

**He renders her fit for even in the situation where a majority of disqualifying people are available** מכשיר אפילו ברוב פסולים -

## OVERVIEW

כשרה לכהונה and נאמנת the woman is ר"ג ור"א maintains that according to ריב"ל in a case of רוב פסולים אצלה.<sup>1</sup> The גמרא in קדושין states that it is אבא שאול who maintains אפילו ברוב פסולים; and not ר"ג. תוספות will resolve this apparent discrepancy.

והא דקאמרינן בפרק עשרה יוחסין (קדושין עד,א ושם) גבי אבא שאול -

And that which the גמרא states in פרק עשרה יוחסין concerning the משנה<sup>2</sup> which states that אבא שאול -

היה קורא לשתוקי בדוקי -

would refer to a שתוקי as a בדוקי. A שתוקי is a child whose mother is known, but not his father. When the child refers to anyone as his father, his mother silences him; hence the term שתוקי. אבא שאול would refer to this שתוקי by the name בדוקי; he is verifiable.

ומפרש בגמרא שבדוקין את אמו ואומרת לכשר נבעלתי -

And the גמרא explains what is meant by בדוקי. This child can be verified as being a כשר child for we verify by the mother; by asking her who fathered this child? And when she claims that he was fathered by a כשר, she is believed and the child is כשר. We do not suspect that it is the child of a נתין or a ממזר.

ופריך כמאן כרבן גמליאל תנינא חדא זמנא היתה מעוברת כולי -

And the גמרא challenges this explanation and asks like whom does אבא שאול rule; like רבן גמליאל; we already learnt this one time in a משנה; referring to our משנה, she was pregnant, etc. ר"ג maintains that if she claims לכהשר נבעלתי she is believed -

פירוש<sup>3</sup> והוה ליה למימר וכן אמר אבא שאול וכן פירש שם בקונטרס -

The explanation of this question in the גמרא is why does the משנה state this ruling of אבא שאול as an independent ruling when the משנה should have stated, and אבא אבא also stated as ר"ג, that the נאמנת אשה is to claim לכהשר נבעלתי. It seems that אבא

<sup>1</sup> It seems that ריב"ל derives this from this תוספתא of זו עדות וכו' which is cited in our גמרא. The fact that ר"י compares רוב פסולים indicates that the discussion between ר"ג and ר"י was even in a case of רוב פסולים.

<sup>2</sup> פרק עשרה יוחסין דף סט,א.

<sup>3</sup> The terms פירוש (and כלומר) are used when the explanation given is different than the apparent explanation. The simple interpretation of the question is why אבא שאול mentions this דין at all, since it was already taught by רבן גמליאל. Perhaps the reason תוספות (רש"י) reject this ('simpler') explanation is because it is not understood why the opinion of אבא שאול should not be added to that of ר"ג and ר"א. Especially if he was a later תנא, as is apparent from the גמרא.

ש"י is merely agreeing to the ruling of ר"ג, and so does רש"י there explain it in the same manner as תוספות stated.<sup>4</sup>

**ומשני דאבא שאול עדיפא מרבו גמליאל דאי מהתם הוה אמינא ברוב כשרים אצלה כולי -**

**And** the גמרא **answered** that the reason the משנה cites אבא שאול as an independent view, not merely as agreeing with ר"ג, is **because** אבא שאול teaches us **more than** ר"ג, **for if from there**; from our משנה in כתובות where ר"ג states that she is נאמנת, **I may have thought** that she is believed only when there are **a majority of כשרים by her, etc.** Therefore אבא שאול teaches us that she is believed to say נבעלתי even if there are רוב פסולים אצלה. This concludes the citation from the גמרא in קדושין.

תוספות now presents his question:

**אף על גב דאמרינן הכא דרבן גמליאל מכשיר אפילו ברוב פסולין -**

**even though** the גמרא **states here** in the name of ריב"ג **that ר"ג is מכשיר even by** אבא שאול **and** רוב פסולים. Why does the גמרא say there that מכשיר ברוב פסולים is the addition of אבא שאול and we do not know this from ר"ג, when our גמרא clearly states that ר"ג is מכשיר even ברוב פסולים.<sup>5</sup>

תוספות answers:

**אבא שאול קאי אמתניתין וממתניתין לא משמע מידי דאיידי ברוב פסולים -**

**אבא שאול** is referring to our **משנה** itself and from our **משנה** (in כתובות) per se **it is not indicated at all that it is discussing** a case of **רוב פסולים**. It was only (the אמורא) **משנה** ברוב פסולים even מכשיר ר"ג is (ברייתא from the) who maintains (by inferring from the) **אבא שאול** as making an independent statement in the **משנה**, this indicates that **משנה** itself views the **הכשר** to be effective even **ברוב פסולים**.

ר"ג concluded that the discussion of the גמרא in קדושין concerning the difference between תוספות and אבא is only regarding what is apparent from the משנה itself; not how the subsequent תוספות interpreted the משנה. This leads to discuss an additional difficulty. The גמרא there originally stated that אבא is adding on to ר"ג that even the daughter is לכהונה. The גמרא there rejected this interpretation. תוספות continues to discuss that גמרא:

<sup>4</sup> 'וכן היה אבא שאול אומר כדבריו' משנה here in כתובות should have added: 'וכן היה אבא שאול אומר כדבריו' (and it should not have been mentioned in קדושין at all).

<sup>5</sup> s' prefaced this question by first interpreting that the question of the גמרא was that the משנה should have stated "א" should not have been quoted at all (see previous footnote # 3). If the s' had been that the גמרא cannot ask that the משנה should not teach us a דין (of מכשיר ברוב פסולים), since we can derive it from a ברייתא (or an אמורא); the משנה itself wants to teach us this דין. However, since the question there was that the משנה (here) should have stated "א" should not have been quoted at all (see previous footnote # 3), the subsequent answer there is not understood. Granted that "א" wants to teach us that he is מכשיר ברוב פסולים, but ר"ג agrees to that as well (as ריב"ל inferred it from the ברייתא), so why did not the משנה simply state that "א" should not have been quoted at all. (See מהר"ם ומהרש"ל.)

**והא דפריך התם לעיל למאי דהוה בעי למימר דאבא שאול אתא להכשיר בבתה -**

**And that** which the גמרא **there previously challenged that which** the גמרא originally **wanted to say that אבא שאול is coming** to add on ר"ג, **that the daughter is also כשר** (even though she has no חזקת כשרות as the mother). The גמרא challenges this assumption that אבא שאול is adding הבת, by asking –

**הניחה למאן דאמר לדברי המכשיר בה פוסל בבתה -**

**This answer is appropriate according to the one who maintains that even ר"ג who is מכשיר** the mother, nevertheless **he disqualifies the daughter**. We can then explain that א"ש is adding that even the daughter is כשרה –

**אבל למאן דאמר מכשיר בבתה מאי איכא למימר -**

**However according to the one who maintains that ר"ג is also what מכשיר בבתה** **what can be said!** What is א"ש adding to ר"ג? This concludes the citation from the גמרא. According to what was previously said that we do not concern ourselves with other statements; only with the statement of the משנה, what is the גמרא's question. In the משנה it is not at all clearly stated that ר"ג is מכשיר בבתה (in fact it is a מחלוקת between the אמוראים<sup>6</sup> as to what ר"ג rules concerning the בת), therefore it can easily be assumed that א"ש is coming to add that even the בת is כשרה; for ר"ג never stated it (clearly) in the משנה. It is seemingly exactly the same as what the גמרא there concludes eventually, that א"ש is adding פסולים, which ר"ג never clearly stated in the משנה (even though ריב"ל derives [from a ברייתא] that it is so).

answers that there is a difference between the assumption of ברוב פסולים (which we cannot assume from the משנה) and the assumption of מכשיר בבתה (which we can assume from the משנה):

**התם פריך שפיר דאפילו לזעירי<sup>7</sup> לשון המשנה דקתני מה טיבו של עובר זה -**

**There** (in the case of מכשיר בבתה) **it is a proper challenge for even according to זעירי** who maintains that נסתרה means מדברת and therefore we are not compelled (as according to רב אסי) to interpret the duplicity of נסתרה and נבעלה to include the **the syntax of the זעירי**, nevertheless even according to זעירי **the syntax of the משנה which reads, 'what is the nature of this fetus';** this syntax of mentioning the

<sup>6</sup> גמרא immediately following our רבי אלעזר and רבי יוחנן.

<sup>7</sup> The ר"א who is much stronger according to ר"א who clearly maintains that פוסל בבתה (and hence how can we say [that even according to ר"א the simple reading of the משנה indicates] that ר"ג maintains [clearly in the משנה (according to יוחנן)] that the בת is also כשרה as א"ש maintains); as opposed to זעירי, for whom we do not know whether he is מכשיר or פוסל בבתה. The 'explanation' according to the מהרש"א, will be that ר"א also basically agrees that the לשון המשנה indicates that מכשיר בבתה, however there is the ברייתא of שתוקי, which indicates that פוסל בבתה, therefore ר"א maintains that פוסל בבתה. However 'even' he agrees that if not for the ברייתא of שתוקי, the משנה indicates that מכשיר בבתה. Therefore according to ר"א, who interprets that even the ברייתא of שתוקי agrees that מכשיר בבתה, certainly the משנה itself indicates that מכשיר בבתה is ר"ג.

child –

**משמע דאתי להכשיר בבתה:**

**indicates that ר"ג is coming to be מכשיר even her daughter<sup>8</sup>.** Therefore since this is indicative in the משנה itself (as opposed to ר"ג being ברוב פסולים which is not indicative in the משנה at all), therefore the גמרא there in קדושין asks properly that according to this מ"ד, there is no need for א"ש to add להכשיר בבתה because ר"ג already clearly stated it in the משנה by using the term 'מה טיבו של עובר זה'.

**SUMMARY**

Our משנה does not indicate whether ר"ג is ברוב פסולים; we know it from אבא שאול in קדושין. Our משנה does indicate that ר"ג is מכשיר בבתה (according to יוחנן) since it uses the expression מה טיבו של עובר זה.

**THINKING IT OVER**

1. The גמרא states that אבא שאול teaches us that she is נאמנת even by ברוב פסולים. Do we know this (only) because otherwise אבא שאול is redundant (to ר"ג), or do we know it from the ruling of אבא שאול itself?
2. When the גמרא states that אבא שאול teaches us that נאמנת even ברוב פסולים, does that mean that (only) אבא שאול maintains that or that (even) ר"ג maintains that?

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<sup>8</sup> Otherwise, the משנה should have stated, של אביו של זה וכיו"ב or מה טיבו של איש זה.