

Whether delinking religion and making the Scheduled Castes net as religion neutral is Constitutional?

By Franklin Caesar Thomas: 1 March 2024

The Constitution (SC) Order 1950 paragraph 3 issued under Article 341 of the Constitution is religion-based, which says, “Notwithstanding anything contained in paragraph 2, 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 Schedule Caste.” Article 341 (1) says as follows, “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 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.”

The main reason for the denial of Scheduled Castes privilege to Christians and Muslims of Scheduled Castes Origin is as follows, “both Christianity and Islam are historically foreign religions and thereby do not recognise caste system/ untouchability practice as done in Hinduism.”

“The High-Power Panel on Minorities, Scheduled Castes, Scheduled Tribes, and other Weaker Sections, in their 1983 Report referred to at para 13, had found that earlier disabilities continued even after leaving the Hindu fold. The National Commission on Minorities have also recently recommended the extension of statutory benefits to SC Christian converts (As also to Muslim converts from these communities) as Scheduled Castes. Taking these factors into consideration, the Ministry of Welfare proposes that recognition of Scheduled Castes converts to Christianity as Scheduled Castes be accepted.”

Archbishop George Zur, Apostolic Pro-Nuncio to India in his inaugural address to the Catholic Bishops Conference of India, (CBCI) in the meeting held in Pune during December 1991, made the following observations: “Though Catholics of the lower castes and tribes form 60 per cent of Church membership they have no place in decision-making. Scheduled caste converts are treated as low caste not only by high caste Hindus but by high caste Christians too. In rural areas they cannot own or rent houses, however, well-placed they may be. Separate places are marked out for them in the parish churches and burial grounds. Inter caste marriages are frowned upon and caste tags are still appended to the Christian names of high caste people.”

The National Commission for Scheduled Castes had taken the following stand: “In view of the Full Report being laid before the Parliament, the NCSC may reiterate its earlier position & fully endorse the recommendations of the NCRLM- National Commission for Religious and Linguistic Minorities, (This Commission had recommended to delink religion for the consideration of SC status and also it had recommended to make Scheduled Castes net as religion neutral), Date: 22.04.2010.” Christians and Muslims of

Scheduled Castes Origin are dwelling among the wider society where unfortunately caste-based discrimination and even untouchability is being practiced to this day and these people are affected by the traditional practice of untouchability.

Caste discrimination and the untouchability practice is there in common places like farms, fields, Institutions, working places, Water resource places, in rural area Hotels, festivals, burial places and so on. The Caste discriminatory mind-set is the thinking of some dominant Castes people of all religions. The Constitution SC Order 1950, paragraph 3's religious ban is unconstitutional, all the Castes people whose Castes names are there in the Schedule ought to be extended the SC privileges without any religious restriction. So, delinking religion for the consideration of Scheduled Castes status and making Scheduled Castes net as religion neutral is the timely need forthwith.

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