

W.P.(MD)No.17632 of 2023

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Reserved On : 08.01.2025

Delivered On : 08.04.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.17632 of 2023

V.Iyyappan

... Petitioner

Vs.

1.The District Collector/Inspector of Panchayats,
Kanyakumari District.

2.The Assistant Director (Town Panchayats),
Nagercoil.

3.The Executive Officer,
Theroor Town Panchayat,
Kanyakumari District.

4.V.Amutha Rani

5.The Parish Priest,
Mount Carmel Church,
Ramapuram,
Theroor,
Kanyakumari District.

6.The Inspector of Police,
Sucindram Police Station,

7.The Parish Priest,
RC Church,
Kulasekaranputtor,
Kanyakumari District.
(R6 is suo motu impleaded vide
Court order dated 28.11.2024,

... Respondents



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in W.P.(MD)No.17632 of 2023 by LVGJ)
(R7 is suo motu impleaded vide Court
order dated 06.12.2024 in
W.P.(MD)No.17632 of 2023 by LVGJ)

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondent nos.1 to 3 to declare the 4th respondent as disqualified from the post of the Chairman of the Theroor Town Panchayat, Agasteeswaram Taluk, Kanyakumari District, based on the petitioner's representation dated 17.04.2023.

For Petitioner	: Mr.B.Saravanan, Senior Counsel For M/s.Spicy Law Firm
For Respondents 1 to 3	: Mr.P.Veera Kathiravan Additional Advocate General Assisted by, Mr.D.S.Neduncheliyan Government Advocate
For 4 th Respondent	: Mr.Aaiyam K. Selvakumar
For Respondents 5 & 7	: Mr.Anto Prince
For 6 th Respondent	: Mr.K.Gnanasekaran, Government Advocate (Crl. Side)

ORDER

Prelude:-

Pope John Paul II, on 7th November 1999, held a mass for an approximately 70,000 members of India's Christian Minority in New Delhi Sports Stadium, where he infamously said "Just as the first Millennium saw the cross firmly planted in the soil of Europe and the second in that of America and Africa, so may the third Christian Millennium witness a great harvest of faith on this vast and vital Continent."

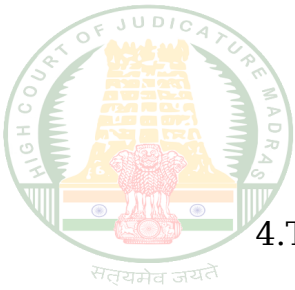


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2.Having witnessed a great harvest of faith in the districts of Kanyakumari, Tuticorin and Tirunelveli of the State of Tamil Nadu, the instant case reflects the socio-political complications encountered by those converts from the Scheduled Caste community, who have embraced Christianity. Unravelling the complexities of conversion has become necessary for the purpose of solving the legal problem, which has stemmed up from the great harvest of faith in the district of Kanyakumari. In my attempt to analyze the *lis* in hand syllogistically, the evolution of law with respect to Christian marriages in India, crystallises into the major premise - “The marriages of persons professing the Christian religion, is solemnized under the Indian Christian Marriage Act, 1872”.

3.An abstract thinking into the major premise gives way to the minor premise as: “The marriage between the fourth respondent Mrs.V.Amudharani, who hailed from Hindu Pallan Scheduled Caste community and her husband Thiru.A.Vincent was solemnized as per Christian rites and customs as mandated under the Indian Christian Marriage Act, 1872, on 27.10.2005, at the St.Antony Church, Kulasekharamputtoor, Ramapuram Parish, Theroor diocese”.



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4.The conclusion which follows from the legal reasoning of the aforesaid major and minor premises is that “therefore Mrs.V.Amudharani, wife of Thiru.A.Vincent (who do not hail from SC community) is a Christian.”

Issues:-

Factual matrix:-

5.This Writ Petition is filed, seeking to direct the respondents 1, 2, 3 to declare the 4th respondent as disqualified from the post of the Chairman of the Theroor Town Panchayat, Agastheeswaram Taluk, Kanyakumari District, based on the petitioner's representation dated 17.04.2023.

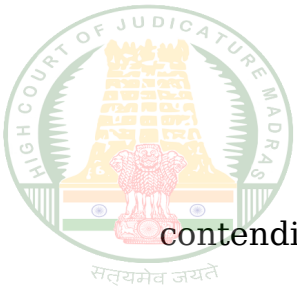
6.The said representation was made by the writ petitioner, seeking to disqualify the 4th respondent as Councillor under Section 50(1) (ddd) of the Tamil Nadu District Municipalities Act, 1920. The writ petitioner contested in the Tamil Nadu Urban Local Body Election in 2022, as DMK party candidate and was elected as the member of the Theroor Town Panchayat from Ward 8, which was reserved for Scheduled Caste (general). The 4th respondent contested as AIADMK party candidate from Ward 2, which was reserved for women (general) and she was also elected. As per the Government Order in G.O.Ms.No.12, Municipal Administration and Water Supply (Election Department) dated



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17.01.2022, the post of the Chairman of the Theroor Town Panchayat was reserved for Scheduled Caste (general). The indirect election for the post of the Chairman of the Theroor Town Panchayat was held on 14.03.2022. While the petitioner submitted his nomination, to his shock and surprise, the 4th respondent also filed a nomination claiming that she also belong to the Scheduled Caste community. However, admittedly though she originally belonged to the Scheduled Caste community, later she converted to Christianity at the time of her marriage along with her husband Thiru.V.Vincent and her marriage was solemnized on 27.10.2005, according to Christian rites and customs. The writ petitioner condemns that, it is a settled position of law that once a person converts to any religion other than Hinduism, Sikhism and Buddhism, she cannot claim the benefits of reservation given for the Scheduled Caste Community.

7.On that basis, he also submitted a written objection to the returning officer. The returning officer received the written objection and informed that he will get a clarification letter from the Tahsildar, Agastheeswaram, regarding the Backward Class status of the 4th respondent. However, no such communication was received from the Tahsildar. On the other hand, the returning officer arbitrarily passed the resolution in the minute book declaring that, the said 4th respondent, namely, Amudha Rani, as the successful candidate. Categorically

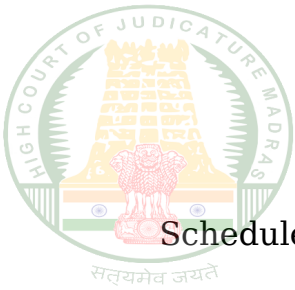


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contending that, in terms of Section 50(1)(ddd) of the Tamil Nadu District Municipalities Act, 1920 and the Constitution (Scheduled Castes) Order, 1950, the 4th respondent, who is professing Christianity shall not be deemed to be a member of a Scheduled Caste Community, the writ petitioner sought to pass appropriate orders in respect of the disqualification of the 4th respondent under the aforesaid provisions vide representation, dated 17.04.2023. However, even after receipt of the same, nothing transpired positively and hence, this Writ Petition.

8.The 4th respondent has filed a counter affidavit stating that, though she belong to Hindu Pallar community, which is recognized as Scheduled Caste, she contested in Ward 2, which was reserved for women (general), where her relatives, family and friends, were residing in majority and got elected. However, since the post of Chairman of Theroor Town Panchayat was reserved for Scheduled Caste (general), she submitted her nomination along with the writ petitioner for the post of Chairman. The 4th respondent scored 9 votes out of the total 15 ward members and was elected as Chairman on 04.03.2022 to the Theroor Town Panchayat.

9.Aggrieved by the same, the writ petitioner filed a Writ Petition in W.P.(MD)No.3874 of 2024, seeking to direct the respondents 1 to 3 to scrutinize the community certificate issued to the 4th respondent as



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Scheduled Caste in No.154997 as issued by the Tahsildar, Palayamkottai, dated 26.06.2000 and cancel the same, based on the petitioner's application dated 15.12.2023, within a time frame. This Court was pleased to dispose of the same on 21.02.2024, by directing the 1st respondent to consider the representation of the petitioner dated 15.12.2023 and pass appropriate orders on merits in accordance with law within a period of 12 weeks from the date of receipt of copy of the said order, after conducting an inquiry as per the guidelines issued by the Government and providing opportunity of hearing to the petitioner and the 4th respondent.

10.Without initiating the election petition before the Election Tribunal, the petitioner had approached this Court, challenging the resolution No.2, dated 04.03.2023, by which the 4th respondent was declared as elected to the post of Chairman of Theroor Town Panchayat, however the same was withdrawn on 03.03.2022, with the liberty to file the election Petition. Even after that, failing to prefer an Election Petition before the learned Tribunal, the petitioner had filed this Petition after the lapse of statutory limitation period, for preferring an election Petition.

11.As far as the contention of the writ petitioner that, the 4th respondent has converted to Christianity, she categorically claimed that though her marriage was solemnized on 27.10.2005 at St. Antony Church



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at Kulasekaramputhoo, she had never converted to Christianity. She was born in a Hindu Pallan family to Hindu Pallan parents and she continues to follow Hinduism even after her marriage though her marriage was conducted as per Christian rites and customs.

12.Relying upon the Canon Law in Canon 1059, she categorically pleaded that there is no bar to conduct a marriage at a Roman Catholic Church as her husband being a Roman Catholic Christian and her being a Hindu and the question of either conversion to Christianity or renunciation of Hinduism will never arise. It is also contended that obtaining the community certificate to the 4th respondent's daughters as Christians does not mean that the 4th respondent had abandoned her original faith to which she was born and conduct of first holy communion ceremony and community certificate of the 4th respondent's kids do not mean that she had converted to Christianity. Categorically contending that, she is not at all professing Christianity and she continues to be a Hindu even after marriage for almost two decades, she had made it clear that she did not misuse her community certificate as alleged by the petitioner and sought for dismissal of the Writ Petition.

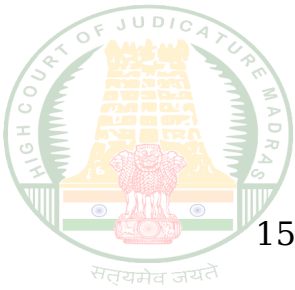
13.It is also pointed out in paragraph 13 of the said counter affidavit that by virtue of the Order dated 21.04.2024 passed by this Court in W.P.(MD)No.3874 of 2024, the District Level Vigilance



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Committee for scrutinizing the community certificates, Tirunelveli, conducted a full scale enquiry. Based on the enquiry, the committee issued order dated 20.05.2024, vide proceedings No.H1/DADTNV/24/2024, in which the committee determined that Hindu Pallan (SC) certificate No.787/2000 issued to Mrs.Amudha Rani is valid. The petitioner has also challenged the said proceedings before this Court in W.P.(MD)No.2785 of 2024 and the same is also pending.

14.The third respondent has also filed a counter affidavit submitting that, the petitioner earlier claimed that the candidates converted to Christianity are not eligible to contest for the post of Chairman reserved for Scheduled Caste and are liable to be disqualified. The returning officer afforded opportunity to both the parties and conducted enquiry. The fourth respondent duly produced her caste certificate before the returning officer and reiterated that she belong to Scheduled Caste. The caste certificate dated 26.06.2000, was issued by the Tahsildar, Palayamkottai. The election officer sent a communication to the Tahsildar concerned to verify the genuineness of the community certificate. Though no reply was received from the Tahsildar, the election officer found that the competent authority has issued her with the caste certificate and that her nomination form was also in order and hence, the nomination of the fourth respondent was accepted.

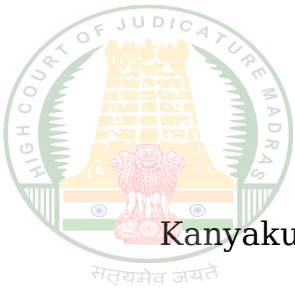


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15.The further contention raised in the 3rd respondent's counter affidavit is that, an indirect election for the post of Chairman was held on 04.03.2022, in the presence of all the 15 elected ward members. The returning officer conducted the indirect election as there was required quorum and totally 9 members cast their votes in favour of the fourth respondent and the rest of 6 members abstained from voting and hence, the fourth respondent was declared as winning candidate by the returning officer for the post of Chairman of the Theroor Town Panchayat. Consequently, the fourth respondent was sworn-in, continues to perform as the elected Chairman of the said town panchayat.

16.Claiming that the petitioner cannot challenge the qualification of the fourth respondent's caste status without challenging the community certificate issued by the competent authority in favour of the fourth respondent and that only because of the reason that the said community certificate was issued by the appropriate authority, after duly scrutinizing her community certificate, her election was upheld, it was prayed in the third respondent's counter affidavit to dismiss the Writ Petition.

17.The learned Senior Counsel appearing for the writ petitioner claimed that, the fourth respondent married her husband Thiru.V.Vincent, at the Mount Carmel Church, at Ramapuram, Theroor,



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Kanyakumari district, which was denied by the fourth respondent stating that the marriage with her husband was conducted at St.Antony's Church, Kulasekaramputhoo. Though the Parish Priest, Mount Carmel Church, Ramapuram, has been impleaded as the fifth respondent, he neither appeared in person nor through a counsel. Hence, on 28.11.2024, this Court *suo motu* impleaded the Inspector of Police, Sucindram Police Station, as the sixth respondent and the sixth respondent was directed to produce the complete details and marriage records pertaining to the marriage between Thiru.V.Vincent and the fourth respondent, which was held on 27.10.2005, along with the details of the baptism records of Mrs.V.Amudha Rani, and the case was adjourned further to 06.12.2024.

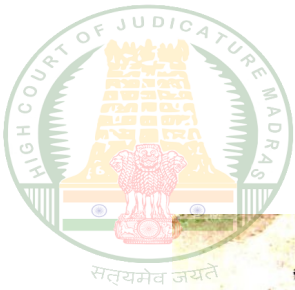
18.The sixth respondent reported on 06.12.2024 expressing his inability to get the details of the fourth respondent's marriage and baptism from the fifth respondent and further submitted that the marriage between the fourth respondent and her husband was conducted only in the Roman Catholic Church, at Kulasekaramputhoo. In view of the same, this Court *suo motu* impleaded the Parish Priest, RC Church, Kulasekaramputhoo, Kanyakumari district, as the seventh respondent on 06.12.2024 and required the sixth respondent to facilitate the appearance of the respondents 5 and 7 before this Court with all documents pertaining to the marriage and baptism of Thiru.V.Vincent and Mrs.V.Amudha Rani and adjourned the matter to 11.12.2024.



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19. On 11.12.2024, the fifth respondent, that is, the Parish Priest of the Ramapuram Roman Catholic Church, namely, Rev. Father Anbarasan, son of Thiru. Amburose, appeared before this Court and also filed an affidavit and the relevant portion of the same is extracted as follows:-



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AFFIDAVIT FROM PRIEST

1, Fr. Anbarasan son of Mr. Amburose solemnly affirm and declare that:

The marriage between Mr. Vincent son of Mr. Antony (Anthony) and Mrs. Pushpam from Kulasekaranputhooor and Ms. Amutha Rany D/O Mr. Velayutham and Mrs. Saraswathy from Vannarpettai have been solemnized under Catholic Latin rite at St. Antony's Church, Kulasekaranputhooor by Rev. Fr. Wenceslaus on 27.10.2005. the witnesses were Mr. Gnansekar and Mr. philomina



Fr. Anbarasan
DEPONENT

Verification:

In the above-named deponent do hereby solemnly affirm and declare that that above statement is true and correct statement to the best of my knowledge, belief and nothing has been concealed there from.



Fr. Anbarasan
DEPONENT

Explanation

The Code of Canon Law permits the priests and religious of the Catholic Faith to solemnize the marriages of the people of God

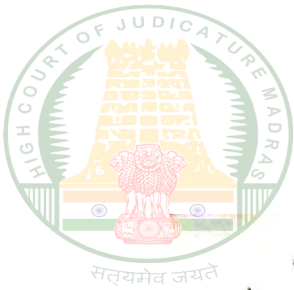
In an ordinary circumstance the marriage is blessed between two Catholic Faithful

And between a catholic and non - catholic Christian

(It is an Extract from Code of Canon Law (page 273) TITLE VII: MARRIAGE

Can. 1055 §1 The marriage covenant, by which a man and a woman establish between themselves a partnership of their whole life, and which of its own very nature is ordered to the well-being of the spouses and to the procreation and upbringing of children, has, between the baptised, been raised by Christ the Lord to the dignity of a sacrament.

§2 Consequently, a valid marriage contract cannot exist between baptised persons without its being by that very fact a sacrament.



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In an extra-ordinary circumstance the marriage is blessed between a Catholic Faithful (Baptised Person) and a non Christian (non-Baptised)

Can. 1086 §1 A marriage is invalid when one of the two persons was baptised in the catholic Church or received into it and has not by a formal act defected from it, and the other was not baptised.

§2 This impediment is not to be dispensed unless the conditions mentioned in Cann. 1125 and 1126 have been fulfilled.

Can. 1125 The local Ordinary can grant this permission if there is a just and reasonable cause. He is not to grant it unless the following conditions are fulfilled:

1° the catholic party is to declare that he or she is prepared to remove dangers of defecting from the faith, and is to make a sincere promise to do all in his or her power in order that all the children be baptised and brought up in the catholic Church;

2° the other party is to be informed in good time of these promises to be made by the catholic party, so that it is certain that he or she is truly aware of the promise and of the obligation of the catholic party;

3° both parties are to be instructed about the purposes and essential properties of marriage, which are not to be excluded by either contractant.

Can. 1126 It is for the Bishops' Conference to prescribe the manner in which these declarations and promises, which are always required, are to be made, and to determine how they are to be established in the external forum, and how the non-catholic party is to be informed of them.

The Procedure Before Marriage

In order to arrive at a conclusion we need to look into the procedure of a catholic Marriage

- a) In an ordinary circumstance the catholic person meets his/her Parish Priest and seeks his help for the procedure before marriage. These days the person seeks the help of priest for his marriage is send for a training which is given by the diocese and comes back with a certificate after the completion of the training.
- b) He / She will fill up the form which is known as Pre-nuptial Enquiry in which the parties sign stating the form is being filled with the full knowledge and true.
- c) The priest then writes to the other partner's (person a) parish priest to publish the Banns in the church as well as the priest is expected to write back a letter



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- seeking to publish the Banns at the partner's (person b) Church. The Banns are to be Published on Sundays and on important feast days (eg: Christmas)
- d) After three Sundays of publication of three Banns the priest writes an important "Permit Letter" to the parish priest of the church in which the marriage is to be blessed.
 - e) This marriage will take place within the Holy Mass. In procedure of the marriage ceremony, they will express their whole hearted Consent.
 - f) Once the holy mass comes to the conclusion the priest registers the marriage receiving the signatures of groom and bride and two witnesses in the marriage register which is in his custody.
 - g) there are 11 columns in the marriage register
 - h) in which 8th column has a title Canonical Impediments dispensed
- in an ordinary circumstance the fore-mentioned methods are followed (a to f). When this procedure followed, we register in the 8th column the number of Banns published during the process of the marriage.

Kindly Note: this is the only and strictly followed methodology for the baptised Christian Marriage. There will be none other way, the marriage between two baptised take place. Hence the eight column is self-evident with the number stating that there were **three Banns published** and I can state that this person (Amutha Rany) is baptized and followed the ordinary circumstances.

If the marriage is taken place in an extra-ordinary circumstance (marriage between a Baptised and a non-Christian) the Banns will not be published, and the parties should get dispensation from the Bishop. If they had obtained dispensation from the Bishop, there in the Marriage register it will be Notified stating that all the three Banns dispensed as mentioned in the third marriage registered in the same page of the Marriage register Submitted to the Court.

Let there be light, let there be Truth, let the Justice prevail



Yours truly

Fr. Anbarasan



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20.The learned Additional Advocate General appearing for the respondents 1, 2, 3 placed before me a Communication dated 04.12.2024, issued by the Treasurer of the seventh respondent, Roman Catholic Church, and the same is extracted as follows:-

 பங்கு இருப்பணிப் பேரவை புனித அந்தோணியார் ஆலயம், குலசேகரன்புதூர் - 629 302. கோட்டாறு மறைமாவட்டம்.			
கணவர் அருட்சுமணி G. ஸர்க்கோணி ரங்கசுந்தரன்	காணவர், தலைவர் இரு. தே. அழகுநாமி	செயலாளர் திருமதி A. ராணி	மொத்தாளர் திரு. F. ஜான் கென்னடி

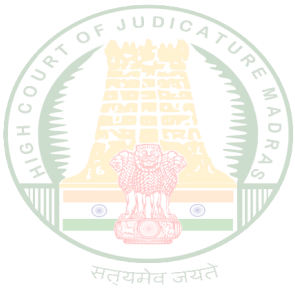
தேதி 2/12/24

நான் குலசேகரன்புதூர் புனித அந்தோணியார் தேவாலயத்தில் பங்குப்பேரவை பொருளாளராக உள்ளேன். எங்களது தேவாலயத்தில் 27.10.2005 அன்று வின்சென்ட் மற்றும் அமுதாராணி ஆகியோருக்கு திருமணம் கிறித்துவ முறைப்படி நடைபெற்றது. மணமகன் மற்றும் மணமகள் ஆகிய இருவரும் ஞானஸ்நானம் பெற்ற கிறித்தவர்களாக இருந்தால் மட்டுமே தேவாலயத்தில் திருமணம் செய்து வைக்கப்படும். இருவரில் ஒருவர் ஞானஸ்நானம் பெறாதவராக இருந்தால் பிஷ்ப் அவர்களிடம் சிறப்பு அனுமதி பெற்ற பின்னரே திருமணம் செய்து வைக்கப்படும். ஆனால் எந்தவித சிறப்பு அனுமதியும் பெறவில்லை. அமுதாராணி என்பவர் எந்த அபிவிருத்தும் தாக்கல் செய்யவில்லை.

வின்சென்ட் மற்றும் அமுதா ராணி ஆகியோருக்கு இருவரும் ஞானஸ்நானம் பெற்ற கிறித்தவர்கள் என்பதால் அவர்களது திருமணம் நடத்தி வைக்கப்பட்டது. மேலும் 2022-ம் ஆண்டு அவர்களின் இரு குழந்தைகளுக்கும் தேவாலயத்தில் புதுநன்மை விழா நடைபெற்றது. அமுதா ராணி கடந்த 1 வருடத்துக்கு முன்பு வரை தொடர்ந்து தேவாலய வழிபாடுகளில் பங்கேற்று வந்தார். தற்போது வரை கிறித்தவ சின்னமான சிலுவைத் தாலி அணிந்து கிறித்தவராகவே வாழ்ந்து வருகிறார்.

இப்படிக்கு,

Dr. Ramesh S. S.



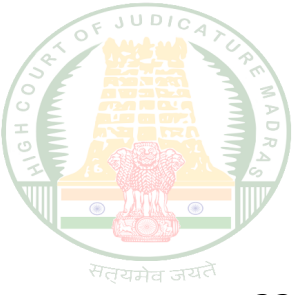
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21.The learned Additional Advocate General placed before me the marriage register for Indian Christian marriages solemnized at Kulasekaramputhooor and Ramapuram Roman Catholic Churches and the page concerned with respect to the fourth respondent's marriage is extracted as follows:-

INDIAN CHRISTIAN MARRIAGES, Solemnized at							I. C. M. Act 7-202-6-9-51			
Date and Place arranged at (1)	Names of parties Christian name and surname (2)	Age (3)	Catholic Baptism (4)	Residence at the time of marriage (5)	Parent's name and surname (6)	Consent dispensed or not (7)	Signature of the parties (8)	Signature of two or more witnesses present (9)	Signature of the Minister by whom the ceremony was performed (10)	
31-8-05 Ramapuram	Amaladas Margarita Alice Violet	31 29	Madras Madras Vellachy	K. S. S. S. S. M. S. S. S. S. M. S. S. S. S.	Michael M. S. S. S. S. M. S. S. S. S.	3 3 3	<i>[Signature]</i> <i>[Signature]</i> <i>[Signature]</i>	<i>[Signature]</i> <i>[Signature]</i> <i>[Signature]</i>	<i>[Signature]</i> <i>[Signature]</i> <i>[Signature]</i>	
27-10-05 K. P. P. P.	V. Vincent Amaladas Rany	31 20	K. P. P. P. V. Vincent	Amaladas P. P. P. P. V. Vincent	Michael M. S. S. S. S. M. S. S. S. S.	3 3 3	<i>[Signature]</i> <i>[Signature]</i> <i>[Signature]</i>	<i>[Signature]</i> <i>[Signature]</i> <i>[Signature]</i>	<i>[Signature]</i> <i>[Signature]</i> <i>[Signature]</i>	
10-11-05 Ramapuram	Carmel Ray Lilly P. P. P. P.	31 29	Ramapuram V. Vincent	Amaladas P. P. P. P. V. Vincent	Michael M. S. S. S. S. M. S. S. S. S.	3 3 3	<i>[Signature]</i> <i>[Signature]</i> <i>[Signature]</i>	<i>[Signature]</i> <i>[Signature]</i> <i>[Signature]</i>	<i>[Signature]</i> <i>[Signature]</i> <i>[Signature]</i>	
20-1-06 Ramapuram	Gerald Anthony Mary Janis	32 25	Ramapuram Kovilpatty	Amaladas Amaladas Devasahay	Michael M. S. S. S. S. M. S. S. S. S.	3 3 3	<i>[Signature]</i> <i>[Signature]</i> <i>[Signature]</i>	<i>[Signature]</i> <i>[Signature]</i> <i>[Signature]</i>	<i>[Signature]</i> <i>[Signature]</i> <i>[Signature]</i>	

do, hereby certify that the foregoing returns are true and faithful copies of all entries of Marriages of Indian Christians, registered in the Register Book for such Marriage kept at 19
Witnes my hand
Catholic Priest



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22.The baptism register of Kulasekaramputhoo R.C. Diocese of Kottar, was also placed before me and page 12 of the baptism register would reveal that the fourth respondent's daughters, V.Nandana and V.Nitharsana, were registered as registered Nos.2 of 2022 and 3 of 2023 and the same is extracted as follows:-



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12

BAPTISM REGISTER

R.C. Diocese of Kottar

Parish KULESEKERANPUTHUR

Reg. No. 02. 2022

Name: NANTHANA V.

Gender: FEMALE

Father: A. VINCENT

Mother: AMUTHA RANI

Place of Birth: KULESEKERANPUTHUR

Place of Baptism: KULESEKERANPUTHUR

Date of Birth: 17.08.2006

Dated of Baptism: 14.05.2007

Parish: KULESEKERANPUTHUR

Parish of Baptism: RAMAPURAM

God-Parents: M. ROSARY

Minister: FR. C.M. WENCESLANS

Details from the Register
at Ramapuram

Confirmation: Date:

Place:

Marriage: Spouse:

Date: Place:

Ordination: Date:

Place:

Religious Profession: Date:

Place:

Declaration of Nullity of Marriages: Date:

Tribunal:

Other details if any:

First Communion
On 02.01.2022
KULESEKERANPUTHUR

Signature of the Parish Priest

Reg. No. 03. 2022

Name: V. NETHARSANA

Gender: FEMALE

Father: A. VINCENT

Mother: AMUTHA RANI

Place of Birth: KULESEKERANPUTHUR

Place of Baptism: KULESEKERANPUTHUR

Date of Birth: 02.10.2009

Dated of Baptism: 29.12.2013

Parish: Ramapuram

Parish of Baptism: RAMAPURAM

God-Parents: PETER
STELLA

Minister: FR. BASSEANOR

Details from the Register
at Ramapuram

Confirmation: Date:

Place:

Marriage: Spouse:

Date: Place:

Ordination: Date:

Place:

Religious Profession: Date:

Place:

Declaration of Nullity of Marriages: Date:

Tribunal:

Other details if any:

First Communion
On 02.01.2022
KULESEKERANPUTHUR

Signature of the Parish Priest



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Arguments:-

23.The learned Senior Counsel appearing for the petitioner submitted that the fourth respondent contested from Ward 2, which was reserved for women (general) and was elected. It is not the case that she contested in a ward which was reserved for Scheduled Caste. He further pointed out that though she originally belonged to Hindu Pallan, a Scheduled Caste community, in view of her marriage with one Thiru.V.Vincent, after getting converted to Christianity as solemnized on 27.10.2005, would occlude her right to claim the benefit of reservation given for the Scheduled Caste.

24.Having contested and won from a general Ward reserved for women, later when she submitted her nomination for the post of Chairman of Theroor Town Panchayat, which was reserved for Scheduled Caste (general), the returning officer ought not to have accepted her nomination for the said post. The pertinent admissions made by her in her counter affidavit that her marriage was held at St.Antony Church, Kulasekaramputhooor, and that the community certificate of her daughters revealing that they hail from Backward Class community and the conduct of first holy communion ceremony of her daughters at St.Antony Church, Kulasekaramputhooor, will go against her claim that she continue to be a Hindu by practice and she had never abandoned her



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original religion Hinduism and her status as a Scheduled Caste. All her claims that she is regularly paying membership tax to the temple of Kalapermal Swami, Kulasekaramputhor, is a vile attempt to save her head, which would not come to her rescue.

25.The learned Senior Counsel categorically submitted that the conversion to Christianity, which does not accept caste system would automatically result in relinquishing one's caste and obviously, there is a loss of caste on conversion. He further pointed out that the fourth respondent exhibits her actions and her behavior as to her clear intention of full-fledgedly accepting the new religion at her own volition without any persuasion and committing her to the conduct of a Christian marriage with Thiru.V.Vincent according to the Christian rites and customs itself would suffice to prove that she had abjured her old order accepting her position to join the new caste/religion.

26.In the instant case, the fourth respondent had never re-converted to her original religion to which her parents and earlier generations belonged to and there is also no evidence of her acceptance to her old community and the baptism of her children and the issuance of a Backward Class community certificate to her daughters would be sufficient evidence to prove her continuance in the new order and on that basis, he pressed for allowing the Writ Petition.



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27.Per contra, the learned counsel appearing for the fourth respondent submitted that the fourth respondent was born to Hindu Pallan parents and the fact that she was given in marriage to Thiru.V.Vincent by her parents under the Christian rites and customs will not change her caste. He further insisted that her marriage was solemnized with the fourth respondent without converting herself into the religion of her husband. He categorically claimed that she was not at all baptized at any point of time and the respondents more particularly 1, 2, 3, 5 and 7 have miserably failed to produce her baptism certificate only because of the fact that she was not at all baptized. Hence, the question of her converting into Christianity will never arise and she continue to be a Hindu Pallan by following the various forms of worship undertaken by the Hindu Pallan community.

28.Pointing out the paper book filed on behalf of the fourth respondent, he relied upon a certificate issued by the Hamlet president of Hindu Nadar community, Kulasekaramputhooor dated 02.05.2024, certifying that the fourth respondent wife of Thiru.V.Vincent belonged to their community and she has been participating in all the pujas and rituals, which is conducted in Sri Kalaperumal Swamy temple. He also pointed out that the fourth respondent has been paying all the temple vari all along the 12 Tamil calendar months without fail. Relying upon the



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various photographs, which would show that the fourth respondent had participated in several temple festivals, he categorically contended that the question of conversion of the fourth respondent to Christianity will never arise.

29.Relying upon the judgment of the Hon'ble Apex Court in the case of ***Kailash Sonkar versus Maya Devi***¹, the learned counsel submitted that in a large area of South India and some of the North Eastern States, it is not unusual to find persons converted to Christianity retaining their original caste without violating the tenets of the new order, which is done as a matter of common practice existing from time immemorial and he also further submitted that in such category of cases, it is obvious that even if a person abjures his old religion and is converted to a new one, there is no loss of caste.

30.Relying upon the judgment passed by the Hon'ble Division Bench of this Court in the case of ***Dr.P.Munishwari v. the Secretary to Government, Adi Dravidar and Tribal Welfare Department, Secretariat, Chennai and others***², the learned counsel pointed out that even if the petitioner as a part of a family in case of accompanying her husband and children for Sunday masses, the said mere fact that a person going to church does not mean that such a person has altogether

¹ (1984) 2 Supreme Court Cases 91

² W.P.(MD)No.1037 of 2016, dated 27.09.2021



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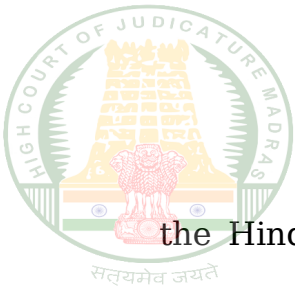
abandoned the original faith to which such person was born.

30.1. Even in the instant case, though the petitioner's husband is a Christian and her children are also baptized and are issued with a community certificate on the basis of the community of their father as Backward Christians, the same will not affect the socio-political caste status of the fourth respondent and she continue to be one from the caste of Scheduled Caste Pallan and pressed for dismissal of the Petition.

31. Interestingly, the learned Additional Advocate General **without going by the counter affidavit filed by the third respondent** had taken great efforts to bring the marriage register and the baptism register of the fourth respondent and that of her children and further argued against the case of the fourth respondent categorically contending that, the converts to Christianity from Scheduled Caste irrespective of generation of conversion would fall under the Backward Class category and pointed out that the Hon'ble Supreme Court in the case of ***C.Selvarani v. the Special Secretary cum District Collector and others***³, has confirmed the said proposition of law and on the basis of the said judgment, pressed for allowing the Writ Petition.

32. The learned Senior Counsel appearing for the petitioner placed before me a Communication from the Executive Committee member of

3 Civil Appeal arising out of S.L.P.(C)No.6728 of 2023 dated 26.11.2024

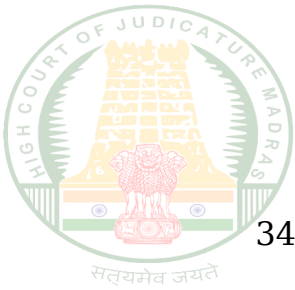


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the Hindu Nadar Committee Kulasekaramputhoo dated 04.12.2024, in which it has been categorically certified that the certificate produced by the fourth respondent claiming to be the member of Hindu Nadar Community Temple Committee of Kulasekaramputhoo is false and that the said Committee do not have any women as members and that the temple concerned do not collect any amount from its members and that the fourth respondent is not at all member of the Hindu Nadar Community and that neither the fourth respondent nor her husband have any connection to that temple and that they are Christians.

33.The learned counsel appearing for the fifth and seventh respondents submitted that, there is no bar for a Hindu to get married in a Roman Catholic Church with a Roman Catholic person under the Christian rites and customs even without getting baptized. He further submitted that all the religious activities of the Catholic Christians is administered by the Canon Law. The Canon 1059 in Canon Law speaks as follows:-

“Canon.1059 - Even if only one party is Catholic, the marriage of Catholic is governed not only by Divine Law but Canon Law, without prejudice to the competence of civil authority concerning the merely civil effects of the same marriage.”



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34.And he categorically contended that, the said Clause of the Canon Law is self evident to prove the fact that there is no bar to conduct a marriage in a Roman Catholic Church between a non-baptized person hailing from another religion with a baptized Roman Catholic Christian and hence, the question of either conversion to Christianity or seizure of Hinduism as far as the fourth respondent will not arise.

35.Anxiously heard the learned counsels on either sides and carefully perused the materials available on record.

Rule of law (legal matrix) :-

36.The crux of the *lis* in hand revolves around the election to the post of Chairman, Theroor Town Panchayat. The fourth respondent contested in the second ward of Theroor Town Panchayat, which was reserved for women (general) and got elected. Later, she filed nomination to the post of Chairman of the Theroor Town Panchayat, which was reserved for Scheduled Caste (general), claiming that she also belong to the Scheduled Caste community.

37.The Constitution of India under Part - XVI provides with special provisions relating to certain Clauses, in which Article 341 of the same deals with in “Scheduled Caste” and the same is extracted as follows:-

“341.Scheduled Castes.- (1)*The President [may with*



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*respect to any State [or Union Territory], and where it is State [***], after consultation with the Governor [***] thereof], by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State [or Union territory, as the case may be].*

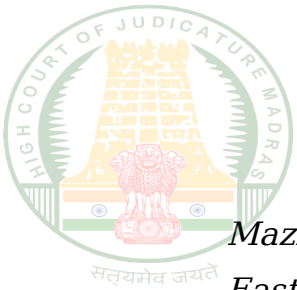
(2)Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.”

38.By exercising the powers conferred by Clause 1 of Article 341 of the Constitution of India, the President issued the Constitution (Scheduled Castes) Order, 1950 and Clauses 2 and 3 of the same is extracted as follows:-

“2.Subject to the provisions of this Order, the castes, races or tribes, or parts of, or groups within, castes or tribes, specified in Parts I to XVI of the Schedule of this Order shall, in relation to the States to which those Parts respectively relate, be deemed to be Scheduled Castes so far as regards members thereof resident in the localities specified in relation to them in those Parts of that schedule.

3.Notwithstanding anything, contained in paragraph 2, no person who professes a religion different from Hinduism shall be deemed to be a member of a Scheduled Caste.

Provided that every member of the Ramdasi, Kabirpanthi,

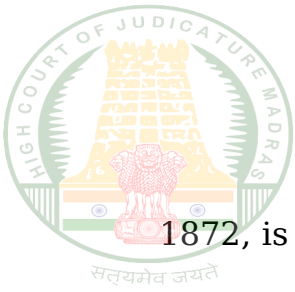


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Mazhabi or Sikligar caste resident in Punjab or the Patiala and East Punjab States Union shall, in relation to that State, be deemed to be a member of the Scheduled Castes whether he professes the Hindu or the Sikh religion."

39.The fourth respondent is born in the Hindu Pallan Scheduled Caste community and the same is specified in Part 5 serial No.58 of the schedule to the Constitution (Scheduled Castes) Order, 1950. A conjoint reading of Article 341 of the Constitution of India along with Clause 2 and 3 of the Constitution (Scheduled Castes) Order, 1950, makes it clear that only those caste which have been mentioned in the schedule appended to the Schedule Castes Order, 1950, shall be deemed to be Scheduled Caste and it is needless to state that no person who profess a religion different from Hinduism shall be deemed to be a member of a Scheduled Caste.

40.In the instant case, having born to the parents who hail from the Scheduled Caste community, namely, Hindu Pallan, the fourth respondent had solemnized her marriage in the presence of her family members and elders with her husband Thiru.V.Vincent, according to Christian rites and customs at St.Antony's Roman Catholic Church, at Kulashekaramputhoor. The relevant Act, which deals with the marriages of persons professing the Christian religion is the Indian Christian Marriage Act, 1872. Section 4 of the Indian Christian Marriage Act,



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1872, is extracted as follows:-

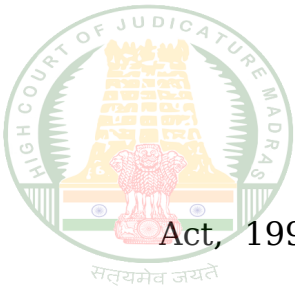
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“4.Marriages to be solemnized according to Act.-

*Every marriage between persons, **one or both of whom is [or are] a Christian or Christians**, shall be solemnized in accordance with the provisions of the next following section; and any such marriage solemnized otherwise than in accordance with such provisions shall be void.”*

41.A careful reading of the extracted provision of the Indian Christian Marriage Act, 1872, would enlighten on the aspect that a Christian marriage shall be solemnized in accordance with the provisions envisaged in Section 5 of the aforesaid Act between persons, one or both of whom is (or are) a Christian, or Christians. Hence, the marriage of the fourth respondent even if she is a person belonging to the Hindu Pallan Scheduled Caste community can be solemnized with a Christian in accordance with the provisions of Section 5 of the Indian Christian Marriage Act, 1872.

42.However, the secular law, which provides for marriage is the Special Marriage Act, 1954, and the same deals with the solemnization of marriages between any two persons under the said Act, irrespective of the religion and caste. The Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in the Educational Institutions and of Appointments or Posts in the Services under the State)



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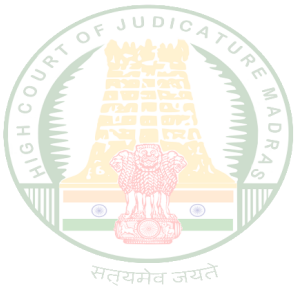
Act, 1993, (herein after to be mentioned as Act, 1993) provides for reservation in appointments or posts in the services under the State in Section 5 and the same is extracted as follows:-

“5.Reservation in appointments or posts in the services under the State.- (1)*Notwithstanding anything contained in any judgment, decree or order of any Court or other authority, having regard to the inadequate representation in the services under the State, of the Backward Classes of citizens and the persons belonging to the Scheduled Castes and the Scheduled Tribes, who constitute the majority of the total population of the State of Tamil Nadu, the reservation for appointments or posts in the service under the State, for the backward Classes of citizens and for the persons belonging to the Scheduled Castes and the Scheduled Tribes, shall be sixty-nine percent.*

Explanation.-For the purpose of this Act, “service under the State” includes the services under -

- (i)the Government;*
- (ii)the Legislature of the State;*
- (iii)any local authority;*
- (iv)any corporation or company owner or controlled by the Government; or*
- (v)any other authority in respect of which the State Legislature has power to make laws.*

(2) The reservation referred to in-sub-section (1) shall, in respect of the persons belonging to the Backward Classes, the Most Backward Classes and Denotified Communities, the Scheduled Castes and the Scheduled Tribes, be as hereunder :-



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(a) Backward Classes -. Thirty per cent.

(b) Most Backward Classes and Denotified Communities
-..... Twenty per cent.

(c) Scheduled Castes Eighteen per cent.

(d) Scheduled Tribes One per cent. ”

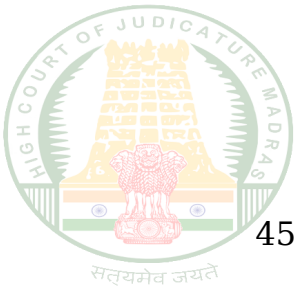
43. Section 3(f) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, defines the word 'Backward Classes' and the same is extracted as follows:-

“(f)'Backward Classes' means the communities specified as Backward Classes, backward Classes Muslims, Most Backward Classes and Denotified Communities in Parts A, B, C and D respectively, of Schedule – I.

Explanation: *Persons who belong to the State of Tamil Nadu alone, who belong to one of the communities specified in Schedule – I, shall be treated as persons belong to one of such communities.”*

44. Schedule I Part A of Tamil Nadu Government Servants (Conditions of Service) Act, 2016, provides for the list of backward classes and serial number 17 reads as follows:-

“17. Converts to Christianity from Scheduled Castes irrespective of the generation of conversion (except the Paravar converts Christianity of Kanniyakumari District and Shencottah Taluk of Tirunelveli District).”



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45. Section 3(11-A) of the Tamil Nadu District Municipalities Act, 1920, defines the term Indian Christian and the same reads as follows:-

*“[3(11-A) '**Indian Christian**' means a native of India who is or in good faith claims to be, of unmixed Asiatic descent and who professes any form of the Christian religion.]”*

46. Section 50(1)(ddd) of the Tamil Nadu district Municipalities Act, 1920, specifies:-

*“50. **Disqualification of Councillors** - (1) subject to the provisions of Section 51, [(Chairman) or a Councillor] [or a person referred to in clauses (b) and (c) of sub-section (2) of [Section 3 – C or clauses (a) and (b) of sub-section (2) of Section 3 – Q] or clauses (b) and (c) of sub-section (3) of Section 7] shall cease to hold his office, if he -*

[(ddd) does not belong to Scheduled Caste or Scheduled Tribe, but has been elected from the seat reserved for Scheduled Caste or Scheduled Tribe, as the case may be.]”

47. Section 184 of the Tamil Nadu Urban Local Bodies Act, 1998, reads as follows:-

*“184. **Chairperson, Deputy Chairperson, Councillor, Commissioner, Officer and employee to be public servants-** The Chairperson, Deputy Chairperson, Councillor, Commissioner and Officers and employees of the municipality who are entrusted with the execution of any function under this Act acting or purporting to act in pursuance of any of the provisions of this Act, or the rules or the bye-laws or the regulations made*



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thereunder shall be **deemed to be public servants** within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).”

Application of the relevant laws to the facts in issue (Analysis):-

48.Despite being a secular country, India has recognized the co-existence of the multiple personal laws of all its diverse population. More particularly, the personal laws in India deals with the various aspects of personal life such as marriage, divorce, maintenance, succession, guardianship, etc. Based on the various theologies, the personal laws differ from religion to religion. The jurisprudential framework of India, as a sovereign, socialist, secular, democratic republic, has effortlessly retained almost all the personal laws of its vast diverse population, marking the significance of legal pluralism and preserving its socio-cultural diversity. Within the prevailing framework of the plural personal laws, marriages are commonly solemnized among the citizens of this Nation in accordance with their respective personal laws.

49.Article 25 of the Constitution of India guarantees that all persons are equally entitled to freedom of conscience and the right to freely profess, practice and propagate religion. As guaranteed by our Constitution, all persons equally have the right to freely profess and practice any religion of their choice voluntarily and hence, the right to



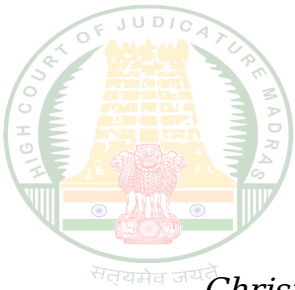
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convert to another religion by solemnization of a marriage with a person professing another religion is also protected under the Constitution of India. However, conversion by marriage imports as many bottlenecks in the process, posturing significant challenges to the parties concerned as far as their right of succession and socio-political identity are concerned.

50. Other than the Tamil Nadu District Municipality Act, 1920, which came to be repealed by the implementation of the Tamil Nadu Urban Local Bodies Act, 1998, the term Indian Christian is not defined in any other Act, however, the same finds its place in Clause 3 of the Government of India (Schedule Castes) Order, 1936, which reads that no Indian Christian shall be deemed to be a member of a Scheduled Caste. Further, Clause 4 of the same elaborates that the expression “Indian Christian” has the same meaning as it has for the purposes of Part 1 of the first schedule to the Government of India Act, 1935. An Indian Christian as defined in Part 1 of the First Schedule to the Government of India Act, 1935, reads:

“An Indian Christian” means a person who professes any form of the Christian religion and is not an European or an Anglo-Indian.”

51. However, the Indian Christian Marriage Act, 1872, defines the word “**Christian**” in Section 3 as follows:-



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"The expression "Christian" means persons professing the Christian religion;

[and the expression "Indian Christians" includes the Christian descendants of natives of India converted to Christianity, as well as such converts;]".

52.The claim of the writ petitioner is that, the fourth respondent though born to parents of Hindu Pallan Schedule Caste community, her marriage, which was solemnized with a baptized Christian, under the Christian rites and customs, will take away her social caste identity as Scheduled Caste, since her personality will be automatically merged with that of her husband as a Christian.

53.The doctrine of merger of personality of a married woman with that of the personality of her husband was a significant feature of the English Common Law. On tracing the historical background of "doctrine of merger", by which a married woman's personality gets subsumed with that of her husband's personality, certain light was thrown by *Halsbury's Laws of England, Fourth Edition*⁴, in paragraph nos.1012, 1013, 1014 and 1018, the relevant portion of which is extracted as follows:-

'1012.Former rules of common law and equity . By the rules of common law, husband and wife were regarded as one

4 22
Hire Purchase and Consumer Credit
Housing
Husband and Wife



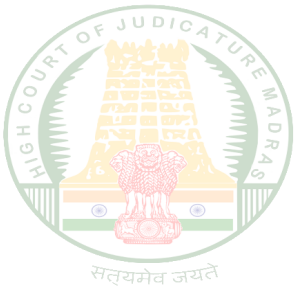
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person in that, during the marriage, the wife's legal existence was treated as incorporated or merged into that of the husband, and from this it followed that, in general, a married woman was incapable of acquiring enjoying or alienating, independently of her husband, any real or personal property.

1013.Statutory provision. As a result of various developments in the law, a married woman now ranks as regards her proprietary rights as a person wholly separate from her husband, notwithstanding the old common law rules. The first statutory change was made in 1857, but both this and subsequent Acts before 1883 were of limited scope. On and after 1st January 1883, however, a married woman was capable of acquiring, holding and disposing by will or otherwise of any real or personal property as her separate property as if she were a feme sole.....

A married women is now in the same position as regards the acquisition, holding and disposition of property as a feme sole. The restraint on anticipation has been completely abolished.....

1014.Modern law. A married woman is capable of acquiring, holding and disposing of any property in all respects as if she were a feme sole. All property which immediately before 2nd August 1935 was the separate property of a married woman or was then held for her separate use in equity, and all property belonging, at the time of her marriage, to a woman married on or after that date, or acquired by or devolving upon a married woman on or after that date, belongs to her in all respects as if she were a feme sole and may be disposed of accordingly.....

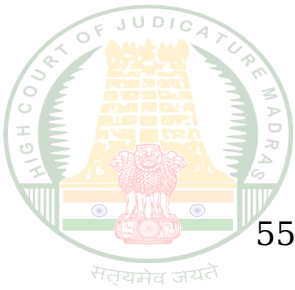


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1018.Assumption by wife of husband's name. *When a woman on her marriage assumes, as she usually does in England and Wales, her husband's surname in substitution for her father's surname, it may be said that she acquires a new name by repute. The change of name is in fact, rather than in law, a consequence of the marriage. Having assumed her husband's name, she retains it notwithstanding the dissolution of annulment assumed her husband's name, she retained it notwithstanding the dissolution or annulment of the marriage unless she then chooses to resume her maiden name or acquires another name by reputation. On her second marriage there is nothing in law to prevent her from retaining her first husband's name."*

54.Volume 22 of the Fourth Edition of the Halsbury's Laws of England on the topic husband and wife explains that, on marriage the legal identity of a woman get merged with that of her husband taking away her right to own property as a feme sole, which precisely means that the legal status and property rights of the married woman is restricted under the common law, since her legal entity had merged with her husband on marriage. However, as a result of the various developments in the field of law, the first statutory change was made in 1857 by the enactment of the Matrimonial Causes Act, 1857, which was later repealed by the implementation of the Married Women's Property Act, 1870.



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55.The aforesaid Act was also later repealed by the enforcement of the Married Women's Property Act, 1882 and after 1st January 1883, that is, from the date of commencement of the Married Women's Property Act, 1882, a married woman was capable of acquiring, holding and disposing by will or otherwise of any real or personal property as her separate property as if she were a feme sole (unmarried). Presently, the personal, proprietary and possessory rights of married women are dealt with by the Law Reform (Married Women and Tort Feasers) Act, 1935 in United Kingdom by which a married woman is capable of acquiring holding and disposing of any property in all respects as if she were a feme sole.

56.Precisely, the doctrine of merger has become outdated in United Kingdom by the march of law. However, unlike the march of law in United Kingdom, in India, there is no way for law reforms in the area of personal laws and the personal proprietary and possessory rights of the Indian women are continued to be dealt with by their respective personal laws.

57.In the case in hand, it is needless to state that the fourth respondent was born to the parents belonging to Hindu Pallan Scheduled Caste community. In the background of her marriage being solemnized with one Thiru.V.Vincent, who is a baptized Roman Catholic at



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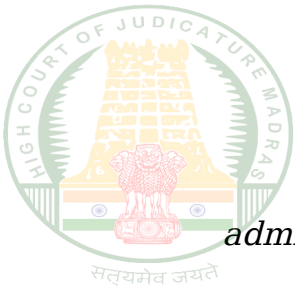
St. Anthony's Church at Kulasekaranputhooor, Ramapuram, Parish, Kottar Diocese, the question as to her socio-political identity of her personality, as to whether she is one from Scheduled Caste or that one from a converted Christian Backward Class need to be decided.

58. The writ petitioner claims that, the fourth respondent has converted herself by baptizing in accordance with Christian rites and customs before her marriage. The seventh respondent has duly produced the marriage register and the baptism register with respect to the marriage of the 4th respondent and the baptism of her children conducted at St. Anthony's Church, Kulasekaranputhooor, respectively.

59. A careful perusal of the marriage register, more particularly, in eighth column, reveal the number of banns published during the process of marriage, a procedure followed before marriage by the Parish concerned with respect to the solemnization of marriage between baptized Christians.

60. Volume 11, second edition of Halsbury's Laws of England on Dominions, Colonies, Possessions, Protectorates and Mandated Territories/Easements and Profits À Prendre/Ecclesiastical Law in page 806, para 1469 deals with baptism and the same reads as follows:-

"1469. Baptism is the sacrament by which a person is



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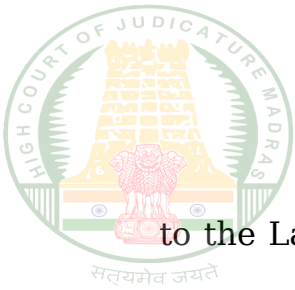
admitted into the Church of Christ (b)."

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61.Thus, it is clear that by baptism, a person is admitted into the Church of Christ. As revealed by column 8 of the marriage register with respect to the marriage of the fourth respondent with her husband Thiru.V.Vincent, it is clear that the procedure of banns was published thrice and that will be self-evident to prove that the petitioner, the fourth respondent was duly baptized and she was admitted at St.Antony's Church of Christ, Ramapuram Parish, Diocese of Kottar.

62.However, the fourth respondent categorically denies that she was baptized and she categorically submitted that she consented and solemnized her marriage with Thiru.V.Vincent according to Christian rites and customs without getting baptized and without converting herself into Christianity. Even assuming her submission as true that she did not undergo baptism and that her marriage was conducted according to the Christian rites and customs with a Roman Catholic without converting into the said order of Christianity, it is necessary to derive a candid conclusion as to her socio-legal identity of her personality.

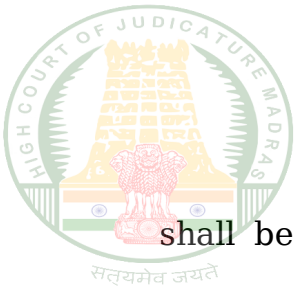
63.When a woman gets married, she assumes her husband's surname in substitution for her father's surname and the change of name is in fact a consequence of the marriage. In the absence of any law akin



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to the Law Reform (Married Women and Tort Feasers) Act, 1935, in UK, the personality of Indian women governed by their respective personal laws gets merged with that of the personality of her husband. Though Article 44 of the Constitution of India insists for the enactment of an Uniform Civil Code for the citizens of India, in the absence of the same, the status of a married women merges with that of her husband as a legal fiction. The Special Marriages Act, 1872, as drafted by Sir.Henry Maine, applies to all the citizens of India domiciled in the territories to which the said Act extends, irrespective of caste and creed, providing for solemnization of marriages between any two persons allowing secular marriages. And the same is a civil law by which the persons who enter into the ceremony of solemnizing a marriage do so without renouncing their respective religion.

64.Unlike the Special Marriage Act, neither the Hindu Marriage Act nor the Indian Christian Marriage Act, 1872, permits a civil marriage. The Hindu Marriage Act, 1955, is the law relating to the marriage among Hindus and the Indian Christian Marriage Act, 1872, is the law relating to the solemnization in India of the marriages of Christians. In view of the same, any marriage, which is solemnized under the Indian Christian Marriage Act, 1872, by in accordance to the provisions of Section 5 of the aforesaid Act, irrespective of the fact that one or both of the spouses is or are a Christian or Christians, the same



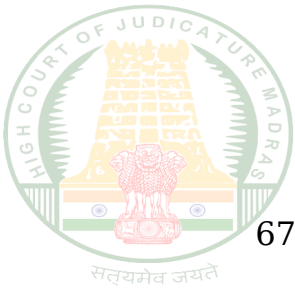
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shall be considered as one which is solemnized among the Christians alone.

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65.Hence, irrespective of the fact whether one of the spouse is baptized or not, whether one of the spouse who is not a Christian has converted herself to Christian or not, once voluntarily submitting oneself for the conduct of marriage under the Indian Christian Marriage Act, 1872, would precisely mean that the marriage has been conducted between two persons who profess the Christian religion for the purposes of the aforesaid Act.

66.Hence, in the instant case, though the factum of having baptized by the Ramapuram Parish is self-evident as far as the fourth respondent is concerned from her marriage register, even according to her, if at all she had never been baptized, she could be considered only as a Christian. Once a person submits voluntarily for the conduct of one's marriage under the Indian Christian Marriage Act, 1872, the said person could be considered a Christian thereafter and renunciation of their native religion is automatic. Submitting for the conduct of Christian marriage under the Indian Christian Marriage Act, 1872, would amount to deemed renunciation of native religion and conversion to Christianity for the purposes of the said Act.

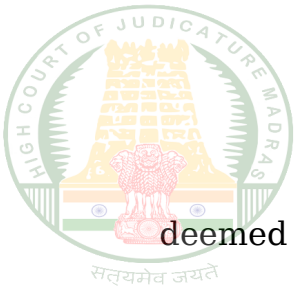


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67. Section 184 of the Tamil Nadu Urban Local Bodies Act, 1998, makes it clear that the Chairperson, Deputy Chairperson, Councillor, Commissioner, Officer and employees of municipalities to be public servants. Hence, the provisions with respect to reservations in appointments or posts in the services under the State as envisaged by the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of Seats in Educational Institutions and of Appointments or Posts in the Services under the State) Act, 1993, applicable in the case of reservation of elected candidates for the post of Chairman, Vice Chairman and Councillors for the urban local bodies as well. Section 2(38) of the Tamil Nadu Urban Local Bodies Act, 1998, defines the term “Scheduled Caste” as follows:-

“2(38) “Scheduled Castes” shall have the same meaning as defined in the Constitution;”

68. Article 341 of the Constitution of India as derived supra in paragraph 37 defines Scheduled Castes. Part 5 to the Schedule of the Constitution (Scheduled Castes) Order, 1950, in serial No.58 specifies the caste Pallan as Scheduled Caste in the state of Madras. The Tamil Nadu Government Servants (Conditions of Service) Act, 2016, in Section 3(w) defines Scheduled Caste as the communities mentioned in Part A of Schedule 2 and in explanation, it provides that no person who professes a religion different from Hinduism or Sikhism or Buddhism shall be



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deemed to be a member of a Scheduled Caste.

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69. Since the office of Chairman of Town Panchayats under the Tamil Nadu Urban Local Bodies Act, is clarified to be an office of public servants, the Schedule 1 serial No.17 to the head Backward Classes in Part A of Schedule 1 to the Tamil Nadu Government Servants (Conditions of Service) Act, 2016, is applicable to the fourth respondent as well. By voluntarily solemnizing her marriage in accordance with the provisions mandated in Section 5 of the Indian Christian Marriage Act, 1872, with a Roman Catholic Christian, the fourth respondent is a person who could be construed as one who professes Christianity by converting to Christianity from Scheduled Caste of Hindu Pallan.

70. The Hon'ble Apex Court in the case of ***C.Selvarani v. The Special Secretary cum District Collector and Others***⁵, has dealt with the social status of a scheduled caste convert in a matter of appointment and the relevant portion of the same is extracted as follows:-

“12.1. However, it is not evident from records, as to how the appellant was issued with a Scheduled caste community certificate earlier. But for the requirement under the Declaration in Sl. No 2 in the application for the post of UDC, the denova enquiry would not have happened. It is settled law that an illegality cannot be perpetuated. In this regard, it will be useful to refer to the following judgments of this Court, wherein

⁵ Civil Appeal No. of 2024 (arising out of S.L.P.(C)No.6728 of 2023



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it was held that the State was well within its power to take appropriate action, when it comes to its knowledge that a certificate was obtained by fraud.

(i) State of Maharashtra v. Ravi Prakash Babulalsing Parmar

“23. The makers of the Constitution laid emphasis on equality amongst citizens. The Constitution of India provides for protective discrimination and reservation so as to enable the disadvantaged group to come on the same platform as that of the forward community. If and when a person takes an undue advantage of the said beneficent provision of the Constitution by obtaining the benefits of reservation and other benefits provided under the Presidential Order although he is not entitled thereto, he not only plays a fraud on the society but in effect and substance plays a fraud on the Constitution. When, therefore, a certificate is granted to a person who is not otherwise entitled thereto, it is entirely incorrect to contend that the State shall be helpless spectator in the matter.”

(ii) Food Corporation of India v. Jagdish Balaram Bahira

“56. Service under the Union and the States, or for that matter under the instrumentalities of the State subserves a public purpose. These services are instruments of governance. Where the State embarks upon public employment, it is under the mandate of Articles 14 and 16 to follow the principle of equal opportunity. Affirmative action in our Constitution is part of the quest for substantive equality. Available resources and the opportunities provided in the form of public employment are in contemporary times short of demands and needs. Hence, the



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*procedure for selection, and the prescription of eligibility criteria has a significant public element in enabling the State to make a choice amongst competing claims. The selection of ineligible persons is a manifestation of a systemic failure and has a deleterious effect on good governance. Firstly, selection of a person who is not eligible allows someone who is ineligible to gain access to scarce public resources. Secondly, the rights of eligible persons are violated since a person who is not eligible for the post is selected. Thirdly, an illegality is perpetrated by bestowing benefits upon an imposter undeservingly. These effects upon good governance find a similar echo when a person who does not belong to a reserved category passes off as a member of that category and obtains admission to an educational institution. Those for whom the Constitution has made special provisions are as a result ousted when an imposter who does not belong to a reserved category is selected. The fraud on the Constitution precisely lies in this. Such a consequence must be avoided and stringent steps be taken by the Court to ensure that unjust claims of imposters are not protected in the exercise of the jurisdiction under Article 142. The nation cannot live on a lie. Courts play a vital institutional role in preserving the rule of law. The judicial process should not be allowed to be utilised to protect the unscrupulous and to preserve the benefits which have accrued to an imposter on the specious plea of equity. Once the legislature has stepped in, by enacting Maharashtra Act 23 of 2001, the power under Article 142 should not be exercised to defeat legislative prescription. The Constitution Bench in *State of Maharashtra v. Milind*, (2001) 1 SCC 4 : 2001 SCC (L&S) 117] spoke on 28-11-2000. The State law has been enforced from 18-10-2001. Judicial*



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directions must be consistent with law. Several decisions of two-Judge Benches noticed earlier, failed to take note of Maharashtra Act 23 of 2001. The directions which were issued under Article 142 were on the erroneous inarticulate premise that the area was unregulated by statute. Shalini [Shalini v. New English High School Assn., (2013) 16 SCC 526 : (2014) 3 SCC (L&S) 265] noted the statute but misconstrued it.”

14..... As noticed above, the evidence on hand is also against the appellant. Therefore, the contention raised on the side of the appellant that the caste would be under eclipse upon conversion and resumption of the caste upon reconversion, is unsustainable in the facts of the case. On this aspect, it would be useful to refer to the judgment of this Court in S. Rajagopal v. C.M. Armugam, in which, it was observed as under:

“16. We agree with the High Court that, when the appellant embraced Christianity in 1949, he lost the membership of the Adi Dravida Hindu caste. The Christian religion does not recognise any caste classifications. All Christians are treated as equals and there is no distinction between one Christian and another of the type that is recognised between members of different castes belonging to Hindu religion. In fact, caste system prevails only amongst Hindus or possibly in some religions closely allied to the Hindu religion like Sikhism. Christianity is prevalent not only in India but almost all over the world and nowhere does Christianity recognise caste division. The tenets of Christianity militate against persons professing Christian faith being divided or discriminated on the basis of any such classification as the caste system. It must, therefore, be held that, when the appellant got



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converted to Christianity in 1949, he ceased to belong to the Adi Dravida caste.

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17. In this connection, we may take notice of a decision of the Madras High Court in *G. Michael v. S. Venkateswaran, Additional Secretary to Government Public (Elections) Department, Madras* [AIR 1952 Mad 474] where that Court held:

“Christianity and Islam are religions prevalent not only in India but also in other countries in the world. We know that in other countries these religions do not recognise a system of castes as an integral part of their creed or tenets.”

Attention of that Court was drawn to the fact that there were several cases in which a member of one of the lower castes, who had been converted to Christianity, had continued not only to consider himself as still being a member of the caste, but had also been considered so by other members of the caste who had not been converted. Dealing with this aspect, the Court held:

“This is somewhat analogous to cases in which even after conversion certain families and groups continue to be governed by the law by which they were governed before they became converts. But these are all cases of exception and the general rule is conversion operates as an expulsion from the caste; in other words, a convert ceases to have any caste.”

In the present case, therefore, we agree with the finding of the High Court that the appellant, on conversion to Christianity, ceased to belong to the Adi Dravida caste and, consequently, the burden lay on the appellant to establish that, on his reverting to

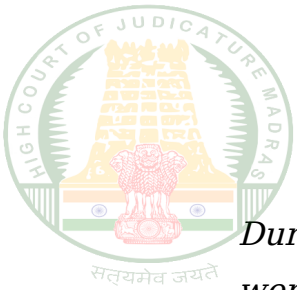


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the Hindu religion by professing it again, he also became once again a member of the Adi Dravida Hindu caste.

.....

21. Almost all these cases laid down the principle that, on reconversion to Hinduism, a person can become a member of the same caste in which he was born and to which he belonged before having been converted to another religion. The main basis of the decisions is that, if the members of the caste accept the reconversion of a person as a member, it should be held that he does become a member of that caste, even though he may have lost membership of that caste on conversion to another religion. In the present case, we do not consider it necessary to express any opinion on the general question whether, if a person is born in a particular caste and is converted to another religion as a result of which he loses the membership of that caste, he can again become a member of that caste on reconversion to Hinduism. That is a question which may have to be decided in any of the appeals that may be brought to this Court from the judgments of the Andhra Pradesh and the Madras High Courts referred to above. So far as the present case is concerned, we consider that, even if it be assumed that a reconvert can resume the membership of his previous caste, the facts established in the present case do not show that the appellant succeeded in doing so. All these cases proceed on the basis that, in order to resume membership of his previous caste, the person must be reconverted to the Hindu religion and must also be accepted by the caste in general as a member after reconversion. We do not think it necessary to refer to specific sentences where these principles have been relied upon in these various judgments. It is, in our opinion, enough to take notice of the decision in Goona



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Durgaprasada Rao alias Pedaa Babu, where these two aspects were emphasised by a Full Bench of the Madras High Court. In that case, the first question that arose was whether a person could become a convert to Hinduism without going through a formal ceremony of purification. It was held that no proof of any particular ceremonial having been observed was required. Varadachariar, J., held that when on the facts it appears that a man did change his religion and was accepted by his coreligionists as having changed his religion, and lived, died and was cremated in that religion, the absence of some formality should not negative what is an actual fact. Considering the question of entry into the caste, Krishnaswami Ayyangar, J., held that, in matters affecting the well-being or composition of a caste, the caste itself is the supreme Judge. It was on this principle that a reconvert to Hinduism could become a member of the caste, if the caste itself as the supreme Judge accepted him as a full member of it. In the appeal before us, we find that the appellant has not given evidence to satisfy these requirements in order to establish that he did become a member of Adi Dravida Hindu caste by the time of general elections in 1967."

15. At this juncture, we may observe that India is a secular country. Every citizen has a right to practise and profess a religion of their choice as guaranteed under Article 25 of the Constitution. One converts to a different religion, when he/she is genuinely inspired by its principles, tenets and spiritual thoughts. However, if the purpose of conversion is largely to derive the benefits of reservation but not with any actual belief on the other religion, the same cannot be permitted, as the



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extension of benefits of reservation to people with such ulterior motive will only defeat the social ethos of the policy of reservation. In the instant case, the evidence presented clearly demonstrates that the appellant professes Christianity and actively practices the faith by attending church regularly. Despite the same, she claims to be a Hindu and seeks for Scheduled Caste community certificate for the purpose of employment. Such a dual claim made by her is untenable and she cannot continue to identify herself as a Hindu after baptism. Therefore, the conferment of Scheduled caste communal status to the appellant, who is a Christian by religion, but claims to be still embracing Hinduism only for the purpose of availing reservation in employment, would go against the very object of reservation and would amount to fraud on the Constitution.”

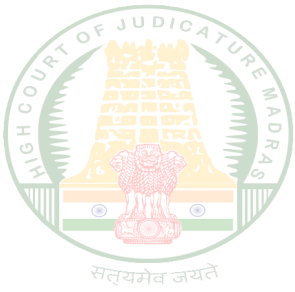
71.In view of the same, having been elected from the 2nd Ward of Theroor Town Panchayat as a Councillor, the 4th respondent's nomination to the post of Chairman of the Theroor Town Panchayat reserved for Scheduled Caste (general) ought not to have been accepted by the returning officer and ought to have been rejected on the date of submission instantly. But it is self evident from the materials placed before me that, the returning officer had acted favourably to the then ruling party. In a country like India, the life line to our mighty democracy is the mandate of the common public, who elect their representatives, be it to the parliament or it to the legislature or to the local body. Our democratic process is steered by our Constitutional Scheme. Cases like



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this are shameful field realities which exhibit the manner in which the election officers are reduced to sheer pawns in the hands of the ruling party's might during local body elections, thereby reducing the vision of the noble Panchayat Raj a mockery.

72.To ensure the victory of the then ruling party, it is shell-shocking, by the manner in which the Member Secretary, District Adi Dravidar and Tribal Welfare Office, Tirunelveli District, by his proceedings in Na.Ka.No.H1/DADTNV/24/2024 dated 20.05.2025, had concluded his enquiry favouring the 4th respondent violating the extant constitutional mandate and rule of law in this regard. Accordingly, invoking the inherent powers of this Court under Article 226 of the Constitution, the said report dated 20.05.2025, is hereby quashed, for the sole reason for having negated the available records, more particularly, the 4th respondent's marriage certificate, a self evident document, that she is a converted Christian. Having voluntarily embraced Christianity, she cannot blow hot and cold, claiming to be a Scheduled Caste for the purpose of 'public employment'. She cannot identify herself a 'Hindu' after solemnization of marriage under the Indian Christian Marriage Act, 1872. The preamble of the Indian Christian Marriage Act, 1872, itself would mirror the position of law that the said Act is : "An Act to consolidate and amend the law relating to the solemnization in India of the marriages of Christians."



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73. In the given circumstances, the conferment of scheduled caste communal status to the 4th respondent, who is a Christian by religion, is nothing but a fraud on the Constitution. In fine, the writ petitioner succeeds and there will be a concrete direction to the respondents 1 to 3 to declare the fourth respondent as disqualified from the post of Chairman of the Theroor Town Panchayat, Agasteeswaram Taluk, Kanyakumari district, who is elected in a post reserved for Scheduled Caste. The fourth respondent's socio-legal personality by her voluntary marriage to a Roman Catholic Christian under the Christian rites and customs has converted to that of one professing Christianity on the basis of her deemed renunciation of her original social identity of Hindu Scheduled Caste Pallan.

Epilogue:-

74. To retain the socio-religious identity of a personality in case of marriages between two persons from two different religions, the only way out which could be adopted by the persons concerned to retain their original religion is to resort to a civil marriage under the Special Marriage Act, 1954. Even though the doctrine of merger is an outdated aspect of law, in India, in the absence of any reforms in the personal laws and in the absence of an Uniform Civil Code, it is the primordial duty of this Court to secure the socio-cultural diversity of this land by upholding



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the personal laws of the multifarious diverse population of the land.

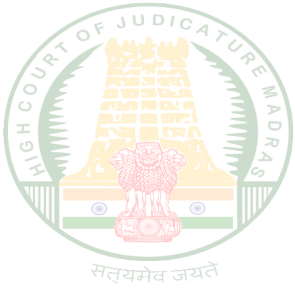
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75. Categorically concluding that the marriages held under the Hindu Marriage Act, 1955, are the marriages of Hindus or the marriages of persons who professes Hinduism and the marriages solemnized voluntarily under the Indian Christian Marriage Act, 1872, are the marriages solemnized among the persons who professes Christianity, I allow this Writ Petition, by concluding that the fourth respondent has renounced her socio-cultural identity as a Hindu Pallan belonging to the Scheduled Caste community by voluntarily solemnizing her marriage under the Indian Christian Marriage Act, 1872. The sixth respondent is directed to return the original baptism register and marriage register to the seventh respondent and get acknowledgement of the same and report before this Court. In fine, the Writ Petition is allowed and there shall be no order as to costs.

08.04.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn

Note : The Registry is directed to get the acknowledgement from the concerned Police Official for the return of original baptism register and marriage register to the seventh respondent.

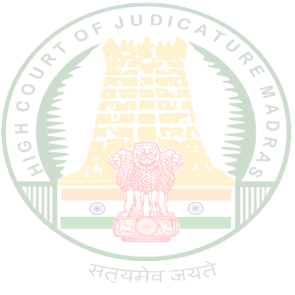


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To

- 1.The District Collector/Inspector of Panchayats,
Kanyakumari District.
- 2.The Assistant Director (Town Panchayats),
Nagercoil.
- 3.The Executive Officer,
Theroor Town Panchayat,
Kanyakumari District.
- 4.The Inspector of Police,
Sucindram Police Station,
Kanyakumari District.
- 5.The Section Officer,
VR/ER Section,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

Mrn

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08.04.2025