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FRIDAY, APRIL 21, 2006

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The matter of HINDU AMERICAN FOUNDATION, ARJUN BHAGAT, YASHWANT VAISHNAV and RITA PATEL Petitioners, versus CALIFORNIA STATE BOARD OF EDUCATION, and DOES 1-10, Defendants, Case No. 06CS00386, came on regularly before the Honorable PATRICK MARLETTE, Judge of the Superior Court, State of California, County of Sacramento, Department 19 thereof.

The Petitioners were represented by DEBORAH CAPLAN, RICHARD MIADICH and N. EUGENE HILL, Attorneys at Law, Sacramento, California.

The Respondents were represented by TODD M. SMITH and EILEEN GRAY, Attorneys at Law, Sacramento, California.

The following proceedings were then had, to wit:

THE COURT: We are back on the record.

Counsel, I'll say this at this point, I appreciate your presentation today, and honing in on the facts and allowing me to -- I'm sure when you walked in here, you didn't expect me to be picking out, here's what I liked to hear, here is what I don't. I've practiced law long enough to know what that feeling is when the judge is taking you out of what you've been considering in the car on the way to work all morning, and I appreciate you accommodating my needs on that as well as the briefs that you both submitted in this matter.

This is going to be a lengthy process requiring, I anticipate, volumes of evidence regarding comparisons, as Ms. Caplan said, not only the things that are being said

1 represented in these textbooks about the Hindu religion but also
2 in comparison with how other religions are presented, and I
3 think that is a requirement of the content standards.

4 The difficulty at this point is that the burden of proof
5 is on the Petitioners, and based on what has been presented, I
6 cannot find -- I am not convinced that Petitioner has carried
7 their burden to show the likelihood that they would succeed on
8 the merits, particularly on this issue of the content.

9 So I'm going to deny your request for the Preliminary
10 Injunction and, counsel, I'll urge you both to get together and
11 come up with a schedule for briefing on the writ that will
12 accommodate both sides.

13 So, Respondent, I'll leave you to you draw up an order for
14 me.

15 MR. SMITH: Yes, your Honor.

16 THE COURT: Counsel, thank you it very much.

17 MS. CAPLAN: You Honor, are you encouraging the parties to
18 try to resolve this in a matter that would allow to be resolved
19 before the school year -- the text is printed for the school
20 year?

21 THE COURT: If that can be resolved, then I think
22 everybody's interests are going to be served. Certainly the
23 Board is aware of how strongly Petitioner feels about these
24 issues. And I'm not going to say that the Board is not taking
25 those into consideration, but certainly the Board is aware of
26 the practical consequences if once -- we as I said before, once
27 we finish to get a disposition on the Petition for a Writ of
28 Mandate.

