is questionable and therefore, the curriculum formulated without any legal sanction that has been implemented by the erstwhile government shall not be justified and it shall be the duty cast upon the Respondents to ensure that the illegality committed is rectified by appropriate executive action. In the counter, it is also pointed that the Division Bench, in its judgment, concluded that the implementation of the syllabus and textbooks shall be postponed till the academic year 2011-2012 or until the State makes known the norms and the syllabus and prepares the textbooks in advance. Further, the averment that the textbooks printed would be wasted and there would be a loss to the tune of 200 crore rupees seems to have been made without understanding the implications that could result due to the implementation of the illegal policy formulated by the previous Government. The Government has a mandate to improve the quality of education and ensure welfare of the students. It is with this intent, the present policy is being formulated. The allegation that the State Government is favouring private schools is stoutly denied in the counter. It is further stated that the Division Bench in its judgment, dated 30.4.2010, while recognizing the power of the State to introduce Uniform System of School Education, has struck down and/or read down certain provisions and given directions for amendment of certain other provisions of the Act of 2010, but the erstwhile government has not given full effect to the directions issued and thus, the present policy has been taken to give effect to the directions of the Division Bench in its letter and spirit. Further, it is stated that a detailed review of the syllabus is sought to be introduced. It is found that the syllabus is wanting in quality and content in various subjects as for e.g., Mathematics, Science and English. It is also seen that there is no scope for creative learning and extra textual learning in the new textbooks as recommended by the National Curriculum Framework, 2005. As a consequence, the competency of the students in the State will not be at par with students of other parts of the country while facing competent examinations for higher education at the national level. It is further stated that certain provisions of the Tamil Nadu Uniform System of School Education Act, 2010 are not in consonance with the National Curriculum Framework, 2005 and also the Right of Children to Free and Compulsory Education Act, 2009. Therefore, on a review of all the relevant materials, the State Government proposes to appoint a High Powered Committee consisting of experts in the field to undertake a detailed study of a more appropriate system to be adopted for ensuring the improvement of quality of education and social justice by providing a level playing field to all sections of society. The contention that substantial amount of money is spent for the printing of the textbooks cannot by itself be a justification to perpetuate the error since the quality of education will be severely impaired. It is further stated that it would be open to the State to review and amend the policy decisions for good and valid reasons. It is finally stated that the implementation of the Uniform System of School Education in its present form has been stalled as there are glaring defects and steps are being taken to review the system.

30. As noticed above, the Hon'ble Supreme Court directed that the Uniform System of Education which is in force for the Academic Year 2010-2011 for Standards I & VI shall continue to be in force in all respects for the Academic Year 2011-2012 as well. The further direction for constituting the Committee by the Hon'ble Supreme Court was primarily to examine the ways and means for implementing the Uniform System of Education to Standards (II to v. and VII to X) in question, the common syllabus and the textbooks which are to be provided for the purpose and therefore, the object of appointing the Committee was primarily for implementation of the Uniform System of Education, common syllabus and textbooks. Hence, the Committee so constituted may not be justified in submitting a report stating that the entire Uniform System of Education be scrapped and the textbooks already provided for be discarded. This, in our view, is a total misreading and misinterpretation of the terms of reference of the Committee, a thorough wrong reading of the scope and ambit of the direction issued by the Hon'ble Supreme Court. We are conscious of the fact that the Hon'ble Supreme Court granted only three weeks' time to complete the proceedings and submit its final or interim report before this Court; such time limit was prescribed so that the Committee would objectively examine the content of the common syllabus and the common textbooks with an object of implementing the Uniform System of Education. Precisely for these reasons, the Hon'ble Supreme Court directed the Uniform System of Education to continue for Standards I and VI. It may be noted that in the interim order passed by this Bench on 10.6.2011, the State Government was given liberty to conduct a detailed study of the common syllabus and common textbooks and delete, add, modify, substitute or alter any chapters, paragraphs, portion of the textbooks, which indeed included to propagate the achievement of a political party or an individual. In the same order, the Government was also directed to notify the approved textbooks after conducting a study with a view to comply with the direction of the earlier Division Bench contained in paragraph 63 of the judgment; this direction was issued to enable the schools to choose from multiple textbooks, viz., the Government prescribed textbooks and Government approved textbooks in all subjects both curricular and co-curricular. However, these orders and directions have been disregarded by the State. We have not only gone through the conclusions arrived at by the Committee at page 81 of the report, but we have also gone through the summary of findings of the Committee on the syllabus, textbooks and the comparison it has made with the Matriculation Syllabus. We may, at the outset, point out that the Committee has misdirected itself, as it ought to have proceeded primarily to examine the ways and means of implementing the Uniform System of Education. Curiously, the Committee, in its final report, concluded that the common textbooks cannot be used for the Academic Year 2011-2012.

31. Pursuant to our direction, the learned Advocate General produced before us, in two sealed covers, the original minutes of the meeting of the Committee and the suggestions given by individual members of the Committee. The materials produced before us were perused. Prof. Anil Sethi, Department of Education in Social Sciences, NCERT, is one of the members of the Committee. It appears that the said member was entrusted with the task of going through the text book for the subject English to Ms. Meenakshi Khar and the Social Science text books for Standards VI to X to Dr. Malla V.S.V. Prasad. This fact is evident from the copies of the e-mail message received by Prof. Anil Sethi from Ms. Meenakshi Khar and Dr. Malla V.S.V. Prasad. The comments offered are interesting to note and for better appreciation, there are reproduced as found in the e-mail messages:

The current series, from classes I to X brought out by Tamil Nadu Text Book Corporation is entitled English and it is meaningfully conceived than the series of the previous English Reader Matriculation course.

The Text Book developers have attempted to incorporate in them principles of English language teaching as stated in NCF 2005.

Books are learner centric to some extent and provide support to the teachers through the column instructions to the teachers.

However, the goals of English Language Curriculum as enumerated in NCF 2005 are not wholly defined in all the three text book series. Printing size of the book, paper quality and pictures are good and better than the previous one.

It is suggested that modifications are required in the present set of books, so that they can be aliened with the principles of English Language teaching as stated in NCF 2005, and described in NCERT text books.

32. The remarks offered by Dr. Malla V.S.V. Prasad on the subject Social Science for Standards VI to X have been set out under four sub-headings, namely, Strengths, Weaknesses, Opportunities and Threats. At the end of the remarks, answers for the following questions have been given, which are reproduced hereunder:

Deficiencies

Yes, but can be rectified!

Did the DMK Government introduce propaganda material? Almost No.

Do the textbooks politicize the minds of young children? Hardly.

Is there scope for creative learning and extra textual learning? Limited.

The competence of the students in the State would not be on a par with students of other parts of the country while facing national-level examinations.

Difficult to prove

These are preliminary remarks. A detailed study of the common syllabus and common textbooks has to be undertaken.

33. Prof. Tripathi, Member of the Committee, has offered his comments on the Science Textbooks under the sub-heading 'General Comments', wherein it has been mentioned as follows:

The overall appearance and layout of all the textbooks is attractive and eye catching. The use of colourful pictures, diagrams and photographs at the appropriate locations is appreciable. The language used in all the textbooks is simple and comprehensive for the targeted age groups. The boxed item "more to know" and the biographies of scientists are appreciated as these may help students to explore beyond the textbooks.

34. The following comment has been offered for the mathematics text book for Standards IX and X:

15. To a large extent the present textbooks in mathematics at Secondary stage are in accordance with NCF-2005 while practical geometry should find a place before the chapter on mensuration in class X and similarly form class IX.

35. Mrs. Vijayalakshmi Srinivasan, the other Committee member, has given her comments and the relevant portions which appear to have not been fully stated in the final report of the Committee are extracted hereunder:

Samacheerkalvi aims to integrate the four streams existing in Tamil Nadu today. It is a laudable objective and a necessity. The present Matriculation and Anglo Indian streams are not perfect systems and do not conform to the principles and laid down in the national curriculum frame work 2005. The samacheerkalvi syllabus and the textbooks have been prepared keeping the matriculation syllabus as a benchmark.

English

Syllabus

I. (i) In classes VII to X there is a distinct upgradation in overall standard compared to the present state board syllabus and is equivalent to the Matriculation and Anglo India syllabus.

In classes to I to VI the standard is comparatively lower than that of Matriculation and Anglo Indian streams.

II. Structure and Presentation

(i) Statement of objectives and teaching learning processes have been clearly stated in all classes. There is a note to the teacher before every unit. But evaluation topics on grammar at the end of each lesson are not connected to the lesson.

Textbooks

(I) Content and Presentation

(ii) Logical sequencing has been followed

(iii) There is less burden on the students particularly in the primary classes.

II. Appearance and Lay out.

Appearance and Lay out is good and appealing.

Yes. There are a few instances of portraying personality and political achievements. Mostly found in the primary section. Do not find any objectionable material in the higher class text books.

Mathematics

Syllabus I /p>

Content

(i) From classes I to VI the level is lower than that of the four streams. From classes VII to X there is progressive increase of the level and it is on par with the matriculation and Anglo Indian streams but higher than the state board syllabus.

III Gradation

There is a logical arrangements of topics and they flow smoothly from one unit to another and from one class to another. There is a gap between class VI to VII in area of fractions and integers which needs to be bridged.

Textbooks:

I Content and Presentation

(i) Content is age appropriate and comprehensive.

(iii) The subject matter is well presented and is student friendly.

(iv) There is a logical sequence from class to class.

(vi) Maths lab activities are found only in one or two classes.

(vii)There is an attempt to provide activities meaningful to rural population but is mainly urban oriented.

II. Appearance and Lay out

Appearance and Lay Out is good and appealing. Student friendly

IV. Pictorial Presentation Pictorial representation is good and relevant. Multicoloured graphs and geometrical constructions will help students to understand better graphical representation and geometrical constructions.

V. Linkages

Content in lower classes is relevant to their day to day life.

With a decrease in content in lower classes there is a good chance that students will not develop a dislike for math.

Science

Syllabus

Textbooks

I Content and Presentation

i) Content is age appropriate but not comprehensive.

ii)There is an upgradation of content in classes VII to X for students of state board.

iii) Compared to matriculation board there is facilitation of learning without burden.

iv) Logical sequence is absent from class to class.

VII. Free from gender and religious bias no political indoctrination Social Science Syllabus I Content

(ii) An attempt has been made to follow the NCERT pattern in the primary classes upto class V. From class VI to X matriculation pattern is followed.

III Gradation

There is a logical arrangements of topics and they flow smoothly from one unit to another and from one class to another. Textbooks: I Content and Presentation (v) There is an upgradation of content in classes VII to X. In classes I to VI topics covered are lesser than that of the other streams, but there is a progressive increase of topics and difficulty level from classes VII to X to enable students to compete at the national level.

vi) The subject matter is well presented and is student friendly.

VII Free from gender and religious bias. There are a few references to living political personalities and their contribution to Tamilnadu particularly in the primary classes.

Conclusion

The syllabus of neither Matriculation nor the present Samacheerkalvi conform to the principles of NCF 2005. It would be appropriate and effective if introduction is done in a phased manner. There is a gap between the class IX syllabus of last year and that of class X in the new syllabus. The students of class X in state board will find it difficult to cope with additional volume of content in all the subjects in such a short time. The students and teachers need adequate time to prepare for the board examination. There is no dispute about the introduction of Samacheerkalvi in the state. But it would benefit the students, if it is introduced in a phased manner like it was introduced for classes I and VI.

36. Mr. C. Jaidev, in the concluding portion of his report, has observed hereunder:

Conclusion

Whenever a new system is evolved, it should be in such a manner that a balanced standard is reached without diluting the existing one. Even though, the aim of Samacheer Kalvi is highly laudable, one should understand that dilution can never be a solution. Instead, everybody should be raised to a higher level so that the emerging system will ultimately fulfill the aim for which this reformation is done. It is not correct on our part to underestimate our children's capability and reduce the standard instead of raising it to a better level. In the formative years, the absorption capacity of the children will be at its peak and this has to be made use of in full. Only this will put the future generation of Tamil Nadu at a higher platform when compared to others. Right now, it appears that this objective stands defeated.

37. Dr. Mrs. Y.G. Parathasarathy, in her report, has concluded by stating:

Under the Circumstances I would recommend the entire textbooks standard I to standard X have to be revamped, corrected and improved in all aspects. It would need at least two or three years for this exercise instead of rushing into the introduction of same for all classes at one go.

The introduction of Uniform Syllabus should be done in a phased manner after providing adequate infrastructure facilities and training the teachers for the same after revamping the syllabi and the textbooks as suggested above.

The introduction of workbooks will further enhance the comprehension and application of concepts learnt. This will facilitate learning without burden.

38. From the comments/report furnished by the Members, referred supra, it is evidently clear that the members have not outrightly discarded the uniform syllabus and common textbooks; infact, one of the Committee Members has concluded by saying that neither the Matriculation nor the Uniform Syllabus conform to the principles of NCF-2005. Their uniform opinion appears to be that certain changes, amendments and additions are required to be made to the uniform syllabus and common textbooks and implementation thereof could be done in a phased manner, and it appears that there is no consistent opinion that the uniform syllabus and common textbooks have to be outrightly rejected or discarded. Thus, it appears that the final report submitted to this Court does not contain the full and actual views expressed by each committee member and their intent.

39. At this stage, it is to be noted that the Hon'ble Supreme Court observed that which textbooks and to what extent the amended syllabus will be applicable to other courses shall be finally determined by this Court keeping in view the amended provisions of the Act and its impact. The Hon'ble Supreme Court while passing the order dated 14.6.2011, made certain observations as regards amendments to, principle or subordinate legislation, which are reproduced hereunder:

Amendments to, principle or subordinate legislation either by executive decisions or by legislative Act should normally have one paramount consideration in mind, that is, the persons who are going to be affected by such amendment. In other words, legislative impact is one aspect which always should be examined by the Government concerned before it takes any decision which is likely to affect a larger section of the society. The legislative amendment in the present case is one such example which is bound to have upon its implementation great impact upon the education system (primary and middle) as well as the lakhs of students for whose benefit there is dispensation of education by the Government in the State of Tamil Nadu"

(Emphasis supplied).

40. Bearing in mind, the above principle, we have no hesitation to hold that if the impugned Amending Act is allowed to stand, the impact on the education system and over one crore students would be tremendous and would result in far-reaching consequences. The Petitioners, in a singular voice, have submitted that the students have been idling for nearly one month now, as they have not been provided with the text books. Therefore, to end the impasse, the only legal, reasonable and proper solution would be to direct the State to commence Academic Session 2011-2012 by following the uniform syllabus and common textbooks under the Uniform System of Education, which have been printed and are ready for distribution, while simultaneously permitting the State to examine the issues pointed out by the Committee and to suggest additions, deletions within the shortest possible time, say within three months and if necessary, to introduce a supplemental booklet to cover the topics which are stated to have been omitted and simultaneously provide material to the teachers guiding them about the teaching methodology for effective implementation of the Uniform System of Education. We may at this stage observe that the conclusion given in the final report appears to be not the true reflection of the individual comments/reports of the Members of the Committee, though they have given individual letters dated 4.7.2011 that the final report contains their suggestions. As noticed above, the individual Committee Members in their respective reports/comments have not recommended complete abandonment of the uniform syllabus and common textbooks and revert back to the 2004 syllabus. As we are satisfied that the Committee Members have taken such individual stand, we are not inclined to go into the contentions raised by the Petitioners about the competency of a few individual Members of the Committee and the allegations made against such Members. Therefore, the writ petition challenging the constitution of the Committee being W.P. No. 16266 of 2011 is liable to be dismissed.

41. Be that as it may, we have to examine as to whether after the Division Bench of this Court upheld the validity of the parent Act and allowed its implementation with certain changes from the Academic Session 2010-2011 for Standards I & v. and the judgment having become final after the dismissal of the Special Leave Petition by the Hon'ble Supreme Court, whether it is permissible for the State to supersede a valid piece of legislation under the guise of an Amending Act, postponing its implementation, especially after it had been already implemented for Standards I and VI. We have no hesitation to hold that the State has exceeded in its powers in bringing the Amending Act to postpone an enactment which has already come into force. The Hon'ble Supreme Court took note of this fact and directed the Committee to examine the ways and means to implement the Uniform System of Education. It cannot be said that the court was not aware of the fact that the classes for Academic Session 2011-2012 were scheduled to commence from 1.6.2011.

42. As per the stand taken by the State Government, the challenge to Section 3 of the Amending Act has become academic. It is a settled legal position that if a legislature has no power to legislate on an item either because it is not included in the list assigned to it as per Schedule VII of the Constitution or on account of the limitations imposed under Part-III of the Constitution dealing with the Fundamental Rights, yet the legislature enacts a statute in assumption of such power, it is colourable legislation. It has reference only to the legislative incompetence. If the legislature enacts law in assumption of the exercise of its legislative power, though actually it does not possess such power, the legislation is void, as the legislature makes legislative enactment only in colourable exercise of its power. The doctrine of colourable legislation states, "Whatever legislature cannot do directly, it cannot do indirectly". By applying this principle, the fate of the impugned legislation is to be tested. As noticed above, the Division Bench, while considering the validity of the parent Act, upheld the power of the State to bring in a school system common to all in the interest of social justice and quality education. As there is no challenge to the Amending Act on the ground of legislative incompetence, we are not required to examine the validity of the Amending Act, on such grounds or to examine whether the Amending Act is a colourable legislation on such aspects. Therefore, we have to examine the matter solely based on the direction issued by the Hon'ble Supreme Court in its order dated 14.6.2011. An Amending Act which has the effect of repeal of the parent Act under the guise of postponement of its implementation, when in fact, the parent Act has already been implemented, though partially, the Amending Act has to be held to be an arbitrary piece of legislation which does not satisfy the touchstone of Article 14 of the Constitution of India. In other words, the State has sought to achieve indirectly what could not be achieved directly as it was prevented from doing so in view of the judgment of the Division Bench, upholding the validity of the parent Act.

43. An argument was advanced by the State as well as by the Matriculation Schools that the Uniform System of Education was implemented in a hasty manner, without much deliberation and discussion. In order to satisfy ourselves, we have called for the original case bundle of the batch of cases challenging the validity of the Act 8 of 2010 which were disposed of by the Division Bench. In the said case, the report submitted by Dr. Muthukumaran Committee finds place and the same is in Tamil language and one of us perused the same. At the out set, it has been pointed out that the report is exhaustive, consisting of six chapters, namely, General Introduction, Object of the Uniform Syllabus, change is required, reports and recommendations, annexures and sub-committee reports. It appears that a thorough study has been conducted by the Dr. Muthukumaran Committee, before placing its recommendations to the Government in the year 2006.

44. From a perusal of the counter affidavit filed by the Secretary, School Education Department, it is manifestly clear that the Government had taken the consistent stand that the policy formulated by the previous Government by implementing the Uniform Syllabus System was illegal and that the amount of Rs. 200 Crores spent for printing the textbooks under the new syllabus was because of the wrong policy. The Respondent-State is also of the view that the syllabus prepared by the previous Government is not of a standard quality.

45. In view of the sudden change in the policy of the Government from its predecessor immediately after coming into power, this Court has to see the impact of the Amendment notwithstanding the competence of the legislature to pass an Amendment Act. In the case of Indra Sawhney v. Union of India  : (2000) 1 S.C.C. 168, the Supreme Court observed as follows:

36. It is now fairly well settled, that legislative declarations of facts are not beyond judicial scrutiny in the Constitutional context of Articles 14 and 16. In Keshavananda Bharati v. State of Kerala  : (1973) 4 S.C.C. 225 : AIR 1973 SC 1461, the question arose - in the context of legislative declarations made for purposes of Article 31C whether the court was precluded from lifting the veil, examining the Y) facts and holding such legislative declarations as invalid. The said issue was dealt with in various judgments in that case, e.g., judgments of Ray, J. (as he then was), Palekar, Khanna, Mathew, Dwivedi, JJ, and Beg, J. and Chandrachud, J. (as they then were)(see summary at pp. 304-L to O in SCC). The learned Judges held that the Courts could lift the veil and examine the position in spite of a legislative declaration. Ray, J. (as he then was) observed:

The Court can tear the veil to decide the real nature of the statute if the facts and circumstances warrant such a course

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A conclusive declaration would not be permissible so as to defeat a fundamental right." Palekar, J. said that if the legislation was merely a pretence and the object was discrimination, the validity of the statute could be examined by the Court notwithstanding the declaration made by the Legislature and the learned Judge referred to Charles Russell v. The Queen (1882) 7 AC 829 and to Attorney General v. Queen Inswane Co.(1878) 3 AC 1090 Khanna, J. held that the declaration could not preclude judicial scrutiny. Mathew, J. held that declarations were amenable to judicial scrutiny. If the law was passed only 'ostensibly' but was in truth and substance, one for accomplishing an unauthorised object, the Court, it was held, would be entitled to tear the veil. Beg, J. (as he then was) held that the declaration by the legislature would not preclude a judicial examination. Dwivedi, J. said that the Courts retain the power in spite of Article 31C to determine the correctness of the declaration. Chandrachud, J. (as he then was) held that the declaration could not be utilized as a cloak to evade the law and the declaration would not preclude the jurisdiction of the Courts to examine the facts.

46. In the case of State of Haryana v. State of Punjab and Anr. reported in  : (2002) 2 S.C.C. 507, there was an agreement entered into between the Governments of Haryana and Punjab for the construction of Sutlej-Yamuna Link Canal. The Government of Haryana sued Punjab for completion of construction of the portion of the said Canal falling within the territory of Punjab. In the said case, their Lordships' in paragraph 16 of the judgment observed as under:

While the matter stood thus, a news item having appeared in a Delhi newspaper, indicated that the Punjab Chief Minister had rejected any move to start reconstruction of SYL Canal, the State of Haryana was compelled to file the present suit. In a matter like this, it is true that a decree of a court in either way is not that effective, as it is the political will of the authorities and the will of the people that matters. But at the same time when the political authority becomes dogmatic, unreasonable and indicates an attitude of irresponsible nature and when the court finds that nothing is moving even though there has been a large-scale drainage of public exchequer and that the decision to have the canal had been reached on an agreement of all concerned, representing the will of the people, the court must pass appropriate orders and directions. What really bothers us most is the functioning of the political parties, who assume power to do whatever that suits them and whatever would catch the vote bank. They forget for a moment that the Constitution conceives of a Government to be manned by the representatives of the people, who get themselves elected in an election. The decisions taken at the governmental level should not be so easily nullified by a change of Government and by some other political party assuming power, particularly when such a decision affects some other State and the interest of the nation as a whole. It cannot be disputed that so far as the policy is concerned, a political party assuming power is entitled to engraft the political philosophy behind the party, since that must be held to be the will of the people. But in the matter of governance of a State or in the matter of execution of a decision taken by a previous Government, on the basis of a consensus arrived at, which does not involve any political philosophy, the succeeding Government must be held duty-bound to continue and carry on the unfinished job rather than putting a stop to the same.

47. Mr. P.P. Rao, learned senior counsel appearing for the Respondent-State, in course of his arguments, submitted that the Amending Act does not contemplate indefinite postponement of the Uniform System of Education, but the Act has to be read as to be implemented within a reasonable time. In this connection, learned senior counsel relied upon a decision of the Supreme Court in Mansaram v. S.P. Pathak  : (1984) 1 S.C.C. 125. We do not find any force in the submission of the learned senior counsel in view of the specific order of the Supreme Court directing the Respondents to examine the ways and means of implementing the Uniform System of Education. The Supreme Court further directed that which textbooks and to what extent the amended syllabus will be applicable to the other courses shall be finally determined by the High Court, keeping in view the amended provisions of the Act and its impact. Although a Committee was constituted by the State pursuant to the direction of the Supreme Court, the Committee so constituted has completely misconstrued and misinterpreted the directions of the Supreme Court. In its meeting held on 17.6.2011, they proceeded on the basis that the Supreme Court of India has given a specific mandate to review the quality of the textbooks prepared under the Uniform System of School Education. There was no direction by the Supreme Court to decide as to whether Samacheer Kalvi textbooks can be used for the Academic Year 2011-2012. But the Committee came to the conclusion that the Samacheer Kalvi textbooks cannot be used for the Academic Year 2011-2012. A similar stand was taken by the Respondent-State in their counter affidavit. Not only that, the whole exercise was done by the Secretary, School Education Department, right from the preparation of the draft Report till the finalization of the final Report. As discussed above, not a single Member of the Committee has expressed their opinion that the textbooks cannot be used for the Academic Year 2011-2012. The Respondent-State further contended that the Amending Act was brought with the objective of complying with the Division Bench judgment, that it is a conditional legislation and that it is not a colourable exercise of legislative power. The Hon'ble Supreme Court, in Indra Sawhney's case (supra), has held that the Court can tear the veil to decide the real nature of the statute if the facts and circumstances warrant such a course. If a law was passed only 'ostensibly', but was in truth and substance, one for accomplishing an unauthorised object, the Court, it was held would be entitled to tear the veil and the declaration by the legislature would not preclude a judicial examination.

48. Much reliance was placed on the Statement of Objects and Reasons of the Amending Act which we had examined, while considering the interim protection to be given pending final decision of these writ petitions. Although in the aim and object of the Amendment Act many things have been said, no materials were produced before us to show that any review was done by any Expert Committee before passing the Amending Act, 2011. On the contrary, it has been alleged and not denied by the Respondents that the result of the Assembly Elections was announced on 13.5.2011 and the Cabinet took office on 16.5.2011. The first meeting of the Cabinet was held on 22.5.2011 for an hour and within that short time, several issues including the issue on 'Samacheer Kalvi' was discussed and immediately the notification was issued on 23.5.2011 calling for tenders to print textbooks under the old syllabus. Prima facie, this shows that the action of the Government to switch back to the old syllabus is not based on the report of any Expert Committee. Therefore, it is evident that the purpose and intent of the Amending Act was in effect to do away with the Uniform System of Education under the guise of putting on hold the implementation of the parent Act, which the State was not empowered to do, more so when the validity of the parent Act has been upheld by the Division Bench, which judgment and order was confirmed by the Supreme Court. Therefore, we have no hesitation to hold that the Amending Act is an arbitrary piece of legislation, violative of Article 14 of the Constitution of India and the Amending Act was merely a pretence. An argument was advanced that the Amending Act is a conditional legislation. On a closer examination, by going into the true intent of the Amending Act, it is in effect a repealing Act, seeking to repeal the parent Act. We are not persuaded to read into the statute of the Amending Act that even though no time limit was prescribed, the Court has to construe that it shall be done within a reasonable time. If such was the true intent behind the Amending Act, nothing prevented the legislature from prescribing such time limit in the Amending Act and we are not justified in reading into the statute what has not been explicitly stated.

49. As noticed by us in the preceding paragraphs, there would be a great impact on the student community if the Amending Act is to be implemented. It would unsettle settled issues, causing chaos and confusion in the young minds, which we cannot permit. Much has been said about the syllabus and text books of Matriculation schools. At this stage, we may point out that one of the Committee Members nominated by the Government, after the direction was issued by the Supreme Court, in her comments on the Uniform System of Education, the syllabus and text books, has stated that Samacheer Kalvi is a laudable object and a necessity and the present Matriculation and Anglo-Indian Streams are not perfect systems and do not conform to the principles laid down in the National Curriculum Framework-2005 and Samacheer Kalvi syllabus and text books have been prepared keeping the Matriculation Syllabus as a benchmark. However, this observation of the Committee Member has not been fully brought out in the final report submitted by the Government to this Court. Though much was said about the nomination of three Committee Members i.e., one Government representative and two academicians, we are satisfied on a perusal of the individual comments offered by these members that the validity of their nomination to the Committee need not be gone into. At this stage, we may note that the Committee Members were not of the unanimous opinion that the uniform syllabus and common textbooks have to be discarded for the current year. Each member has pointed out certain changes and additions. The nominees from the NCERT have also voiced such an opinion. The positive aspects of the uniform syllabus and common textbooks have been pointed out in their individual reports. If that is the state of affairs, we feel that the decision of the State Government to put on hold the Uniform System of Education and to revert back to the 2004 stream is undoubtedly a step backward, which we shall not permit.

50. As noticed by us earlier, the parent Act has already been implemented in respect of Classes I and VI from the Academic Year 2010-2011. Therefore, to revert back to the position prior to 2010-2011 would not only amount to violating the decision of the Division Bench of this Court and would have the effect of repealing the Parent Act, but also would be detrimental to the interests of the children. Therefore, at this stage, such reversion should not be permitted, as the same would not be for the welfare of the student community. In respect of the other classes, viz. Standards II to v. and VII to X, it has been stated that substantial work has been done for introduction of the new syllabus and printing the textbooks and the same has already been made available to the students by publishing it in the official website. Therefore, we are of the firm view that if the impugned Amending Act is to be given effect to, it would result in unsettling various issues and the interest of the children would be jeopardized.

51. As noticed by us earlier, much efforts appear to have been taken by Dr. S. Muthukumaran Committee from 2006 onwards and even thereafter, the Committee's report has been examined by a one man committee, which in turn, constituted a group of academicians to visit other States and study the pattern of education, and after considering all aspects, and after a period of more than four years, the system was introduced during 2010 and at that stage, the introduction of the Uniform System was resisted by the Matriculation Schools. The impasse ended after the Division Bench upheld the parent Act and allowed implementation of the Uniform System of Education for Standards I and VI from the Academic Session 2010-2011. Therefore, we cannot countenance the submission made by the State as well as the Matriculation Schools that the introduction of Uniform System of Education was done in a hasty manner. The State has attempted to justify their action by stating that certain provisions of the Act have not been complied with, as directed by the Division Bench. We fail to understand as to why the student community should be put at peril for the inaction or lethargy of the Executive. Nothing prevented the Executive from notifying the Academic Authority, though the Division Bench found that the Board which was in place could very well be notified as the authority under the Act. At this stage, we may reiterate that though this Court while granting interim protection and liberty to the State to conduct a detailed study of the common syllabus and make addition or deletions, also directed the Government to conduct the study on the other books which have been given and notify the approved text books, with a view to comply with the direction of the Division Bench contained in paragraph 63 of the Division Bench judgment. However, the State ignored this direction and the Matriculation Schools are now complaining that the Government has not notified the approved textbooks.

52. In view of all the above reasons, we conclude by holding:

(a) Section 3 of the Tamil Nadu Uniform System of School Education (Amendment Act 2010) is unconstitutional and ultra vires Article 14 of the Constitution of India and is accordingly struck down.

(b) The State shall forthwith distribute the textbooks printed under the Uniform System of Education to enable the teachers to commence classes and such distribution shall be completed on or before 22.7.2011.

(c) In terms of the recommendations made by the individual Members of the Committee constituted pursuant to the direction issued by the Hon'ble Supreme Court, the syllabus and textbooks shall be reviewed and the objectionable portions be ordered to be deleted and the materials or portions which are required to be included as per the suggestions of the individual Committee Members may be added and supplied to the students in the form of an additional booklet within a reasonable time, which in our view, would be three months.

(d) The State shall notify the approved textbooks from among the textbooks already stated to have been submitted to the Government on or before 22.7.2011.

53. In the result, the writ petitions are allowed on the above terms, all the impleading petitions are allowed and the other miscellaneous petitions are closed. There shall be no order as to costs. In view of our aforesaid findings, Writ Petition No. 16266 of 2011 stands dismissed.

54. We hope and trust that every endeavour shall be made by the State to implement the Uniform System of Education and achieve excellence, taking note that the children of today are the future of our country.