

**PRESS NOTE NO. 45 dt (11.3.2007)**

On 6.12.2006 a resolution for introduction of Tamil in the Madras High Court was passed in the Tamil Nadu Legislative Assembly and proposals were sent to Government of India for obtaining the consent of His Excellency the President of India. Now the Government of India has sent a letter stating that it is not proper to introduce Regional Language in the High Court. Hon'ble Chief Minister of Tamil Nadu, Kalaignar M.Karunanidhi, has sent a letter today (11.3.2007) to the Prime Minister of India, Union Home Minister and Law Minister, urging them to obtain the consent of His Excellency the President of India authorising the use of Tamil in the High Court of Madras. Copy of the letter is enclosed.

Issued By:

DIPR, CHENNAI-9.

D.O.Letter No.109249/Cts.III/2006-5, dated: 11.03.2007

**Sub: Official Language of the State – Use of Tamil in the Proceedings of the High Court of Madras – To invoke Article 348(2) of the Constitution of India – Consent of the President of India – Regarding.**

**Ref: 1. Tamil Nadu Government Letter No.109249 / Cts.III/2006-5, Home Department, dated: 07.12.2006.  
2. Letter F.No.L-11025/I/2007- Jus., dated: 27<sup>th</sup> February, 2007, of Ministry of Law and Justice (Department of Justice), Government of India.**

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Millions of Tamils, for decades together have been yearning that the Tamil, the official language of the State, should also become the language of the Madras High Court. The desire increased especially in the context of Tamil– the only language among the Indian languages - having been declared by the UPA Government at the centre as classical language. A resolution was moved by me in the Tamil Nadu Legislative Assembly on 6.12.2006 for the introduction of Tamil in orders, decrees and other proceedings of the Madras High Court as per Article 348(2) of the Constitution of India read with Section 7 of the Official Languages Act, 1963. The resolution was passed unanimously by the Tamil Nadu Legislative Assembly with great enthusiasm and expectation. After getting the recommendation of His Excellency the Governor of Tamil Nadu, proposals were sent to the Government of India for getting the consent of His Excellency the President of India authorizing the use of Tamil in the Madras High Court. In the meanwhile, the Madras High Court had also given its in-principle concurrence for the use of Tamil in the High Court proceedings. His Excellency the Governor of Tamil Nadu and Hon'ble High Court of Madras are of the opinion that it is perfectly legal to use Tamil in the High Court of Madras.

Now in the letter second cited of the Government of India, it is stated that the matter was examined in consultation with the Supreme Court and “the Hon’ble Chief Justice of India has opined that for the present it is not proper to introduce regional language in the orders, decrees and other proceedings of the High Court”. All concerned are surprised and shocked over the contents of this letter, when the relevant provisions of the Constitution and the Law made by Parliament remain unchanged.

The import of Article 348(2) of the Constitution of India and Section 7 of the Official Languages Act, 1963, is very clear. That cannot be interpreted or applied differently to different States.

The Constitution provided under Art.344 that a Commission of Parliament, inter-alia, shall make recommendations to the President as to the language to be used for all or any of the purposes mentioned in Art.348. Accordingly, the Parliamentary Commission gave its recommendations; based on those recommendations, the Parliament enacted the Official Languages Act 1963. That was also amended subsequently in 1967.

As per Section 7 of the Official Languages Act, 1963, the Governor of a State may authorize the “use of Hindi or the official language of the State, in addition to the English language, for the purpose of any judgement, decree or order passed or made by the High Court for the State”. Every State in the Union of India has the right to invoke the above provision for the use of the official language in the High Court.

Obviously on the strength of the Article 348(2) of the Constitution of India and Section 7 of the Official Languages Act, 1963, in four States in the Indian Union, (Bihar, Uttar Pradesh, Madhya Pradesh and Rajasthan) the use of the official language of those States have been authorized in all the proceedings of the High Courts of those States (vide., Answer to the Starred Question No.279 answered on 12.12.2005 in the Rajya Sabha). On this aspect, of use of the official language of the State, the component States in the Indian Union can not be discriminated. Therefore in the case of Tamil Nadu a different stand cannot be taken.

It is stated that certain Resolutions were passed in the year 1965 on the issue of use of languages other than English (linguistic medium) in the

**High Courts. The entire scenario in the country has undergone transformation since then. Attitude, outlook and practices have all changed. Regional aspirations have gained momentum and have come to the forefront. In a multi-lingual country like India, there cannot be a permanent formula for the use of a single language.**

**Section 7 of the Official Languages Act 1963 was brought into force by the Home Ministry's Notification 2/1/66/O.L. dt. 26<sup>th</sup> February 1970. The Union Government fixed the 7<sup>th</sup> day of March 1970 as the appointed date for the purpose of section 7 of the Official Languages Act 1963. The Governor of Uttar Pradesh after consultation with High Court of Allahabad by a notification dated 28<sup>th</sup> October 1970 authorised the use of Hindi, in addition to English for the purpose of Judgement, decree passed by the Court of Allahabad. All these are long after the said resolution passed in 1965.**

**Further the use of Tamil as the language of the High Court is not exclusive but only in addition to English Language. Therefore any Judge who wants to have the proceedings, or pass an order in English is not prohibited from using English Language. Also any order passed in Tamil shall always be accompanied by an Official English Translation. Therefore, no judge who is not well versed in Tamil would face any difficulty either in hearing the argument or passing the orders. Therefore the reasons stated do not appear to be valid.**

**The rejection of request made by West Bengal Government for introduction of Bengali as the official language in Calcutta High Court may not be a valid reason to reject the request of Tamil Nadu.**

**As already stated, the four states have been permitted to use their official language of the States as the language of the High Court and that the same cannot be denied to Tamil Nadu.**

**You will appreciate that Art.348 was a transitory provision just as Art. 344. It was holding the field only till the date, the parliament by law otherwise provided. Therefore, Art.348 is no more a part of the Constitution and it shall give way to the Official Languages Act 1963, from the date on which that Act was brought into force. Therefore the provisions that "all proceedings . . . in every High Court . . . shall be in English**

Language” found in Art.348, are not in force after the commencement of the Official Languages Act 1963. Only the Official Languages Act 1963 holds the filed at present. Therefore it would be unconstitutional to say that in the High Courts, only the English language shall be used.

You are fully aware of the development which took place in England during he 18<sup>th</sup> century, when French atlast had to give way to English in the Law Courts, inspite of the former’s superiority in the qualities of precision and richness of technical terms. The change came and came finally and certainly after a battle for nearly five centuries. Thus, changes are inevitable.

Tamil Nadu expects that it would be treated on an equal footing with Bihar, Uttar Pradesh, Madhya Pradesh and Rajasthan, in so far as the application of Article 348(2) of the Constitution of India read with Section 7 of the Official Languages Act, 1963, are concerned. I am quite confident that you will take urgent steps to give effect to the will and desire of the people of Tamil Nadu expressed unequivocally through the unanimous Resolution of the Tamil Nadu Legislative Assembly on 6.12.2006. I am hopeful that you would certainly appreciate the sentiments of the people of Tamil Nadu and accede to rightful claim of Tamil Nadu. Therefore I kindly request you to obtain the consent of His Excellency the President of India at an early date as required, authorising the use of Tamil in the High Court of Madras.

Yours sincerely,  
Sd/-  
(M.KARUNANIDHI)

To

1. Dr.Manmohan Singh,  
Hon’ble Prime Minister of India, New Delhi.
2. Thiru Shivraj Patil,  
Hon’ble Unhion Home Minister, New Delhi.
3. Thiru Bhardwaj,  
Hon’ble Union Law Minister,New Delhi.

(M.KARUNANIDHI)

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