Reportable

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 7065 OF 2008

K.P. Manu ..... Appellant

Versus

Chairman, Scrutiny Committee for
Verification of Community Certificate ... Respondent

J U D G M E N T

Dipak Misra, J.

In this appeal, by special leave, the assail is to the judgment and order dated 10th March, 2006 passed by the Division Bench of the High Court of Kerala in M.F.A. No. 55 of 2006 wherein the High Court has accepted the report of the Scrutiny Committee constituted under the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (for short "the Act") wherein the caste certificate granted in favour of K.P. Manu, the appellant herein, had been cancelled.

2. The facts giving rise to the present appeal are that one Shri S. Sreekumar Menon invoked the jurisdiction of the Scrutiny Committee under Section 11(3) of the Act challenging the grant of caste certificate, namely, Hindu Pulaya to the appellant on the ground that the said certificate had been obtained by him on misrepresentation, and that apart the concerned authority had issued the caste certificate in total transgression of law. The Committee conducted an enquiry and eventually by its order dated 4th February, 2006 had returned a finding that the appellant was erroneously issued a caste certificate inasmuch as he was not of Hindu origin and hence, could not have been conferred the benefit of the caste status. It is not in dispute that the great grandfather of the appellant belonged to Hindu Pulaya Community. His son Chothi embraced Christianity and accepted a new name, that is, Varghese who married Mariam who originally belonged to Hindu Ezhava community and later on converted to Christianity. In the wedlock three sons, namely, Varghese, Yohannan and Paulose were born. The father of the appellant, Paulose, got married to Kunjamma who was a Christian. The appellant who was born on 03.01.1960 sometime in the year 1984 at the age of 24 converted

himself to Hindu religion and changed his name to that of K.P. Manu. On the basis of the conversion he applied for a caste certificate to Akhila Bharata Ayyappa Seva Sangham. Be it stated, the appellant after conversion had obtained a certificate from the concerned community on 5th February, 1984. Eventually, the Tehsildar who was authorised to issue the caste certificate had issued the necessary caste certificate.

3. On the basis of the complaint made, the Scrutiny Committee embarked upon an enquiry and recorded a finding holding, inter alia, that the appellant does not belong to that caste. The report of the Scrutiny Committee appears to have been influenced by two aspects, namely, that the appellant was born to Christian parents, whose grandparents had embraced Christianity and second, there is no material brought on record to show that the appellant after conversion has been following the traditions and customs of the community. To arrive at the second conclusion, emphasis has been laid on the fact that the appellant after conversion, had married a Christian lady.

4. On the basis of the aforesaid report of the Scrutiny Committee, the State Government took action and directed the

employer of the appellant, respondent No. 2 herein, to remove him from service and recover a sum of Rs.15 lakhs towards the salary paid to him. The said report of the Committee and the order in sequitur having the base on the report were the subject matter of challenge before the High Court in appeal.

5. On a perusal of the order passed by the High Court it is perceptible that it has affirmed the findings of the Committee on the basis that the paternal as well as maternal grandfather of the appellant belonged to Christian community and professed Christian faith; that the parents of the appellant were born as Christians and they continued to profess Christianity; that the appellant also was born as a Christian; that there is no caste by name 'Pulaya convert'; that neither the state government nor the revenue officials have the power to effect any alteration in the caste name contrary to the Constitution (Scheduled Castes) Order, 1950 issued under the authority of the Constitution of India; that the appellant cannot claim the caste status of Pulaya merely on the ground that he had embraced Hinduism at the age of 24; that his claim that he should be treated as one belonging to scheduled caste community has been rightly rejected by the Committee after considering all the relevant facts and the law on

the subject; and that neither the appellant nor his parents had enjoyed the caste status of Pulaya. On the aforesaid basis, the High Court opined that by embracing Hinduism at the age of 24, the appellant who was born to Christian parents and professed Christian faith is not entitled to claim that he is "Hindu-Pulaya." In the ultimate result, the writ petition was dismissed.

6. Calling in question the legal propriety of the aforesaid order, it is submitted by Mr. Naphade, learned senior counsel for the appellant that the High Court has fallen into serious error in its understanding of the ratio laid down by the Constitution Bench in the case of ***The Principal Guntur Medical College, Guntur & Ors. v. Y. Mohan Rao***[1]**,** inasmuch as it has ruled that benefit available to a Scheduled Caste can only be made available to a person, if his parents were converted to Christianity and he has been reconverted and further satisfies other conditions like following the customs and traditions of the Caste after reconversion but would not be applicable to a person if his grandparents had converted to Christianity. Learned senior counsel would submit that the finding of the Scrutiny Committee does not deserve acceptation inasmuch as the expert agency

[1] (1976) 3 SCC 411

which has been constituted under Section 9 of the Act to inquire into certain aspects though has given a categorical finding that the appellant had produced the requisite certificate, yet has fallaciously concluded that after conversion he has not been following the traditions of Christian religion, for he has entered into wedlock with a Christian woman. Learned senior counsel has also placed reliance on a two-Judge Bench decision in ***Kodikunnil Suresh @ J. Monian v. N.S. Saji Kumar & Ors.***[2].

7. Resisting the submissions canvassed by Mr. Naphade, learned senior counsel for the appellant, Ms. Liz Mathew, learned counsel for the respondent-State submitted that the reasoning of High Court cannot be faulted inasmuch as the Constitution Bench does not lay down that a person born as a Christian whose grandparents had embraced Christianity can, on reconversion, come back to the stream of his/her original caste on acceptance by the community, and further the principle stated therein should not be stretched to cover that arena. That apart, submits she, the onus is on the appellant to adduce proof in respect of the fact that after conversion he has been following

[2] (2011) 6 SCC 430

the Hindu rites and customs that is meant for the caste and in the case at hand the said burden has not been discharged.

8. As we perceive, the controversy fundamentally has three arenas, namely, (1) whether on conversion and at what stage a person born to Christian parents can, after reconversion to the Hindu religion, be eligible to claim the benefit of his original caste; (ii) whether after his eligibility is accepted and his original community on a collective basis takes him within its fold, he still can be denied the benefit; and (iii) that who should be the authority to opine that he has been following the traditions and customs of a particular caste or not. We have enumerated the basic tests and in course of our discussion, we shall delve into certain ancillary issues regard being had to the area of analysis.

9. To appreciate the questions that we have formulated, it is necessary to refer to the authorities in chronology. A three-Judge Bench in ***C.M. Arumugam V. S. Rajgopal and others***[3], while dealing with the concept of caste, referred to the pronouncements in ***Coopoosami Chetty V. Duraisami Chetty***[4]**,**

[3] (1976) 1 SCC 863
[4] ILR 33 Mad 57

Muthusami V. Masilamani[5] and ***G. Michael V. S. Venkateswaran***[6] and opined thus:

> "It is no doubt true, and there we agree with the Madras High Court in *G. Michael case* that the general rule is that conversion operates as an expulsion from the caste, or, in other words, the convert ceases to have any caste, because caste is predominantly a feature of Hindu society and ordinarily a person who ceases to be a Hindu would not be regarded by the other members of the caste as belonging to their fold. But ultimately it must depend on the structure of the caste and its rules and regulations whether a person would cease to belong to the caste on his abjuring Hinduism. If the structure of the caste is such that its members must necessarily belong to Hindu religion, a member, who ceases to be a Hindu, would go out of the caste, because no non-Hindu can be in the caste according to its rules and regulations. Where, on the other hand, having regard to its structure, as it has evolved over the years, a caste may consist not only of persons professing Hindu religion but also persons professing some other religion as well, conversion from Hinduism to that other religion may not involve loss of caste, because even persons professing such other religion can be members of the caste. This might happen where caste is based on economic or occupational characteristics and not on religious identity or the cohesion of the caste as a social group is so strong that conversion into another religion does not operate to snap the bond between the convert and the social group. This is indeed not an infrequent phenomenon in South India where, in some of the castes, even after conversion to Christianity, a person is regarded as continuing to belong to the caste. When an argument was advanced before the Madras High Court in *G. Michael case*
>
> > "that there were several cases in which a member of one of the lower castes who has been converted

[5] ILR 33 Mad 342; Mad I.J. 49
[6] AIR 1952 Mad. 474

> to Christianity has continued not only to consider himself as still being a member of the caste, but has also been considered so by other members of the caste who had not been converted",
>
> Rajamannar, C.J., who, it can safely be presumed, was familiar with the customs and practices prevalent in South India, accepted the position "that instances can be found in which in spite of conversion the caste distinctions might continue", though he treated them as exceptions to the general rule."
>
> [Emphasis supplied]

10. Thereafter, the Court referred to number of authorities of various High Courts and ruled that it cannot be laid down as an absolute rule uniformly applicable in all cases that whenever a member of caste is converted from Hinduism to Christianity, he loses his membership of the caste. It is true that ordinarily on conversion to Christianity, he would cease to be a member of the caste, but that is not an invariable rule, and it would depend on the structure of the caste and its rules and regulations. The Court referred to certain castes, particularly in South India, where this consequence could not follow by conversion since such castes comprise both Hindus and Christians. Eventually, the Court opined that:

> "There is no reason either on principle or on authority which should compel us to disregard this view which has prevailed for almost a century and lay down a different rule on the subject. If a person who has embraced another religion can be reconverted to

> Hinduism, there is no rational principle why he should not be able to come back to his caste, if the other members of the caste are prepared to readmit him as a member. It stands to reason that he should be able to come back to the fold to which he once belonged, provided of course the community is willing to take him within the fold. It is the orthodox Hindu society still dominated to a large extent, particularly in rural areas, by medievalistic outlook and status-oriented approach which attaches social and economic disabilities to a person belonging to a scheduled caste and that is why certain favoured treatment is given to him by the Constitution. Once such a person ceases to be a Hindu and becomes a Christian, the social and economic disabilities arising because of Hindu religion cease and hence it is no longer necessary to give him protection and for this reason he is deemed not to belong to a scheduled caste. But when he is reconverted to Hinduism, the social and economic disabilities once again revive and become attached to him because these are disabilities inflicted by Hinduism. A Mahar or a Koli or a Mala would not be recognised as anything but a Mahar or a Koli or a Mala after reconversion to Hinduism and he would suffer from the same social and economic disabilities from which he suffered before he was converted to another religion. It is, therefore, obvious that the object and purpose of the Constitution (Scheduled Castes) Order, 1950 would be advanced rather than retarded by taking the view that on reconversion to Hinduism, a person can once again become a member of the scheduled caste to which he belonged prior to his conversion."
>
> (Emphasis added)

11. The aforesaid pronouncement has to be understood from constitutional and social perspective as the Court has viewed that there is no rational principle why should a person, who has embraced another religion should not be able to come back to his

caste, and further the object and purpose of the Constitution (Scheduled Castes) Order, 1950 would be advanced if, on reconversion, to his original religion, he would become a member of his original caste and not suffer from the same social and economic disabilities.

12. Before the Constitution Bench, in ***Y. Mohan Rao*** (supra), the question arose whether a person whose parents belong to a scheduled caste before their conversion to Christianity can, on conversion or re-conversion to Hinduism, be regarded as a member of the Scheduled Caste so as to be eligible for the benefit of reservation of seats for scheduled castes in the matter of admission to a medical college. The parents of the respondent therein originally professed Hindu religion and belonged to Madiga caste which is admittedly a caste deemed to be a scheduled caste in the State of Andhra Pradesh as specified in Part I of the schedule to the Constitution (Scheduled Castes) Order, 1950. The respondent was born after the conversion, that is to say, he was born of Christian parents and he had got himself converted to Hinduism on September 20, 1973 from Andhra Pradesh Arunchatiya Sangham stating that he had renounced Christianity and embraced Hinduism after going

through Suddhi ceremony and he was thereafter received back into Madiga caste of Hindu fold. On the strength of the certificate, he had applied for admission in respect of the reserved seat to Guntur Medical College. Initially he was provisionally selected for admission, but his selection was cancelled as he was not Hindu by birth. On a writ petition being filed, the High Court referred to the Constitution (Scheduled Castes) Order, 1950 and opined that a candidate, in order to be eligible for a seat reserved for scheduled caste, need not belong to a scheduled caste by birth and when such a stipulation is made by the Government Notification, it has travelled beyond the 1950 order. The view expressed by the learned Single Judge in the writ petition was accepted by the Division Bench. It was contended by the State before the larger Bench that when the respondent was converted to Hinduism, he did not automatically become a member of the Madiga caste, but it was open to the members of the Madiga caste to accept him within their fold and it was only if he was so accepted, that he could have claimed to have become a member of the said caste. The Constitution Bench referred to the three-Judge Bench in ***C.M. Arumugam*** (supra) and posed the issue in the following manner:

> "Now, before we proceed to consider this contention, it is necessary to point out that there is no absolute rule applicable in all cases that whenever a member of a caste is converted from Hinduism to Christianity, he loses his membership of the caste. This question has been considered by this Court in ***C. M. Arumugam v. S. Rajgopal*** and it has been pointed out there that ordinarily it is true that on conversion to Christianity, a person would cease to be a member of the caste to which he belongs, but that is not an invariable rule. It would depend on the structure of the caste and its rules and regulations. There are some castes, particularly in South India, where this consequence does not follow on conversion, since such castes comprise both Hindus and Christians. Whether Madiga is a caste which falls within this category is a debatable question. The contention of the respondent in his writ petition was that there are both Hindus and Christians in Madiga caste and even after conversion to Christianity, his parents continued to belong to Madiga caste and he was, therefore, a member of Madiga caste right from the time of his birth. It is not necessary for the purpose of the present appeal to decide this question. We may assume that, on conversion to Christianity, the parents of the respondent lost their membership of Madiga caste and that the respondent was, therefore, not a Madiga by birth. The question is: could the respondent become a member of Madiga caste on conversion to Hinduism? That is a question on which considerable light is thrown by the decision of this Court in ***C.M. Arumugam*** (supra)."

Thereafter, the Court accepting the principle stated in ***C.M. Arumugam*** (supra) proceeded to opine that the reasoning given in the said judgment has to be accepted and made applicable to a case where the parents of a person are converted from Hinduism to Christianity and he is born after their conversion

and has subsequently embraced Hinduism. In addition to the conversion, he has to be accepted by the members of the caste and is taken as a member within its fold. In that context, the Court ruled thus:

> "The reasoning on which this decision proceeded is equally applicable in a case where the parents of a person are converted from Hinduism to Christianity and he is born after their conversion and on his subsequently embracing Hinduism, the members of the caste to which the parents belonged prior to their conversion accept him as a member within the fold. It is for the members of the caste to decide whether or not to admit a person within the caste. Since the caste is a social combination of persons governed by its rules and regulations, it may, if its rules and regulations so provide, admit a new member just as it may expel an existing member. The only requirement for admission of a person as a member of the caste is the acceptance of the person by the other members of the caste, for, as pointed out by Kirshnaswami Ayyangar, J., in ***Durgaprasada Rao v. Sudarsanaswami***[7]**,** "in matters affecting the well being or composition of a caste, the caste itself is the supreme judge". (emphasis supplied). It will, therefore, be seen that on conversion to Hinduism, a person born of Christian converts would not become a member of the caste to which his parents belonged prior to their conversion to Christianity, automatically or as a matter of course, but he would become such member, if the other members of the caste accept him as a member and admit him within the fold."
>
> [underlining is ours]

13. From the aforesaid paragraph, it is plain as day that if the parents of a person are converted from Hinduism to Christianity

[7] AIR 1940 Mad 513 : ILR 1940 Mad 653 : (1940) 1 MLJ 800

and he is born after the conversion and embraces Hinduism and the members of the caste accept him, he comes within the fold of the caste.

14. Mr. Naphade, learned senior counsel for the appellant would contend that the reasoning that has been made applicable to the parents, there is no reason or justification for not applying the said principle to the grandparents. Learned counsel for the State, per contra, would contend that the Constitution Bench has not laid down any principle as regards the grandparents and the same is with the avowed purpose as it cannot cover several generations. In this regard, we may profitably refer to a three-Judge Bench decision in ***Kailash Sonkar V. Maya Devi***[8]. In the said case, the Court posed the issue thus:

> "The knotty and difficult, puzzling and intricate issue with which we are faced is, to put it shortly, "what happens if a member of a scheduled caste or tribe leaves his present fold (Hinduism) and embraces Christianity or Islam or any other religion" — does this amount to a complete loss of the original caste to which he belonged for ever and, if so, if he or his children choose to abjure the new religion and get reconverted to the old religion after performing the necessary rites and ceremonies, could the original caste revive? The serious question posed here arose and has formed the subject-matter of a large catena of decisions starting from the year 1861, traversing a period of about a century and a half, and culminating

[8] (1984) 2 SCC 91

in a decision of this Court in the case of *G.M. Arumugam* v. *S. Rajagopal*."

15. The Court, after referring to several decisions including the decision in ***C.M. Arumugam*** (supra), has held thus:

> "**31.** In our opinion, the main test should be a genuine intention of the reconvert to abjure his new religion and completely dissociate himself from it. We must hasten to add here that this does not mean that the reconversion should be only a ruse or a pretext or a cover to gain mundane worldly benefits so that the reconversion becomes merely a show for achieving a particular purpose whereas the real intention may be shrouded in mystery. The reconvert must exhibit a clear and genuine intention to go back to his old fold and adopt the customs and practices of the said fold without any protest from members of his erstwhile caste. In order to judge this factor, it is not necessary that there should be a direct or conclusive proof of the expression of the views of the community of the erstwhile caste and it would be sufficient compliance of this condition if no exception or protest is lodged by the community members, in which case the caste would revive on the reconversion of the person to his old religion.
>
> **32.** Another aspect which one must not forget is that when a child is born neither has he any religion nor is he capable of choosing one until he reaches the age of discretion and acquires proper understanding of the situation. Hence, the mere fact that the parents of a child, who were Christians, would in ordinary course get the usual baptism certificate and perform other ceremonies without the child knowing what is being done but after the child has grown up and becomes fully mature and able to decide his future, he ought not to be bound by what his parents may have done. Therefore, in such cases, it is the intention of the convertee which would determine the revival of the caste. If by his clear and conclusive conduct the

person reconverts to his old faith and abjures the new religion in unequivocal terms, his caste automatically revives."

16. What is important for our purpose is paragraph 34 of the said decision, which is as follows:

> "In our opinion, when a person is converted to Christianity or some other religion the original caste remains under eclipse and as soon as during his/her lifetime the person is reconverted to the original religion the eclipse disappears and the caste automatically revives. Whether or not the revival of the caste depends on the will and discretion of the members of the community of the caste is a question on which we refrain from giving any opinion because in the instant case there is overwhelming evidence to show that the respondent was accepted by the community of her original Katia caste. Even so, if the fact of the acceptance by the members of the community is made a condition precedent to the revival of the caste, it would lead to grave consequences and unnecessary exploitation, sometimes motivated by political considerations. Of course, if apart from the oral views of the community there is any recognised documentary proof of a custom or code of conduct or rule of law binding on a particular caste, it may be necessary to insist on the consent of the members of the community, otherwise in normal circumstances the case would revive by applying the principles of doctrine of eclipse. We might pause here to add a rider to what we have said i.e. whether it appears that the person reconverted to the old religion had been converted to Christianity since several generations, it may be difficult to apply the doctrine of eclipse to the revival of caste. However, that question does not arise here."
>
> [Emphasis added]

17. Learned counsel for the State has laid immense emphasis on the last part of the aforequoted paragraph wherein the Court has observed that in a case where the person reconverted to the old religion had been converted to Christianity since several generations, it may be difficult to apply the doctrine of eclipse to the relevant caste. Mr. Naphade, learned senior counsel would contend that the three-Judge Bench has not referred to the Constitution Bench decision in ***Y. Mohan Rao*** (supra) and had that been adverted to, in all possibility, the Court could have held if it could travel to the immediate generation, there was no warrant or justification not to take in its fold the grandparents. His further submission is in the case at hand, it is not a case of several generations, but only the grandparents.

18. In this context, a reference may be made to the authority in ***S. Anbalagan v. B. Devarajan and others***[9]. In the said case, the Court dwelt upon the legal position in regard to the caste, their status on conversion, or reconversion to Hinduism. After referring to various authorities, namely, ***Administrator-General of Madras v. Anandachari***[10], ***Muthusami Mudaliar v. Masilamani*** (supra), ***Gurusami Nadar v. Irulappa Konar***[11],

[9] (1984) 2 SCC 112
[10] ILR 9 Mad 342
[11] 1934 MLJ 389; AIR 1934 Mad 630

Rajagopal v. Armugam[12], ***Perumal Nadar v. Ponnuswami***[13], ***Vermani v. Vermani***[14], ***Durgaprasada Rao*** (supra) and ***Chatturbhuj Vithaldas Jasani v. Moreshwar Parashram***[15], came to hold as follows:

> "These precedents, particularly those from South India, clearly establish that no particular ceremony is prescribed for reconversion .to Hinduism of a person who had earlier embraced another religion. Unless the practice of the caste makes it necessary, no expiatory rites need be performed and, ordinarily, he regains his caste unless the community does not accept him. In fact, it may not be accurate to say that he regains his caste; it may be more accurate to say that he never lost his caste in the first instance when he embraced another religion. The practice of caste however irrational it may appear to our reason and however repugnant it may appear to our moral and social sense, is so deep-rooted in the Indian people that its mark does not seem to disappear on conversion to a different religion. If it disappears, it disappears only to reappear on reconversion. The mark of caste does not seem to really disappear even after some generations after conversion. In Andhra Pradesh and in Tamil Nadu, there are several thousands of Christian families whose forefathers became Christians and who, though they profess the Christian religion, nonetheless observe the practice of caste. There are Christian Reddies, Christian Kammas, Christian Nadars, Christian Adi Andhras, Christian Adi Dravidas and so on. The practice of their caste is so rigorous that there are intermarriages with Hindus of the same caste but not with Christians of another caste. Now, if such a Christian becomes a Hindu, surely he will revert to his original caste, if he had lost it at all. In fact this process goes on continuously in India and generation

[12] (1969) 1 SCR 254
[13] (1971) 1 SCR 49
[14] AIR 1943 Lah 51: 205 IC 290
[15] 1954 SCR 817

> by generation lost sheep appear to return to the caste-fold and are once again assimilated in that fold. This appears to be particularly so in the case of members of the Scheduled Castes, who embrace other religions in their quest for liberation, but return to their old religion on finding that their disabilities have clung to them with great tenacity. We do not think that any different principle will apply to the case of conversion to Hinduism of a person whose forefathers had abandoned Hinduism and embraced another religion from the principle applicable to the case of reconversion to Hinduism of a person who himself had abandoned Hinduism and embraced another religion."
>
> [Underlining is ours]

Thus, in the aforesaid case the Court has ruled that there is no reason that any different principle will apply to a person whose forefathers had abandoned Hinduism.

19. In ***Puneet Rai v. Dinesh Chaudhary***[16], S.B. Sinha, J. in his concurring opinion has observed thus:

> "**30.** In *Caste and the Law in India* by Justice S.B. Wad at p. 30 under the heading "Sociological Implications", it is stated:
>
> > "Traditionally, a person belongs to a caste in which he is born. The caste of the parents determines his caste but in case of reconversion a person has the liberty to renounce his casteless status and voluntarily accept his original caste. His caste status at birth is not immutable. Change of religion does not necessarily mean loss of caste. If the original caste does not positively disapprove, the acceptance of the caste can be presumed. Such acceptance can also be presumed if he is

[16] (2003) 8 SCC 204

> elected by a majority to a reserved seat. Although it appears that some dent is made in the classical concept of caste, it may be noticed that the principle that caste is created by birth is not dethroned. There is also a judicial recognition of caste autonomy including the right to outcaste a person."
>
> **31.** If he is considered to be a member of the Scheduled Caste, he has to be accepted by the community."

20. In ***State of Kerala & Anr. v. Chandramohanan***[17], the appellant had lodged a complaint against the respondent alleging that he had taken one eight year old girl to the classroom in Pattambi Government U.P. School with an intent to dishonour and outrage her modesty. The said complaint was treated as first information report under Section 509 of the I.P.C. The Investigating Officer, during investigation, came to know that the father of the victim belonged to Mala Aryan community, which is considered to be a Scheduled Tribe in the State of Kerala and lodged another FIR charging the respondent under Section 3(1) (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the 1989 Act') as well as under Section 509 of the I.P.C. Being aggrieved by the said order, the respondent filed a petition under Section 482 of the Code of Criminal Procedure, for quashing of the charges framed under

[17] (2004) 3 SCC 429

Section 3(1)(xi) of the 1989 Act and the High Court took the view that since the victim's parents had embraced Christianity, the victim had ceased to be a member of the Scheduled Tribe and accordingly quashed the charges in respect of the said offences. The three-Judge Bench referred to Article 342 of the Constitution, the object of the said Article which is meant to provide right for the purpose of grant of protection to the Scheduled Tribes having regard to the economic and educational backwardness wherefrom they suffer, the Constitution (Scheduled Tribes) Order, 1950 made in terms of the aforesaid provisions, *The Customary Laws of Muda and Oraon* by Dr. Jai Prakash Gupta, *Tribal India: A Profile in Indian Ethnology* by K.L. Bhowmik, the decisions in ***Nityanand Sharma v. State of Bihar***[18], ***Puneet Rai*** (supra), ***N.E. Horo v. Jahanara Jaipal Singh***[19] and thereafter held that:-

> "Before a person can be brought within the purview of the Constitution (Scheduled Tribes) Order, 1950, he must belong to a tribe. A person for the purpose of obtaining the benefits of the Presidential Order must fulfil the condition of being a member of a tribe and continue to be a member of the tribe. If by reason of conversion to a different religion a long time back, he/his ancestors have not been following the customs, rituals and other traits, which are required to be followed by the members of the tribe and even had not

[18] (1996) 3 SCC 576
[19] (1972) 1 SCC 771

been following the customary laws of succession, inheritance, marriage etc. he may not be accepted to be a member of a tribe. In this case, it has been contended that the family of the victim had been converted about 200 years back and in fact the father of the victim married a woman belonging to a Roman Catholic, wherefrom he again became a Roman Catholic. The question, therefore, which may have to be gone into is as to whether the family continued to be a member of a Scheduled Tribe or not. Such a question can be gone into only during trial."

21. After so holding, the Court referred to in extenso the decision in ***C.M. Arumugam*** (supra) and came to rule thus:-

"**18.** The aforementioned decision is, thus, also an authority for the proposition that upon conversion, a person may be governed by a different law than the law governing the community to which he originally belonged .but that would not mean that notwithstanding such conversion, he may not continue to be a member of the tribe.

19. Learned counsel for the appellant has drawn our attention to the circulars issued by the State of Kerala with a view to show that the members of the tribes are being treated in the same capacity despite conversion. We are afraid that such circulars being not law within the meaning of Article 13 of the Constitution of India, would be of no assistance.

20. We, therefore, are of the opinion that although as a broad proposition of law it cannot be accepted that merely by change of religion a person ceases to be a member of the Scheduled Tribe, but the question as to whether he ceases to be a member thereof or not must be determined by the appropriate court as such a question would depend upon the facts of each case. In such a situation, it has to be established that a person who has embraced another religion is still suffering from social disability and also following the customs

> and traditions of the community, which he earlier belonged to. Under such circumstances, we set aside the order under appeal and remit the same to the Sessions Court, Palakkad, to proceed in accordance with law."

22. At this juncture, we are disposed to think that reference to certain reports and articles would be profitable for the purpose of understanding the ground reality and appreciate factual score in proper perspective. In the article, namely, "Dalits in India" by James Massey, B.R. Ambedkar, as is reflected from the said article, has devoted two long essays on the subject under the title "Christianising the Untouchables" and "The Condition of the Convert". Speaking about the general conditions of Christians Dalits, Ambedkar had put a direct challenge by saying:

> "It is necessary to bear in mind that Indian Christians are drawn chiefly from the Untouchables (Dalits) and, to a much less extent from low ranking Shudra castes. The social services of Missions must therefore be judged in the light of the needs of these classes. What are those needs? The services rendered by the Missions in the fields of education and medical relief are beyond the ken of the Indian Christians. They go mostly to benefit the high caste Hindu."

23. James Massey has analysed the reasons ascribed by Ambedkar by stating:-

> "What has Christianity achieved in the way of changing the mentality of the convert? Has the Untouchable convert risen to status of the touchables?

> Have the touchable and untouchable converts discarded caste? Have they ceased to worship their old pagan gods and to adhere to their old pagan superstitions? These are far-reaching questions. They must be answered and Christianity in India must stand or fall by the answers it gives to these questions."

24. James Massey, the learned author has referred to the observations of Karnataka Backward Classes Commission, 1952. The relevant part is as follows:-

> "A Scheduled Caste (man) might have made some progress, or might have embraced Islam or Christianity, and thereby the disabilities, under which he suffered as a result of untouchability, might have, to some extent, disappeared. But the fact remains that such castes, tribes and racial groups still continue to suffer under other social, educational and economic handicaps and taboos."

25. Archbishop George Zur, Apostolic Pro-Nuncio to India in his inaugural address to the Catholic Bishops Conference of India, (CBCI) in the meeting held in Pune during December 1991, made the following observations:

> "Though Catholics of the lower castes and tribes form 60 per cent of Church membership they have no place in decision-making. Scheduled caste converts are treated as low caste not only by high caste Hindus but by high caste Christians too. In rural areas they cannot own or rent houses, however, well-placed they may be. Separate places are marked out for them in the parish churches and burial grounds. Inter-caste marriages are frowned upon and caste tags are still appended to the Christian names of high caste people.

> Casteism is rampant among the clergy and the religious. Though Dalit Christians make 65 per cent of the 10 million Christians in the South, less than 4 per cent of the parishes are entrusted to Dalit priests. There are no Dalits among 13 Catholic bishops of Tamil Nadu or among the Vicars-general and rectors of seminaries and directors of social assistance centres."

26. Mandal Commission report of the Backward Classes Commission 1980, speaking about the Indian Christians in Kerala had expressed thus:-

> ".... Christians in Kerala are divided into various denominations on the basis of beliefs and rituals and into various ethnic groups on the basis of their caste background .... even after conversion, the lower caste converts were continued to be treated as Harijans by all sections of the society including the Syrian Christians, even though with conversion the former ceased to be Harijans and untouchables..... In the presence of rich Syrian Christians, the Harijan Christians had to remove their head-dress while speaking with their Syrian Christian masters. They had to keep their mouth closed with a hand ..... It was found that the Syrian and Pulaya members of the same Church conduct religious rituals separately in separate buildings ... Thus lower caste converts to a very egalitarian religion like Christianity, ever anxious to expand its membership, even after generations were not able to efface the effect of their caste background."

27. A Church of South India Commission in 1964 investigating the grievances of Dalit Christians, whether they split off or remain with the Church of South India, wrote:-

> "First and foremost is the feeling that they are despised, not taken seriously, overlooked, humiliated

or simply forgotten. They feel that again and again affairs in the diocese are arranged as if they did not exist. Caste appellations are still occasionally used in Church when they have been abandoned even by Hindus. Backward class desires and claims seem again and again to be put on the waiting list, while projects which they feel aim chiefly at the benefit of the Syrian community seem to get preferential consideration. In appointments, in distribution of charity, in pastoral care and in the attitude shown to them, in disputes with the authorities, the treatment they receive, when compared with that received by their Syrian brothers, suggests a lack of sympathy, courtesy and respect."

28. Chinappa Commission Report (1990) states:-

"By and large, the Christian community in Karnataka is an advanced community except for SC and ST converts, whose position has not improved very much for the better. Thanks to the all pervasive caste system which has penetrated the barriers of religion also, SC and ST converts to Christianity and their descendants continue, to a great degree, to be victims of the same social injustice to which the SCs and STs are subjects".

29. Dr. Y. Antony Raj, the author of "Social Impact of Conversion" comments:

"The mass conversion from Christianity to Hinduism, Islam and Buddhism is often explained as the frustration of the coverts to Christianity. Devadason names the reason for such reconversion as 'disillusionment' among the CSCO. "Till recently" says he, "the conversion to Christianity was considered an attractive proposition. That trend has slowed down, if not stopped. This was because of the disillusionment among the Harijan converts, who discovered that they

> had carried with them their caste stigma and that inter-caste marriage and other contacts continued to be as difficult as before."

30. As per the analysis made by John C.B. Webster, in the book, "The Dalit Christians: A History", in Chapter III titled "The Politics of Numbers", Dr. Ambedkar, being aware of the continuing problems of Dalit Christians had ruled out conversion to Christianity. To quote the learned author:

> "He was certainly aware of them. In what was probably the most perceptive analysis of the Christian community from this period, Ambedkar noted that caste Hindus were the chief beneficiaries of Christian educational and medical work, that caste continued within the churches, and that Dalits suffered from the same disabilities after as before conversion to Christianity. More importantly, Christianity failed the political test. For one thing, while Christianity may have inspired Dalit converts to change their social attitudes, it had not inspired them to take practical steps to redress the wrongs from which they suffered."

31. In this context, it will be fruitful to make a reference to the authority in ***State of M.P. and Another v. Ram Kishna Balothia and Another***[20]. In the said case, the two-Judge Bench was called upon to deal with the validity of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, especially Section 18 that stipulates that Section 438 of the CrPC will not apply to the persons committing an offence under the

[20] (1995) 3 SCC 221

said Act. While upholding the validity of the provisions and annulling the judgment of the High Court of M.P., the learned Judges have referred to the Statement of Objects and Reasons accompanying the Scheduled Castes and Scheduled Tribes Bill, 1989 when it was introduced in the Parliament. To quote:

> "It sets out the circumstances surrounding the enactment of the said Act and points to the evil which the statute sought to remedy. In the Statement of Objects and Reasons it is stated:
>
> > "Despite various measures to improve the socio-economic conditions of the Scheduled Castes and the Scheduled Tribes, they remain vulnerable. They are denied number of civil rights. They are subjected to various offences, indignities, humiliations and harassment. They have, in several brutal incidents, been deprived of their life and property. Serious crimes are committed against them for various historical, social and economic reasons
> >
> > 2. … When they assert their rights and resist practices of untouch-ability against them or demand statutory minimum wages or refuse to do any bonded and forced labour, the vested interests try to cow them down and terrorise them. When the Scheduled Castes and the Scheduled Tribes try to preserve their self-respect or honour of their women, they become irritants for the dominant and the mighty. Occupation and cultivation of even the Government allotted land by the Scheduled Castes and Scheduled Tribes is resented and more often these people become victims of attacks by the vested interests. Of late, there has been an increase in the disturbing trend of commission of certain atrocities like

> making the Scheduled Caste persons eat inedible substances like human excreta and attacks on and mass killings of helpless Scheduled Castes and Scheduled Tribes and rape of women belonging to the Scheduled Castes and the Scheduled Tribes.... A special legislation to check and deter crimes against them committed by non-Scheduled Castes and non-Scheduled Tribes has, therefore, become necessary."

> The above statement graphically describes the social conditions which motivated the said legislation. It is pointed out in the above Statement of Objects and Reasons that when members of the Scheduled Castes and Scheduled Tribes assert their rights and demand statutory protection, vested interests try to cow them down and terrorise them. In these circumstances, if . anticipatory bail is not made available to persons who commit such offences, such a denial cannot be considered as unreasonable or violative of Article 14, as these offences form a distinct class by themselves and cannot be compared with other offences."

32. We have referred to the aforesaid materials and the observations singularly for the purpose that there has been detailed study to indicate the Scheduled Castes persons belonging to Hindu religion, who had embraced Christianity with some kind of hope or aspiration, have remained socially, educationally and economically backward. The Constitution Bench in ***Y. Mohan Rao*** (supra) has clearly laid down that if a person born to Christian parents, who, belonging to Scheduled Caste had converted themselves to Christianity, the said person on reconversion to his religion and on acceptance by his

community with a further rider that he would practise the customs and traditions of the caste, would be treated as a member of the said Scheduled Caste and if the said caste is one of the castes falling within the Constitution (Scheduled Castes) Order, 1950, then he will be treated as a Scheduled Caste.

33. As we understand the authority it does not lay down that it only would apply to the parents and exclude the grandparents. At this stage, two decisions are required to be properly understood. In ***Kailash Sonkar*** (supra), the three-Judge Bench while applying the doctrine of eclipse to the original caste and the principle of revival applying the said doctrine, has observed whether to a situation where the person reconverted to the old religion had been converted to Christianity since several generations, it may be difficult to apply the doctrine of eclipse to the revival of caste. The Court, by way of abundant caution, has also proceeded to state that the question did not arise there. That apart, it has not expressed any opinion. Therefore, it cannot be treated as a precedent for the purpose that it would only encompass the previous generation. In ***S. Anbalagan*** (supra) which we have referred to in extenso earlier, has laid down that if the caste disappears, it disappears only to reappear

on reconversion and the mark of caste does not seem to really disappear even after some generations after conversion. As has been held therein, the process goes on continuously in India and generation by generation last sheep to return to their caste fold are once again assimilated to that fold. The three-Judge Bench has commented that the members of the scheduled castes who had embraced another religion in their quest for liberation, but return to their old religion on finding that their disabilities have clung to them with great tenacity; and thereafter stated that it does not think that any different principle would apply to the case of conversion to Hinduism of a person whose forefathers had abandoned Hinduism and embraced another religion from the principle applicable to the case of reconversion to Hinduism of a person who himself had abandoned Hinduism and embraced another religion. This view, in our considered opinion, is in consonance with the Constitution Bench in ***Y. Mohan Rao*** (supra) and does not run counter to it. One may raise a question how does one find out about the forefathers. There can be a false claim but that would be the subject matter of inquiry. Therefore, the principle of "definitive traceability" may be applied during the inquiry and the onus shall be on the person who claims the

benefit after reconversion. To elaborate, he has to establish beyond a shadow of doubt that his forefathers belonged to the scheduled caste that comes within the Constitution (Scheduled Castes) Order, 1950 and he has been reconverted and his community has accepted him and taken him within its fold.

34. In our considered opinion, three things that need to be established by a person who claims to be a beneficiary of the caste certificate are (i) there must be absolutely clear cut proof that he belongs to the caste that has been recognised by the Constitution (Scheduled Castes) Order, 1950; (ii) there has been reconversion to the original religion to which the parents and earlier generations had belonged; and (iii) there has to be evidence establishing the acceptance by the community. Each aspect according to us is very significant, and if one is not substantiated, the recognition would not be possible.

35. In the case at hand, as far as the first aspect is concerned, as we have stated hereinbefore, there is no dispute. If a person who is born to Christian parents who had converted to Christianity from the Scheduled Caste Hindu can avail the benefit of the caste certificate after his embracing Hinduism

subject to other qualifications, there cannot be any soundness of logic that he cannot avail the similar benefit because his grandparents were converted and he was born to the parents who were Christians. They must have belonged to that caste and after conversion the community has accepted. Our view is fortified by the authority in ***S. Anbalagan*** (supra). Thus, the reasoning as ascribed by the Scrutiny Committee as well as by the High Court on this score is unacceptable.

36. As far as the community acceptance is concerned, Mr. Naphade has drawn our attention to the enquiry report submitted by the expert agency, conclusion of which reads thus:

> "CONCLUSION
>
> Thus, the anthropological study has revealed that the claimant K.P. Manu's case father K.P. Paulose and his mother Kunjamma belong to Christian Community of Pulayan origin. The investigation has revealed they still profess Christianity.
>
> In the Government Circular No. 18421/E2/87 SCSTDD dated 15.12.1987 it has been made clear that the religious status of parents will not affect the caste status of neo-converts provided they become major and copy of the said GO is marked here as Document-7. So the claimant after becoming major embraced Hinduism and revived his caste. The caste organisation to which he belongs has also accepted his conversion. It has been found that he has a registered marriage with Sylamma belonging to Christian community of Pulayan origin. The

claimant and his children do not follow Christian religion."

37. The community certificate which was produced by the appellant is as follows:

"AKHILA BHARTA AYYAPPA SEVA SANAGHOM

HEAD OFFICE – KOTTAYAM

At the request of Mr. K.P. JOHN and his family residing in Kanayannur Taluk, Mulamthuruthy Village, Ward-VI, Kaniyamol House, the persons listed below is converting today on behalf of Ayyappa Seva Sangham from Christian Pulayan community to Hindu Pulayan community, after performing Sudhi Karma according to the Hindu rites and customs.

The new names adopted are mentioned against the old names of the persons listed below:

Kottayam – 5/2/1984

General Secretary

No.	Old Name	New Name	Date of Birth	Age
1.	K.P. John	K.P. Manu	31.1.1960	23
2.	K.P. Thomas	K.P. Babu	20.4.1968	15

For Akhila Bharata Ayyappa Seva Sangham

Sd/-

General Secretary"

38. Be it stated here that the said "Sangham" has been recognised as one of the agencies by the Government of Kerala as a competent organisation to issue the community certificate. There is no doubt that the appellant had converted himself and

thereafter was accepted by the community. He has been taken within its fold.

39. At this juncture, certain findings recorded by the Scrutiny Committee require to be reproduced:

> "The Committee examined the aspect whether the aforementioned decisions can have any application to the claimant's conversion to Hinduism in 1984. The Committee noted that neither the claimant nor his parents was born as Hindu and later converted to Christianity from Hinduism. In fact they are born as Christians. Hence there is no element of re-conversion in the claimant's case. Hence the question of reviving caste status as Pulayan (SC) on the ground that some of his ancestors were having Pulayan (SC) status does not arise. The claimant traces SC (Pulayan) status from generations back despite the fact that his ancestors in the descending generation, consistently opted to renounce Pulayan caste status and Hindu religious status by converting to Christianity. Ordinarily one gets his/her caste on the basis of his/her parents. In other words, one shall be, on birth deemed to be belonging to the caste of his/her parents. In the facts and circumstances of the claimant's case, the claimant and his parents were devoid of any caste identity right from their birth. It is significant to note that ten years after his conversion to Hinduism, the claimant has contracted marriage with a Christian lady, as per Special Marriage Act. Hence, the Committee found that the claimant's case does not come under the ambit of aforementioned verdicts."

The said report has been given the stamp of approval by the High Court. In the impugned order, the Division Bench, after referring to the report, has held thus:

> "The paternal as well as maternal grand father of the appellant belonged to Christian community and professed Christian faith. Patents of the appellant were born as Christians and they continued to profess Christianity. The appellant also was born as a Christian. Annexure-I Certificate shows that in the SSLC book he is shown as a person belonging to Christian religion. As rightly found by the respondent there is no caste by name 'Pulaya convert'. Neither the state government nor the revenue officials have the power to effect any alteration in the caste name contrary to the Presidential Order issued under the authority of the Constitution of India. Appellant cannot claim the caste status of Pulayan merely on the ground that he embraced Hinduism at the age of 24. His claim that he should be treated as one belonging to scheduled caste community has been rightly rejected by the respondent after considering all relevant facts and the law on the subject. Neither the appellant nor his parents had enjoyed the caste status of Pulayan. Hence by embracing Hinduism at the age of 24, the appellant who was born to Christian parents and professed Christian faith is not entitled to claim that he is Hindu-Pulaya."

40. The aforesaid reasoning is contrary to the decisions of this Court and also to what we have stated hereinbefore. As far as marriage is concerned, in our considered opinion, that should not have been considered as the central and seminal facet to deny the benefit. When the community has accepted and the community, despite the marriage, has not

ex-communicated or expelled, the same would not be a disqualification.

41. The committee, as we find, has placed reliance on ***S. Swvigaradoss v. Zonal Manager, F.C.I.***[21] The said decision requires to be adverted to. In the said case, the parents of the petitioner, initially belonged to Adi Dravid by caste, hailing from Kattalai village in Tirunelveli District, Tamil Nadu and they had, before his birth, converted into Christian religion. The petitioner had filed a suit contending, inter alia, that after he had become a major, he has continued as Adi Dravid. The suit was decreed but eventually, it was reversed in second appeal. The Court referred to Article 341(1) of the Constitution, decisions in ***B. Basavalingappa v. D. Munichinnappa***[22], ***Bhaiyalal v. Harikishan Singh***[23], ***Srish Kumar Choudury v. State of Tripura***[24], ***Kumari Madhuri Patel v. Addl. Commissioner, Tribal Development***[25] and opined thus:

> "The Courts, therefore, have no power except to give effect to the notification issued by the President. It is settled law that the Court would .look into the public

[21] (1996) 3 SCC 100
[22] AIR 1965 SC 1269
[23] AIR 1965 SC 1557
[24] (1990) Supp SCC 220
[25] (1994) 6 SCC 241

notification under Article 341(1) or Article 342(1) for a limited purpose. The notification issued by the President and the Act of Parliament under Scheduled Castes and Scheduled Tribes Order (Amendment) Act, 1976 and the Schedules appended thereto can be looked into for the purpose to find whether the castes, races or tribes are (*sic* or) parts of or groups within castes, races or tribes shall be Scheduled Castes for the purposes of the Constitution. Under the Amendment Act, 1976, again Parliament has included or excluded from schedules appended to the Constitution which are now conclusive. Schedule I relates to Scheduled Castes and Schedule II relates to Scheduled Tribes. Christian is not a Scheduled Caste under the notification issued by the President. In view of the admitted position that the petitioner was born of Christian parents and his parents also were converted prior to his birth and no longer remained to be Adi-Dravida, a Scheduled Caste for the purpose of Tirunelveli District in Tamil Nadu as notified by the President, petitioner cannot claim to be a Scheduled Caste. In the light of the constitutional scheme civil court has no jurisdiction under Section 9 of CPC to entertain the suit. The suit, therefore, is not maintainable. The High Court, therefore, was right in dismissing the suit as not maintainable and also not giving any declaration sought for."

[Emphasis added]

42. The two principles that have been stated in the aforesaid paragraph are (i) that a court can look into the Notification by the President and the act of the Parliament under the Scheduled Castes and Scheduled Tribes Order (Amendment) Act, 1976 and the schedule appended thereto for the limited purpose to find whether the castes, races or tribes are parts or groups within the

caste, races or tribes, especially scheduled castes for the purpose of Constitution, and it is because what has been included or excluded therein are conclusive; and (ii) that a person born to Christian parents, who initially belonged to the Scheduled Caste, even after his reconversion cannot claim to be a Scheduled Caste. As far as first proposition of law is concerned, there can be no cavil over the same and we respectfully concur.

43. As far as the second principle is concerned, it is essential to note that the authorities of larger Bench in ***Y. Mohan Rao*** (supra), ***Kailash Sonkar*** (supra) and ***S. Anbalagan*** (supra) were not brought to the notice of the Court. Irrefragably, the second principle runs contrary to the proposition laid down in the Constitution Bench in **Y. Mohan Rao** (supra) and the decisions rendered by the three-Judge Bench. When a binding precedent is not taken note of and the judgment is rendered in ignorance or forgetfulness of the binding authority, the concept of *per incuria* comes into play. In ***A.R. Antulay v. R.S. Nayak***[26], Sabyasachi Mukherji, J. (as His Lordship then was) observed that:

[26] (1988) 2 SCC 602

> "42. .... 'Per incuriam' are those decisions given in ignorance or forgetfulness of some inconsistent statutory provision or of some authority binding on the court concerned, so that in such cases some part of the decision or some step in the reasoning on which it is based, is found, on that account to be demonstrably wrong."

At a subsequent stage of the said authority, it has been held that:

> "47. .... It is a settled rule that if a decision has been given per incuriam the court can ignore it."

44. In ***Union of India and Others v. R.P. Singh***[27], the Court observed thus:

> "In *Siddharam Satlingappa Mhetre* v. *State of Maharashtra*[28], while dealing with the issue of "per incuriam", a two-Judge Bench, after referring to the dictum in *Young v. Bristol Aeroplane Co. Ltd*[29]. and certain passages from *Halsbury's Laws of England* and *Union of India v. Raghubir Singh*[30], had ruled thus:
>
> > "The analysis of English and Indian Law clearly leads to the irresistible conclusion that not only the judgment of a larger strength is binding on a judgment of smaller strength but the judgment of a coequal strength is also binding on a Bench of Judges of coequal strength. In the instant case, judgments mentioned in paras 124 and 125 are by two or three Judges of this Court. These judgments have clearly ignored a Constitution Bench judgment of this Court in *Sibbia case*[31] which has comprehensively dealt with all the

---

[27] (2014) 7 SCC 340
[28] (2011) 1 SCC 694
[29] 1944 KB 718
[30] (1989) 2 SCC 754
[31] (1980) 2 SCC 565

> facets of anticipatory bail enumerated under Section 438 CrPC. Consequently, the judgments mentioned in paras 124 and 125 of this judgment are per incuriam."

Tested on the aforesaid principles, it can safely be concluded that the judgment in ***S. Swvigaradoss*** (supra), as far as the second principle is concerned, is per incuriam.

45. In the instant case, the appellant got married to a Christian lady and that has been held against him. It has also been opined that he could not produce any evidence to show that he has been accepted by the community for leading the life of a Hindu. As far as the marriage and leading of Hindu life are concerned, we are of the convinced opinion that, in the instant case, it really cannot be allowed to make any difference. The community which is a recognised organisation by the State Government, has granted the certificate in categorical terms in favour of the appellant. It is the community which has the final say as far as acceptance is concerned, for it accepts the person, on reconversion, and takes him within its fold. Therefore, we are inclined to hold that the appellant after reconversion had come within the fold of the community and thereby became a member of the scheduled caste. Had the community expelled him the matter would have

been different. The acceptance is in continuum. Ergo, the reasonings ascribed by the Scrutiny Committee which have been concurred with by the High Court are wholly unsustainable.

46. Consequently, the appeal is allowed and the judgment and order of the High Court, findings of the Scrutiny Committee and the orders passed by the State Government and the second respondent are set aside. The appellant shall be reinstated in service forthwith with all the benefits relating to seniority and his caste, and shall also be paid backwages upto 75% within eight weeks from today. There shall be no order as to costs.

.....J.
[Dipak Misra]

.....J.
[V. Gopala Gowda]

New Delhi
February 26, 2015.