



2025:KER:36913

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE D. K. SINGH

MONDAY, THE 26TH DAY OF MAY 2025 / 5TH JYAISHTA, 1947

WP(C) NO. 41609 OF 2024

PETITIONER:

SUDHIN KRISHNA C.S.
AGED 32 YEARS
(PREVIOUSLY NAMED MOHAMMED RIYAZUDEEN C.S.), S/O. SYED
MOHAMMED C.I., PUTHUSSERY PARAMB, ODANNUR, PARALI P.O.,
PALAKKAD DISTRICT, PIN - 678612

BY ADVS.
SANTHEEP ANKARATH
P.ANIRUDHAN

RESPONDENTS:

- 1 STATE OF KERALA
REPRESENTED BY ITS SECRETARY, DEPARTMENT OF GENERAL
EDUCATION, SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
- 2 JOINT COMMISSIONER OF EXAMINATIONS,
OFFICE OF THE COMMISSIONER OF GOVERNMENT EXAMINATIONS,
PAREEKSHA BHAVAN, POOJAPURA, THIRUVANANTHAPURAM, PIN -
695012
- 3 SECRETARY
OFFICE OF THE COMMISSIONER OF GOVERNMENT EXAMINATIONS,
PAREEKSHA BHAVAN, POOJAPURA, THIRUVANANTHAPURAM, P, PIN -
695012
- 4 DISTRICT EDUCATIONAL OFFICER
OFFICE OF THE DISTRICT EDUCATIONAL OFFICER, PALAKKAD, PIN -
678001

PARVATHY KOTTOL-GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
26.05.2025, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:



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JUDGMENT**'C.R'****Dated this the 26th day of May, 2025**

Heard learned counsel for the petitioner and learned Government Pleader appearing for the respondents.

2. The petitioner's parents belong to different religions. The father of the petitioner is a Muslim and the mother of the petitioner is a Hindu. Though the petitioner was born in Palani, Tamil Nadu, but he was brought up in Kerala at Kodunthirapully in Palakkad District. The petitioner completed his Secondary Education at Grace Higher Secondary School, Kodunthirapully. However, the school is no longer in existence. At the time of admission in the school, the petitioner's name was 'Mohammed Riyazudeen C.S.' and his religion was mentioned as 'Islam, Mappila' .

3. According to the petitioner, when his name was entered as 'Mohammed Riyazudeen C.S.', he was minor, and it was the father of the petitioner who entered the



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particulars of the petitioner, including his name and religion, in the school. After he attained the majority, the petitioner found that he does not believe in Islam and he practices Hindu religion inasmuch as he was brought up by his mother according to the tenets of the Hindu religion. As the petitioner does not believe in Islam and he practices Hindu religion, he wants to change his name from 'Mohammed Riyazudeen C.S.' to 'Sudhin Krishna C.S' and his religion as Hindu. It is again stated in the petition that the petitioner is married to a Hindu woman.

4. The petitioner has moved an application on 06.06.2024 before the 4th respondent for effecting the changes in the name and religion of the petitioner, but no action has been taken so far. It is also the case of the petitioner that, the petitioner had officially converted himself even other wise to Hinduism by embarrassing the said religion and in support of the said contention, a copy of the certificate dated 13.11.2021 issued by the



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Arya Samajam, Calicut, has been produced along with the writ petition as Ext.P3. The petitioner had also made a Gazette notification concerning his change of religion and name on 28.06.2022 as Ext.P4.

5. After filing the application and requisite supporting documents, the petitioner received the impugned communication dated 19.08.2024 stating therein that there exists no provision in KER 1959, to effect the changes in the religion in the School Leaving Certificate.

6. The petitioner, however, submits that the aforesaid stand of the respondents is in clear contravention of Rule 3(1) Chapter VI of the KER, which contemplates change in religion, caste and date of birth of the students entered in the admission register. She further submits that even otherwise, the petitioner's case is covered by two judgments of this Court in Naveed M.C @ Noufal vs. State of Kerala in W.P.C No. 3832/2021 dated 08.03.2021 and in Lohith S. vs. State



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of Kerala, in W.P.(C) No.22847/2024, dated 09.07.2024.

The learned counsel for the petitioner therefore, submits that in view of the provisions of Rule 3(1) Chapter VI of KER as well as the aforesaid two judgments, the impugned communication is liable to be set aside and the respondents should be directed to correct the name and religion of the petitioner in his SSLC book.

7. On the other hand, Ms.Parvathy Kottol, learned Government Pleader, vehemently submits that the Government has not notified an authority as provided in Rule 3(1) Chapter VI of KER for effecting the changes in caste and religion column. The Commissioner of Examination has been notified vide Government Order dated 30.06.2022, to alter the date of Birth.

8. However, in respect of the two judgments cited by the learned counsel for the petitioner, the learned Government Pleader does not dispute the fact that the issue involved in this writ petition is covered by the



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aforesaid two judgments.

9. I have considered the submissions. Rule 3(1)

Chapter VI of KER reads as under:

“3. Alteration of Date of Birth etc:- (1) The name of a pupil, his religion and his date of birth once entered in the Admission Register shall not be altered except with the sanction of the authority specified by Government in this behalf by notification in the Gazette. Applications for such alterations and corrections should be submitted by the parent or guardian, if the pupil is still on the rolls of any school and by the pupil himself if he is not on the rolls of any school. All such applications shall be forwarded through the Headmaster with satisfactory evidence. [Court fee stamps to the value of One Rupee shall be affixed on such application].”

10. The heading of the Rule is ‘Alteration of Date of Birth etc’. It is not only for the date of birth. The other changes may also be effected by competent authority which would include religion and caste besides the date of birth.

11. There can’t be multiple authorities for effecting the changes in date of birth, caste and religion. When the Statutory Rule prescribes the provision for effecting



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the changes of the date of birth, religion and caste etc, the same authority, who has been notified by the Government vide Government Order dated 30.06.2022 will be empowered to effect changes in date of birth, caste and religion, etc. Therefore, I find no substance in the submission of the learned Government Pleader that as the Government has not notified the authority for effecting the changes in caste and religion, the Commissioner of Examination, who has been notified vide Government Order dated 30.06.2022 would not be a competent authority to effect the changes in caste and religion of School Leaving Certificate.

12. The Constitution of India gives freedom to the citizens of India of their conscience, faith and religion. The preamble of the Constitution of India aspires to secure all citizens inter alia liberty of thought, expression, belief, faith and worship. Article 25 of the Constitution of India guarantees freedom of conscience and free profession, practice and propagation of



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religion, subject to public order, morality and health etc.

If a person has changed his religion without any coercion, fraud, undue influence etc, such an act would be protected under the Constitution of India under the preamble as well as Article 25. He has the fundamental right to practice religion and faith as of his choice. Therefore, when it is not the case of the respondents that the person has changed his religion because of fraud, undue influence and coercion etc., then the citizen must be allowed to practice the faith and religion of his choice. Article 25 of the Constitution of India reads as under:

“25. Freedom of conscience and free profession, practice and propagation of religion.—(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

a) regulating or restricting any economic, financial, political or other secular activity which may be associated



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with religious practice;

b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus. Explanation I.—The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II.—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.”

13. In **Smt. Sarla Mudgal, President, Kalyani and others Vs. Union of India** [(1995)3 SCC 635], it has been held that the second marriage of a Hindu husband after converting to Islam, without dissolution of the 1st marriage under law, would be void in terms of Section 494 IPC, and such husband would be guilty of bigamy under that Section. The said judgment came for review in **Lily Thomas vs. Union of India and others** [(2000) 6 SCC 224]. The Hon’ble Supreme Court in **Lily Thomas**(supra) held that freedom guaranteed under Article 25 of the Constitution is such freedom, which



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does not encroach upon a similar freedom of other persons. Under the Constitutional scheme, every person has a fundamental right not merely to entertain the religious belief of his choice but also to exhibit this belief and ideas in manner which does not infringe the religious right and personal freedom of others. Paragraph 62 of the said judgment is extracted hereunder:

“62. The grievance that the judgment of the Court amounts to violation of the freedom of conscience and free profession, practice and propagation of religion is also far-fetched and apparently artificially carved out by such persons who are alleged to have violated the law by attempting to cloak themselves under the protective fundamental right guaranteed under Article 25 of the Constitution. No person, by the judgment impugned, has been denied the freedom of conscience and propagation of religion. The rule of monogamous marriage amongst Hindus was introduced with the proclamation of the Hindu Marriage Act. Section 17 of the said Act provided that any marriage between two Hindus solemnised after the commencement of the Act shall be void if at the date of such marriage either party had a husband or wife living and the provisions of Sections 494 and 495 of the Indian Penal Code (45 of 1860) shall apply accordingly. The second marriage solemnised by a Hindu during the subsistence of a first marriage is an offence punishable under the penal law. Freedom guaranteed under Article 25 of the Constitution is such freedom which does not encroach upon a similar freedom of other persons. Under the constitutional scheme every person has a fundamental right not merely to entertain the religious



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belief of his choice but also to exhibit this belief and ideas in a manner which does not infringe the religious right and personal freedom of others. It was contended in Sarla Mudgal case that making a convert Hindu liable for prosecution under the Penal Code would be against Islam, the religion adopted by such person upon conversion. Such a plea raised demonstrates the ignorance of the petitioners about the tenets of Islam and its teachings. The word "Islam" means "peace and submission". In its religious connotation it is understood as "submission to the will of God"; according to Fyzee (Outlines of Mohammedan Law, 2nd Edn.), in its secular sense, the establishment of peace. The word "Muslim" in Arabic is the active principle of Islam, which means acceptance of faith, the noun of which is Islam. Muslim law is admitted to be based upon a well-recognised system of jurisprudence providing many rational and revolutionary concepts, which could not be conceived of by the other systems of law in force at the time of its inception. Sir Ameer Ali in his book Mohammedan Law, Tagore Law Lectures, 4th Edn., Vol. 1 has observed that the Islamic system, from a historical point of view was the most interesting phenomenon of growth. The small beginnings from which it grew up and the comparatively short space of time within which it attained its wonderful development marked its position as one of the most important judicial systems of the civilised world. The concept of Muslim law is based upon the edifice of the Shariat. Muslim law as traditionally interpreted and applied in India permits more than one marriage during the subsistence of one and another though capacity to do justice between co-wives in law is a condition precedent. Even under the Muslim law plurality of marriages is not unconditionally conferred upon the husband. It would, therefore, be doing injustice to Islamic law to urge that the convert is entitled to practise bigamy notwithstanding the continuance of his marriage under the law to which he belonged before conversion. The violators of law who have contracted a second marriage cannot be permitted to urge that such marriage should not be made the subject-matter of prosecution under the general penal law prevalent in the country. The progressive outlook and wider



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approach of Islamic law cannot be permitted to be squeezed and narrowed by unscrupulous litigants, apparently indulging in sensual lust sought to be quenched by illegal means, who apparently are found to be guilty of the commission of the offence under the law to which they belonged before their alleged conversion. It is nobody's case that any such converttee has been deprived of practising any other religious right for the attainment of spiritual goals. Islam which is a pious, progressive and respected religion with a rational outlook cannot be given a narrow concept as has been tried to be done by the alleged violators of law"

14. In *Indian Young Lawyers and others (Sabarimala temple) vs. State of Kerala and others*

[(2019) 11 SCC 1] it is held that the Article 25 grants the right for Freedom of conscience and free profession, practice and propagation of religion. The conscience, as a cognitive process in elicits emotions and associations based on an individual's beliefs, rests only in individual. The Constitution postulates that every individual has its basic unit. The right guaranteed under part II of the Constitution are geared towards the recognition of the individual and its basic units. Paragraph 405 of the said judgment is extracted hereunder:

"405. A religious denomination or any section thereof has a right under Article 26 to manage religious affairs. This



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right vests in a *collection of individuals* who demonstrate:

- (i) the existence of a religious sect or body;
- (ii) a common faith shared by those who belong to the religious sect and a common spiritual organisation;
- (iii) the existence of a distinctive name; and
- (iv) a common thread of religion.

Article 25 grants the right to the freedom of conscience and free profession, practice and propagation of religion. Conscience, as a cognitive process that elicits emotion and associations based on an individual's beliefs rests only in individuals. The Constitution postulates every individual as its basic unit. The rights guaranteed under Part III of the Constitution are geared towards the recognition of the individual as its basic unit. The individual is the bearer of rights under Part III of the Constitution. The deity may be a juristic person for the purposes of religious law and capable of asserting property rights. However, the deity is not a "person" for the purpose of Part III of the Constitution. The legal fiction which has led to the recognition of a deity as a juristic person cannot be extended to the gamut of rights under Part III of the Constitution. In any case, the exclusion of women from the Sabarimala Temple affects both, the religious and civic rights of the individual. The anti-exclusion principle would disallow a claim based on Articles 25 and 26 which excludes women from the Sabarimala Temple and hampers their exercise of religious freedom. This is in keeping with overarching liberal values of the Constitution and its vision of ensuring an equal citizenship."

15. In **Dr.M Ismail Faruqui and others vs.Union of India and others** [(1994) 6 SCC 360] it was held that a mosque can be compulsorily acquired by the Government in exercise of its sovereign and prerogative power, which is independent of Article 300 A or Article



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31 (as it stood before its omission). It was also held that the status of a mosque in secular India is same as and not higher than that of a places of worship of other religions, such as temple, church etc. The right of worship does not include right of worship at any and every place of worship. What is protected under Article 25 is the religious practice which forms an essential and integral part of the religion. Paragraphs 77 and 78 are extracted here under:

“77. It may be noticed that Article 25 does not contain any reference to property unlike Article 26 of the Constitution. The right to practise, profess and propagate religion guaranteed under Article 25 of the Constitution does not necessarily include the right to acquire or own or possess property. Similarly this right does not extend to the right of worship at any and every place of worship so that any hindrance to worship at a particular place per se may infringe the religious freedom guaranteed under Articles 25 and 26 of the Constitution. The protection under Articles 25 and 26 of the Constitution is to religious practice which forms an essential and integral part of the religion. A practice may be a religious practice but not an essential and integral part of practice of that religion.

78. While offer of prayer or worship is a religious practice, its offering at every location where such prayers can be offered would not be an essential or integral part of such religious practice unless the place has a particular significance for that religion so as to form an essential or integral part thereof. Places of worship of any religion having particular significance for that religion, to make it an



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essential or integral part of the religion, stand on a different footing and have to be treated differently and more reverentially”

16. Similar view has been taken in the aforesaid judgments (supra), and I respectfully follow the aforesaid judgments and direct the respondents to effect the changes as sought by the petitioner regarding his name and religion in his SSLC Book. It is again made clear that Rule 3(1) Chapter VI of KER 1959 provides for effecting the changes in the caste and religion as well besides the date of birth, and the same authority which has been empowered to effect the change in the date of birth will have the power to effect the changes in caste and religion of the students.

With the aforesaid direction, the present writ petition stands allowed.

Sd/-

D.K. SINGH

JUDGE

AP



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APPENDIX OF WP(C) 41609/2024

PETITIONER EXHIBITS

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| EXHIBIT P 1 | TRUE COPY OF APPLICATION DATED 6.6.2024 SUBMITTED BY THE PETITIONER BEFORE THE 4TH RESPONDENT |
| EXHIBIT P 2 | TRUE COPY OF LETTER DATED 11.7.2024 FROM THE 4TH RESPONDENT TO THE 3RD RESPONDENT. |
| EXHIBIT P 3 | TRUE COPY OF CERTIFICATE DATED 13.11.2021 ISSUED BY ARYA SAMAJAM, CALICUT. |
| EXHIBIT P 4 | TRUE COPY OF GAZETTE NOTIFICATION DATED 28.6.2022 |
| EXHIBIT P 5 | TRUE COPY OF THE NOTE ATTACHED TO THE APPLICATION OF THE PETITIONER AT THE TIME OF RETURNING THE PETITIONER'S APPLICATION AS DEFECTIVE AND DATED 19.8.2024 BY THE 2ND RESPONDENT |