

**Case Commentary - BIJOE EMMANUEL VERSUS
THE STATE OF KERALA**

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EMMANUEL VERSUS THE STATE OF KERALA, 2 (5)
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Abstract

The song Jana - gana - mana , composed originally in
Bangla by Rabindranath Tagore, was adopted in its Hindi

version by the Constituent Assembly as the National Anthem of India on January 24, 1950. Article 51A of the Indian constitution constitutes it as a constitutional duty. It makes every citizen's duty to abide by the Constitution and respect its deal and institutions, the nation flag and thenational anthem. The Prevention of Insults to National Honours Act , 1971 is an Act of the Parliament of india which prohibits the disrespect or insult to the country's national symbols , including the national flag, national emblem, national anthem, the constitution, and map of India including contempt of Indian constitution..

Keywords: Supreme Court, National Anthem.

Case Title	BIJOE EMMANUEL & ORS VS STATE OF KERALA & ORS
Case No	CIVIL APPEAL NO. 870 OF 1986
Date Of The Order	11/08/1986
Jurisdiction	Supreme Court of India
Quorum	Hon'ble Mr. Justice Reddy O. Chinnappa
Author Of The Judgment	Hon'ble Justice
Appellant	Bijoe emmanuel & ors
Respondent	The State of Kerala
Counsel For Appellant	Advocate F.S Nariman , T.S Krishnamurthy Iyer , K.J John and , M. JhA
Counsel For Respondent	Advocate G Vishwanathan Iyer and Mrs. Baby Krishnan.

<p>Acts And Section Involved</p>	<p>Fundamental rights</p> <ol style="list-style-type: none"> 1. Article 19(1)(a) 2. Article 19(2) 3. Article 25(1) 4. Article 51(a) <ul style="list-style-type: none"> • *The Prevention of Insult to National Honour Act 1971 • * The Kerala Education Act
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INTRODUCTION

Supreme Court judge Justice Chinnappa Reddy has represented the law in both real and reel lives. Hon'ble Mr. Justice Chinnappa Reddy is a great asset of the Supreme Court. As a judge, he was humanist and an activist judge whose contribution to the cause of humanity and to the growth of human rights jurisprudence has been very significant. He is the author of a book titled "The Court and the Constitution of India: Summit and Shallows" which provides an insight into the role of the supreme court in interpreting the main themes of the constitution of india and in formulating contemporary public law in india. He held all the position with great distinction. In this we are going to discuss the verdict about the famous case *Bijoe Emmanuel & ors vs The state of kerala & ors*.

FACTS OF THE CASE

The Appellate three students namely Bijou , Binu Mol and Bindu Emmanuel studies in the school of Kerala. Those three students were attending the school morning prayer assembly when a MLA came to those morning in the assembly and saw those children were not singing the national anthem but standing there silently. Because of faith and religion which didn't allow them to take part in any prayer or singing. The MLA pointed out those children and thought that this behaviour of theirs was unpatriotic. He raises this question and a commission was set up and the commission didn't find guilty because they are just not singing and else giving full respect to the national anthem

but still the Head Mistress expelled them from the school under the instruction of the deputy inspector of schools. Father pleaded with the school authorities to take their children admission but they refused to do so . Then the father appealed to the court but firstly the court rejected the appeal by a single bench and the division bench also rejected their appeal and then the father appealed to the Supreme Court through a special leave petition.

ARGUMENTS FAVOUR OF APPELLANT:

- A.The appellant claimed that the they belongs to a sec called Jehovah's who worship only Jehovah - the creator and none other.
- B. They always attend the morning prayer assembly and everytime they give respect to the national anthem but couldn't sung the National Anthem.
- C. Their fundamental right Article 19(1)(a) and 25(1) also infringed by the state.

ARGUMENTS FAVOUR OF RESPONDENT:

- *Art. 51(A) of the constitution enjoins a duty on every citizen of india ' to abide by the constitution and respect its ideals and institutions, the national flag and the National Anthem' .
- *The Prevention of Insults to National Honours Act was enacted in 1971. While section 2 deals with insults to the Indian National Flag and the Constitution of india , section 3 deals with the National Anthem.

*The Kerala Education Act , sec. 36 enables the government to make rules for the purpose of carrying into effect the standard of education and courses of study.

ORDER OF THE COURT:

*The Fundamental Rights of the Appellate under Art. 19(1)(a) and 25(1) have been infringed and they are entitled to be protected.

*There is no provision of law which obliges anyone to sing the national anthem or is it disrespectful to the national anthem if a person stands up respectful to the national anthem is sung does not join the singing.

*The Kerala Education Act contains no provision of relevance and the appellant in present case have never been found guilty of misconduct such as that described in chapter IX, rule 6 of Kerala Education rules.

*Therefore High court order sets aside and respondent authorities are directed to re-admit the children in the schools & escort them in their studies whichever necessary requirements need.

CONCLUSION

Indian society has a lot of diversity and ethnicity in their culture and this culture combined us as a whole developing country. Many religions and faiths have different ways of worshipping their gods and giving respect but that doesn't mean they don't respect our country as a nation . People from many sects of society respect differently to our nation and they all have Fundamental Rights to worship their religion as their rituals. In this case those children were also giving respect to our National Anthem by standing peacefully without singing the anthem but that's doesn't mean they are unpatriotic. Their religion Jehovah's doesn't allow them worship or prayer other things then their own faith.

RELATED CASE LAWS

1. Kharak singh Vs State of U.P AIR 1963 SC 1295
2. Kameshwar Prasad VS The state of Bihar (1962) Supp. SCR 369
3. Adelaide Company of Jehovah's witness VS The commonwealth (supra)
4. Minerville School District Vs Gobitis , 84 Law. Ed us 1375
5. West virgina State board of education Vs Barnette , 87 Law Ed . 1628
6. Sheldon Vs Fannin 221 Federal Supp. 766

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