

# C. Selvarani vs The Special Secretary Cum District ... on 26 November, 2024

**Author: Pankaj Mithal**

**Bench: Pankaj Mithal**

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2024 INSC 900

REPORTAB

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2024  
(Arising out of SLP (C) No.6728 of 2023)

C. SELVARANI

... APPELLAN

VERSUS

THE SPECIAL SECRETARY- CUM-  
DISTRICT COLLECTOR AND OTHERS

... RESPONDE

JUDGMENT

R.MAHADEVAN, J.

Leave granted.

2. This appeal is directed against the order dated 24.01.2023 passed by the High Court of Judicature at Madras<sup>1</sup> dismissing Writ Petition No.15865 of 2022 preferred by the appellant herein. In the said writ petition, the appellant prayed for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order of the respondent No.3 vide proceedings No.1076/TOP/C/SC/2016 dated 19.06.2017 and the order of the respondent No.2 in No.4583/DCR(N)/A2/2016/CV/2070 dated 29.08.2017, quash the same as illegal, unlawful, arbitrary, unconstitutional and violative of the principles of natural justice and consequently, direct the respondent Nos.1 to 3 to issue Scheduled Caste 18:15:17 IST Reason:

Hereinafter shortly referred to as “the High Court” community certificate to the appellant as per the Constitution (Pondicherry) Scheduled Castes Order, 1964<sup>2</sup>, based on the community certificates already issued by the respondent No.3 in favour of the appellant as well as her family members. Through the order impugned herein, the High Court denied the claim of the appellant as devoid of merits and accordingly, dismissed the writ petition.

3. The facts leading to the filing of this appeal, in a nutshell, are as under:

3.1. The appellant was born on 22.11.1990 to one Christian S/o. Mounien and Santhamarie and her birth was duly registered with Pondicherry Municipality and her parents were permanent residents of Kombakkampet, Pondicherry. According to the appellant, her father, grandparents and great grandparents professed the Hindu religion and belonged to Valluvan Caste, which is recognised as one of the Scheduled Castes under the S.C. Order, 1964. Her mother Santhamarie was a Christian by birth and after marriage, she got converted to Hindu religion and started to profess the same. Thus, according to the appellant, she is a Hindu by religion and belongs to Valluvan Caste; and she successfully completed her school education and graduation by availing concessions under the Hindu Adi Dravida quota.

3.2. During 2015, the appellant applied for the post of Upper Division Clerk3 and after written examination, she was selected and her name was found at Serial No.48 under Hereinafter shortly referred to as “the S.C. Order, 1964” For short, “UDC” the Scheduled Caste category. In the course of certificate verification, though the appellant possessed the required certificates, the respondent authorities insisted her to produce the original latest community, residence and nativity certificates issued by the Tahsildar, within a period of one year from the date of publication of results, which would satisfy the requirement of being a resident in Puducherry for a continuous period of 5 years prior to the date of application. Pursuant thereto, the appellant made an application seeking community certificate as if she belongs to a Scheduled Caste category. 3.3. However, the respondent No.3 passed an order dated 29.03.2016 rejecting the appellant’s application on the ground that she does not profess Hinduism, Buddhism and Sikhism and therefore, the community certificate under the S.C. Order, 1964, could not be issued to her. The appeal preferred against the said order came to be rejected by the respondent No.2, by order dated 18.07.2016. Thereagainst, the appellant went on further appeal, in which, the respondent No.1 directed her to approach the High Court for further remedy, by order dated 30.09.2016.

3.4. Challenging the orders of rejection passed by the respondent authorities, the appellant preferred WP.No.43516 of 2016, which, by order dated 10.03.2017, was disposed of by the High Court, by directing the respondent No.3 to conduct enquiry on the appellant’s application and pass appropriate orders on merits and as per law.

3.5. Accordingly, the respondent No.3, by communication dated 30.03.2017, withdrew the order dated 29.03.2016 passed earlier and furnished all the documents to the appellant and directed her to offer her explanation as to why the Scheduled Caste Hindu Adi Dravida certificate should not be denied to her. After receipt of the appellant’s explanation, the respondent No.3 passed the order dated 19.06.2017 rejecting the claim of the appellant, reiterating the same ground that she does not profess Hinduism, Buddhism or Sikhism and hence, the Scheduled Caste community certificate could not be issued to her. The appeals preferred against the said order

before the respondent No.2 and thereafter, respondent No.1, also, ended in dismissal, vide orders dated 29.08.2017 and 14.09.2017 respectively.

3.6. In the meanwhile, the appellant approached the Central Administrative Tribunal by filing O.A.No.310/00417/2017 against the order dated 22.09.2016 passed by the respondent No.7, cancelling her selection to the post of UDC, and obtained an interim order that the respondent Nos.6 and 7 shall keep one post of UDC vacant. Thereafter, the appellant filed WP. No.15865 of 2022 for the relief as stated in paragraph 2 supra. 3.7. Upon considering the facts and circumstances of the case and relying on the decision of this Court in Soosai v. Union of India and others<sup>4</sup>, the High Court dismissed the writ petition. Feeling aggrieved, the appellant is before us with the present appeal.

4. The principal contention of the learned counsel for the appellant is that the appellant professes the Hindu religion and she belongs to Valluvan caste, which falls within the ambit of the S.C. Order, 1964, and hence, she is entitled to get concession under 1986 AIR 733 the Adi Dravida quota. Continuing further, the learned counsel submitted that right from birth, the appellant is having affinity in professing Hinduism and has been going to Hindu temples and offering worship to Hindu deities; through various documents, the appellant was able to prove that she was born to a Hindu father and a Christian mother, who also, after marriage, started to profess the Hindu religion; her grandparents and great grandparents belonged to Valluvan caste; and her grandmother Sivabakkiyam was buried at the burial ground belonging to the Valluvan community; throughout her educational career, the appellant was treated as belonging to Scheduled Caste community and the transfer certificates also affirmed her communal status as such; and the appellant's father, appellant and her brother possessed the Scheduled Caste community certificates issued by the authority concerned. Without properly appreciating the same, the respondent authorities erred in rejecting the appellant's application seeking issuance of Scheduled Caste community certificate, on the premise that she did not fulfill the basic criteria for the same, and the said decision was also affirmed by the High Court. It is also contended that the entry made in the Register of Baptism dated 20.11.2015 itself shows that the appellant was born on 22.11.1990 and her baptism had taken place on 06.01.1991, when she was 3 months old and therefore, the same cannot be a ground to deny the issuance of Scheduled Caste community certificate to her.

4.1. It is further submitted by the learned counsel for the appellant that caste is assigned inherently at birth and does not cease to operate upon conversion of religion. Rather, it is eclipsed and can be regained upon reconversion, provided the caste / community is accepting the reconverted individual. The rationale behind the same can be understood as if the primary motive for conversion is upward social mobility which however does not operate in such a linear manner, rather the caste along with its socio- economic disparities continues to operate in the individual's life and therefore, denying the caste upon reconversion would not be right to set in law. Additionally, it is submitted that Hinduism does not prescribe any procedure to do conversion, however the key requirement for

regaining caste status is that the reconvert must show a sincere intention to fully return to their original community, completely abandoning the new religion and embracing the customs and practices of their former caste, without opposition from its members. To buttress the same, the learned counsel placed reliance on the following decisions and the principles laid down therein:

(a) S.Anbalagan v. B.Devarajan and others<sup>5</sup> - 'For reconversion to Hinduism, no particular ceremony such as expiratory rites need be performed unless the practice of the caste makes it necessary'.

(b) The Principal, Guntur Medical College, Guntur and others v. Mohan Rao <sup>6</sup>-

'Even if a person does lose the membership of his caste, on reconversion to another religion, he can once again become a member of the caste in which he was born and to (1984) 2 SCC 112 (1976) 3 SCC 411 which he belonged before conversion to another religion, if the members of the caste accept him as a member'.

(c) KP Manu v. Chairman, Scrutiny Committee<sup>7</sup> - '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 recognized 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'.

(d) Mohammad Sadique v. Darbara Singh Guru<sup>8</sup> - 'A person can change his religion and faith but not the caste, to which he belongs, as caste has linkage to birth'.

(e) Kailash Sonkar v. Maya Devi<sup>9</sup> - 'A caste to which a Hindu belongs is essentially determined by birth. 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. However, where 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'.

Thus, according to the learned counsel, the appellant being a Hindu by religion and (2015) 1 SCC 1 : 2015 SCC OnLine SC 161 AIR 2016 SC 2054 (1984) 2 SCC 91 belonging to Valluvan caste, is entitled to the issuance of Scheduled Caste community certificate and denial of the same by the respondent authorities as affirmed by the High Court, is arbitrary, illegal and unconstitutional and therefore, the orders impugned in this appeal as well as in the writ petitions deserve to be set aside.

5. Reiterating the averments made in the counter affidavit, the learned counsel for the respondent(s) submitted that based on the application made by the appellant on 05.11.2015 seeking community certificate, the Village Administrative Officer, Kombakkampet, conducted a detailed enquiry and submitted his report dated 24.11.2015, which was endorsed by the Revenue Inspector, Mudaliarpet Firka. It is inter alia stated in the said report that the appellant's father is a converted Christian; and

the appellant was baptised on 06.01.1991 at the Parish of Lourdes Shrine, Villianur, Puducherry as per the entry made in the Register of Baptism dated 20.11.2015. Whereas, the appellant submitted several documents including the Scheduled Caste community certificates issued by the Tahsildar, Taluk Office, Puducherry under the S.C. Order, 1964, in favour of her as well as her father and brother. Since there was a contradiction between the records submitted by the petitioner and the report of the Village Administrative Officer, the Tahsildar, Puducherry Taluk Office, directed the Village Administrative Officer to call for opinion about the religion of the appellant, from the villagers. Accordingly, a notice was affixed in the notice board and in the conspicuous places in the village. In response, an objection was received from one Anand, through letter dated 06.01.2016 stating that the appellant's father is a converted Christian and the appellant embraced Christianity and the marriage of her parents was registered at the Lourdes Shrine, Villianur, Puducherry; and the said statement was also acknowledged by four persons of the same village viz., Alencon Karthick, Ravishankar, Prakash and Arumugam of Kombakkampet. In view of the same, the Tahsildar passed the order dated 29.03.2016 stating that the appellant does not profess Hinduism and hence, the Scheduled Caste community certificate could not be issued to her, as per law.

5.1. Elaborating further, the learned counsel for the respondent(s) submitted that as per the order of the High Court dated 10.03.2017 in WP.No.43516 of 2016, the Tahsildar, Puducherry Taluk Office, after calling for the explanation from the appellant, passed the order dated 19.06.2017 rejecting her application seeking issuance of Scheduled Caste community certificate and referred the matter to the District Committee for cancellation of the community certificate already issued to the appellant; and the appellate authorities also confirmed the said order of rejection. Considering all these factors, the High Court rightly upheld the decision of the respondent authorities and dismissed the writ petition filed by the appellant, by the order impugned herein, which need not be interfered with by this Court.

6. We have heard the learned counsel appearing for the respective parties and given our thoughtful consideration.

7. On the basis of the pleadings and the submissions made by the parties, the issue that arises for our consideration is, whether the appellant is entitled to the Scheduled Caste community certificate, indicating that she belongs to Valluvan caste, which is recognized as one of the Scheduled Castes in the S.C. Order, 1964.

8. At the outset, it would be apposite to briefly consider the legal position connected to this case. Article 341 of the Constitution of India deals with 'Scheduled Castes', which reads as under:

“341. Scheduled Castes (1) The President may with respect to any State or Union territory, and where it is a State after consultation with the Governor thereof, by public notification, specify the castes, races or tribes or parts of or group 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.

By exercising the power conferred under clause (1) of Article 341 of the Constitution, the President issued the Constitution (Pondicherry) Scheduled Castes Order, 1964 10. Clause 2 of the same reads as follows:

“2. The castes, races or tribes or parts of or groups within castes, races or tribes specified in the Schedule to this Order shall, for the purposes of the Constitution, be deemed to be Scheduled Castes in relation to the Union territory of Pondicherry so far as regards members thereof resident in that Union territory:

Provided that no person, who professes a religion different from the Hindu (the Sikh or the Buddhist) religion shall be deemed to be a member of a Scheduled Caste.” Thus, it is manifestly clear from the above that only such castes which have been For short, “the S.C. Order, 1964” mentioned in the Schedule appended to the S.C. Order, 1964, shall be deemed to be Scheduled Castes with respect to the Union Territory of Pondicherry; and that, a person, who is professing Hinduism, Sikhism or Buddhism, shall be deemed to be a member of the Scheduled Caste. The Schedule appended to the S.C. Order, 1964, mentions 15 castes, in which, the Valluvan Caste finds place at Sl.No.13 and it is hence, recognized as a Scheduled Caste. That apart, the provisions of the S.C. Order, 1964 were upheld by this Court in Soosai (supra). It is also pertinent to mention here that the converts to Christianity from Scheduled Caste irrespective of generation of conversion would fall under the OBC category as per G.O. Ms. No. 9/2001-Wel(SW-II), dated 19.02.2001 of the Government of Puducherry and the Central List of OBC’s for Puducherry vide No.12011/14/2004-BCC dated 12.03.2007.

9. Admittedly, the appellant is a resident of Pondicherry and her birth was duly registered in the Pondicherry Municipality and she completed her school education at Jawahar Navodaya Vidyalaya, Periyakalapet, Pondicherry, and B.Tech (IT) at Dr.Pauls Engineering College and M.Tech (IT) at Pondicherry Engineering College. There cannot be any dispute that the appellant’s father, appellant and her brother were in possession of Scheduled Caste Community Certificate issued by the Tahsildar, Taluk Office, Puducherry, which have not been cancelled till today. However, for the purpose of employment in public services, the appellant made application for issuance of Scheduled Caste community certificate. Upon enquiry, the said application was rejected by the respondent No.3 by order dated 29.03.2016, as affirmed by the appellate authorities. Subsequently, as directed by the High Court<sup>11</sup>, the said order of rejection was withdrawn by the respondent No.3 and the documents referred to in the same were furnished to the appellant. On receipt of the documents, the appellant filed her reply along with the required documents, including the community certificates issued by the Deputy Tahsildar, Taluk Office Puducherry in favour of the appellant’s father Christian S/o Mounien, appellant’s brother Selvaraj S/o Christian and the appellant Selvarani D/o Christian,

transfer certificates issued by the school and college authorities and the common statement made by four individuals viz., Punniyakodi, Paramadayalam, Gabriel and Dess of the same village, indicating that the appellant professes Hindu religion and belongs to Scheduled Caste (Adi Dravida) Community. Thereafter, the respondent No.3, placing reliance on the report of the Village Administrative Officer, denied the claim of the appellant on the premise that she embraced Christianity and therefore, she did not fulfill the eligibility criteria for issuance of Scheduled Caste community certificate, by order dated 19.06.2017. The said rejection order was upheld by the appellate authorities as well as by the High Court. Therefore, this Civil Appeal, at the instance of the appellant.

10. As rightly held by the Kerala High Court in *Sapna Jacob, Minor v. State of Kerala*<sup>12</sup>, the Court cannot test or gauge the sincerity of religious belief; or where there is vide order dated 10.03.2017 passed in W.P.No.43516 of 2016 AIR 1993 Ker 75 no question of the genuineness of a person's belief in a certain religion, the court cannot measure its depth or determine whether it is an intelligent conviction or ignorant and superficial fancy. But, a Court can find the true intention of men lying behind their acts and can certainly find from the circumstances of a case whether a pretended conversion was really a means to some further end. Therefore, we shall determine the issue involved herein in the light of the factual matrix as well as the documentary evidence.

11. As is evident from the records, the order dated 19.06.2017 was passed by the Tahsildar, Taluk Office, Puducherry, after furnishing the appellant all the necessary documents, including the letter sent by the objector Anand, certified copies of the entry in the Register of Baptism in respect of the appellant and her brother and the extract from the Register of Marriage in respect of the parents of the appellant, kept in Lourdes Shrine, Villianur, Village Administrative Officer's report dated 24.11.2015 as endorsed by the Revenue Inspector, Mudaliarpet Firka and upon considering the reply submitted by the appellant and hence, there is no violation of the principles of natural justice.

12. Apparently, the appellant, in her reply, inter alia stated that her mother, after marriage, had converted to Hinduism and started to profess the same; the appellant is having more affinity in professing Hinduism and has been attending Hindu temples and offering worship to Hindu deities and at no point of time, she professed Christianity; the caste certificates issued in favour of the appellant, her father and brother hold good as long as they are not cancelled by the authority concerned; and due to political enmity with her brother, the said Anand gave objection for issuing Scheduled Caste community certificate to her; and it is the statement given by four persons viz., Punniyakodi, Paramadayalan, Gabriel and Dess that the appellant's father and appellant belong to Adi Dravida Hindu community. However, the report submitted by the Village Administrative Officer, after a detailed enquiry and through the documentary evidence collected, would clearly establish that the appellant's father belonged to Scheduled Caste community and the appellant's mother was a Christian and their marriage was performed as per the Christian rituals and duly registered on 12.11.1987 by Rev.Fr.E.Showry as evident from the certificate issued on 15.03.2017 by the parish of Lourdes Shine, Villianur and thereafter, the appellant's father had converted to Christianity through baptism; baptism of the appellant's brother was done on 07.05.1989; and the appellant was born on 22.11.1990 and she was baptized on 06.01.1991 at Lourdes Shrine, Villianur, Pondicherry within two months. Therefore, it is clear that the appellant was a born Christian and

she would not be entitled to claim the certificate under Scheduled Caste Category. The said facts were also admitted by four persons of the same village viz., Alencon Karthick, Ravishankar, Prakash and Arumugam of Kombakkampet by stating that the appellant had undertaken baptism and regularly attended the church activities and her name found place in the Church's baptismal register. The objector Anand in his letter dated 06.01.2016 had categorically averred that the appellant belongs to Christian religion. On the other hand, the statement of the villagers viz., Punniyakodi, Paramadayalam, Gabral and Dess, that the appellant's mother being Christian by birth, used to go to Villianur and Kompakkampet village church as she professes Christianity, is contrary to the statement made by the appellant that her mother had converted to Hinduism after marriage and started to profess the same. In such circumstances, the appellant ought to have produced something more than mere statements. When the facts are otherwise, she cannot simply claim that her father got reconverted and she and her mother converted. The appellant and her family, if they really intended to get themselves converted, ought to have done some positive act to evince such conversion rather than a meek claim to be practicing Hinduism. One of the methods of conversion is by adopting a procedure prescribed through the Arya Samaj. A public declaration to the effect of evincing conversion could also have been made. There is no documentary evidence to that effect and the oral evidence sought to be relied upon by the appellant is also against her. Even assuming that the appellant's mother had converted to Hinduism after marriage, she ought not to have baptized her children in the church and hence, the statement of the appellant is untrustworthy. The certified copies of the baptism and extract from the register of marriage of the appellant's parents at Lourdes Shrine, Villianur gathered by the Village Administrative Officer, Murungapakkam Village, further disclosed that the appellant's father is a converted Christian and the appellant was baptized after her birth. Thus, it can safely be inferred by us that the appellant is a Christian by religion and she does not profess Hinduism. In view of that, in terms of the S.C. Order, 1964, as per which, the Scheduled Caste community certificate can be issued only to a person who is professing either Hinduism Sikhism or Buddhism, the appellant is not entitled to the Scheduled Caste community certificate.

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 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<sup>13</sup> “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<sup>14</sup> “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 procedure for selection, and the prescription of eligibility criteria has a significant (2007) 1 SCC 80 : (2007) 1 SCC (L&S) 5 : 2006 SCC OnLine SC 1130 (2017) 8 SCC 670 : (2017) 2 SCC (L&S) 708 : 2017 SCC OnLine SC 715 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 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.”

13. In the case on hand, the field verification clearly revealed the registration of the marriage of the parents of the appellant under the Indian Christian Marriage Act, 1872, the baptism of the appellant and her brother and also the fact that they had been regularly attending the church. Any interference with such findings of fact is unwarranted unless the findings are perverse so as to shock the conscience of the Court. Therefore, we are of the opinion that the respondent authorities, after a thorough enquiry and having analysed the documentary evidence, reached the right conclusion that the appellant was not entitled to the Scheduled Caste Community Certificate and accordingly, the matter was referred to the District Committee for cancellation of the community certificate already issued to her. The High Court also, upon due consideration of the facts and circumstances of the case and legal position, was correct in dismissing the writ petition filed by the appellant.

14. Though a feeble argument was made by the learned counsel for the appellant that the baptism was done when the appellant was less than three months old, the same does not inspire our confidence as she did not make any attempt to cancel the registration of baptism nor she filed any declaratory suit in this regard. The decisions of this Court referred to on the side of the appellant, are of no assistance to the appellant, as the same are factually distinguishable and dealt with by this Court on different aspects. In the present case, the appellant was a born Christian and could not be associated with any caste. In any case, upon conversion to Christianity, one loses her caste and cannot be identified by it. As the factum of reconversion is disputed, there must be more than a mere claim. The conversion had not happened by any ceremony or through Arya Samaj. No public declaration was effected. There is nothing on record to show that she or her family has reconverted to Hinduism and on the contrary, there is a factual finding that the appellant still professes Christianity. 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*<sup>15</sup>, 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 converted to Christianity in 1949, he ceased to belong to the Adi Dravida caste.

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

1968 SCC OnLine SC 261 : (1969) 1 SCR 254 : (1969) 1 SCJ 738 : AIR 1969 SC 101 .....

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 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 co- religionists 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 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.

16. For the foregoing reasons, we do not find any merit in this appeal. Accordingly, this appeal stands dismissed. However, there is no order as to costs. Pending application(s), if any, shall stand closed.

.....J. [Pankaj Mithal] .....J. [R. Mahadevan] NEW DELHI  
NOVEMBER 26, 2024.