



W.P.No.19490 of 2021

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THE HON'BLE ACTING CHIEF JUSTICE  
and  
SUNDER MOHAN, J.

(Order of the Court was made by the Hon'ble Acting Chief Justice)

Mr.N.R.Elango, learned Senior Counsel appearing for the petitioner submitted, that this Court while hearing the matter for admission on 14.09.2021 observed that the matter is of some importance as it pertains to a constitutional amendment of some vintage and the petitioner seeks deletion of "Education" from the Second List and its inclusion in the Third List in the Seventh Schedule to the Constitution and the same goes against the basic structure of federalism that the Constitution espouses.

2. Learned Senior Counsel submitted that in view of the observation made by this Court, it would be appropriate to refer the matter to a Full Bench for deciding the issues involved in the writ petition.



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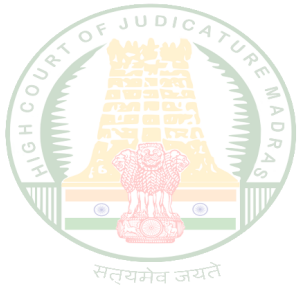
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3. Learned Senior Counsel has also filed a Memo, wherein the following Questions of Law are raised:

"1. Whether Section 57 of the Constitution (Forty-second Amendment) Act, 1976 so far as it relates to Entry 11 of List II and Entry 25 of List III is ultra vires being violative of the basic structure of the Constitution?

2. Whether Section 57 of the Constitution (Forty-second Amendment) Act, 1976 so far as it relates to Entry 11 of List II and Entry 25 of List III violates Federal Structure inasmuch as it subjugates the States' executive and legislative power to deal with the subject "Education" at non-graduate level to Union's executive and legislative power?

3. Whether "Education" is essentially a State subject and can Union usurp power to regulate the State's autonomy in matters of education in areas other than those covered by Entries enumerated in List 1 of Seventh Schedule?



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4. In the absence of a specific denial by the first respondent (Union of India) of the averments made in the affidavit, whether it can be taken that the Union Government has admitted the averments in the affidavit?"

4. Mr.R.Shunmugasundaram, learned Advocate-General, appearing for the second respondent, also supported the contention of learned Senior Counsel appearing for the petitioner regarding reference of the aforesaid questions of law to the Full Bench.

5. Mr.Rajesh Vivekananthan, learned Deputy Solicitor-General of India appearing for the first respondent, submitted that the matter may be referred to the Full Bench.

6. In view of the submissions made by learned counsel appearing on either side, we refer the aforesaid questions of law to the Full Bench.



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7. The Registry is directed to place a note on the administrative side before the Acting Chief Justice for constitution of a Full Bench.

(M.D., ACJ.) (S.M.,J.)  
15.09.2022

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