

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE
AND
THE HON'BLE SRI JUSTICE J.SREENIVAS RAO

WRIT PETITION (PIL) No.66 OF 2017

ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

Mr. D. Suresh Kumar, learned counsel for the petitioners.

Mr. Gadi Praveen Kumar, learned Deputy Solicitor General of India for respondent Nos.1 and 2.

Mr. Mohammed Imran Khan, learned Additional Advocate General for respondent No.3.

Mr. T. Venkat Raju, learned Government Pleader for School Education for respondent Nos.5 and 6.

Mr. Y. Shrayas Reddy, learned counsel represents M/s. Indus Law Firm for respondent No.7.

2. Facts leading to filing of this public interest litigation are that the petitioner No.1 is a Journalist, whereas the petitioner No.2 is employed as an agricultural officer in the Office of the Joint Director of Agriculture. The petitioners had filed the writ petition, namely W.P.No.9469 of 2010 seeking a declaration that the action of the Principal, St.Anns High School, Tarnaka,

Secunderabad in orally rejecting the application for admission of the petitioners' minor child for stating her status of religion and caste as non-religious.

3. In the aforesaid writ petition, an interim order dated 26.04.2010 passed directing the Principal, St.Anns High School, Secunderabad to consider the application of the daughter of the petitioners for admission into L.K.G without reference to column 'religion' and not to reject the application solely on the ground that the petitioners have failed to disclose the religion of their ward as well as the religion of their own. The aforesaid writ petition preferred by the petitioners was subsequently dismissed by the learned Single Judge of this Court vide order dated 05.01.2016 for want of prosecution. It is not in dispute that the grievance of the petitioners with regard to admission of their daughter in L.K.G., in St.Anns High School, Secunderabad has been redressed.

4. Thereafter, on 03.01.2017, the petitioners have filed this writ petition as public interest litigation seeking a direction to the respondents to take steps to issue appropriate guidelines and provisions to record nonreligious and no caste as an identity in addition to all other existing identities in all education and

employment institutions under their respective jurisdictions. The petitioners have also sought a direction to receive the application for admission of petitioners' minor children without insisting for mentioning either the caste or religion. A similar relief has been sought for all other similarly situated persons as well.

5. Learned Senior Counsel for the petitioners submitted that the petitioner No.1 is a Hindu, whereas the wife, namely petitioner No.2 is a Christian. The petitioner No.1 is a Marxist-Lenist and Maoist thought follower and therefore, the petitioners do not practice any religion and do not believe in any caste. It is submitted that Article 25 of the Constitution of India confers freedom of conscience on a citizen and the same is a fundamental right guaranteed to a citizen. It is further submitted that right freely to profess, practise and propagate religion, includes a right to a citizen to say that he does not believe in any religion. It is contended that the action of the respondent Nos.1 to 6 in compelling such persons who do not believe either in religion or caste amounts to giving a forced identity to them and is, therefore, violative of Article 25 of the Constitution of India. It is further submitted that the official respondents be directed to provide an additional column in

school admission forms, online examination form of Secondary School Certificate (SSC), school leaving transfer certificates and all education and employment enrolment forms and in Indian Census Forms to provide for a column namely “no religion no caste”.

6. It is admitted that in pursuance of interim order passed in W.P.No.9469 of 2010, the personal grievance of the petitioners stands redressed. It is pointed out that two other persons, who were practising ‘no caste no religion’, had also filed a writ petition, namely W.P.No.27398 of 2021, which was disposed of by the learned Single Judge of this Court by an order dated 19.07.2023 directing the respondents to provide a column of ‘no religion, no caste’ in online application format and receive the petitioners’ application for registering the birth of their son. In support of his submissions, reliance has been placed on a Division Bench decision of the High Court of Bombay, dated 23.09.2014 passed in Public Interest Litigation No.139 of 2010 (**Dr. Ranjeet Suryakant Mohite vs. Union of India**), a decision of a learned Single Judge of Madras High Court, dated 08.06.2012 passed in W.P.No.14627 of 2012 and M.P.Nos.1 and 2 of 2012 (**P.D.Sundaresan vs. the Principal Secretary to**

Government, Secretariat, Chennai) and a decision of a learned Single Judge of this Court dated 19.07.2023 in W.P.No.27398 of 2021 (**Sandepu Swaroopa vs. Union of India**).

7. On the other hand, learned Additional Advocate General for respondent Nos.3, 5 and 6 submitted that in school leaving transfer certificates, admission forms, online examination form of Secondary School Certificate, there is an option to write 'nil' and the persons who practise 'no religion no caste' are at liberty to write an option of 'no religion no caste'. It is contended that the petitioners have neither pleaded nor produced any quantifiable data with regard to the persons who are aggrieved, by not providing for a column of 'no religion no caste' and therefore, no effective relief in this writ petition can be granted.

8. Learned counsel for respondent Nos.1 and 2, while adopting the submissions made by the learned Additional Advocate General has placed reliance on a decision of the Supreme Court in **the State of West Bengal vs. Anwar Ali Sarkar**¹ and **State of Kerala vs. N.M.Thomas**². It is further submitted that census enumerators have been clearly instructed

¹ AIR 1952 SC 75

² AIR 1976 SC 490

not to assume that the religion of the head of the family is the religion of other family members and have been instructed to record faithfully the actual name of the religion written by the respondents under this question. It is contended that the census enumerators have been further instructed to record 'no religion no caste', if a person says he does not follow any religion. It is therefore contended that the Indian Census Commission granted liberty to the persons who do not practice any religion or do not belong to any caste, to say so at the time of census.

9. Learned counsel for respondent No.7 has submitted that the fact that the respondent No.12 has been impleaded in the writ petition itself suggests that the writ petition has not been filed as public interest litigation. It is pointed out that the petitioners are seeking the relief in the writ petition with regard to their daughter and have pleaded the personal grievance in the writ petition. Therefore, the writ petition ought not to be entertained as a public interest litigation.

10. Learned counsel for the petitioners by way of rejoinder submitted that according to the Census, 28 lakh persons practice no religion and therefore, it is contended that option for

writing 'nil' against the column 'religion' is not the same as providing a specific column for 'no religion no caste'.

11. We have considered the rival submissions made on both sides and have perused the record.

12. Before proceeding further, it is apposite to take note of Article 25(1) of the Constitution of India, which is extracted below for the facility of reference:

“25. Freedom of conscience and free profession, practice and propagation of religion:- (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practices and propagate religion.”

13. Article 25(1) of the Constitution of India guarantees that every person in India shall have freedom of conscience and a right freely to profess, practise or propagate any religion. The word 'conscience' has been defined in Merriam-Webster's Collegiate Dictionary (Tenth Edition) as follows:

“The sense or consciousness of the moral goodness or blameworthiness of one's own conduct, intentions, or character together with a feeling of obligation to do right or be good.”

In Webster's New World Dictionary, 'conscience' has been defined as under:

“A knowledge or sense of right or wrong, moral judgment that opposes the violation of previously recognised ethical principles and that leads to feelings of guilt if one violates such a principle.”

14. The right conferred under Article 25(1) of the Constitution of India is not confined to citizens alone but covers all persons residing in India (see **Indian Young Lawyers Association (Sabarimala Temple, in Re) vs. State of Kerala**³). The freedom of conscience guaranteed under Article 25(1) of the Constitution of India, includes in itself freedom of an individual to state that he does not belong to any religion.

15. In **Ratilal Panachand Gandhi vs. State of Bombay**⁴, the Supreme Court dealt with the scope and ambit of Article 25 of the Constitution of India and held that Article 25 guarantees to every person and not merely to the citizens of India, the freedom of conscience and the right freely to profess, practise and propagate religion. However, the said right is subject to public order, health and morality and further exceptions are engrafted

³ (2019) 11 SCC 1

⁴ (1954) 1 SCC 487 : AIR 1954 SC 388

on the right conferred under Article 25(1) by clause (2) of Article 25 of the Constitution of India.

16. In **Sri Sri Sri Lakshamana Yatendrulu vs. State of Andhra Pradesh**⁵, the Supreme Court has held as under:

“14. Article 25, as its language amplifies, assures to every person subject to public order, health and morality, freedom not only to entertain his religious beliefs, as may be approved of by his judgment and conscience, but also to exhibit his belief in such outwardly act as he thinks proper and to propagate or disseminate his ideas for the edification of others. Mahant as head of the spiritual fraternity and by virtue of his office has to perform the duties of a religious teacher. The deep layers of religion used in Articles 25 and 26 and its manifest efficacy in social well-being and integration in the onward march of civilisation from tribal society to modern life would appropriately be dealt with in the connected cases relating to Archakas. Suffice it to state that it is the duty of Mahant to practise and propagate the religious tenets of which he is an adherent and if any provision of law prevents him from propagating his doctrine that would certainly affect the religious freedom guaranteed under Article 25. A math or a specific endowment per se cannot practise or propagate religion. It can be done only by individual persons. Whether those persons propagate their personal views or the tenets for which the institution was started, is immaterial for the purposes of Article 25. Only propagation of beliefs is protected, it does not matter whether the propagation takes place in a temple or any other meeting.”

⁵ (1996) 8 SCC 705

17. In **Commissioner of Police vs. Acharya Jagadishwarananda Avadhuta**⁶, the Supreme Court held as under:

“76. The full concept and scope of religious freedom is that there are no restraints upon the free exercise of religion according to the dictates of one's conscience or upon the right to freely profess, practise and propagate religion, save those imposed under the police power of the State and the other provisions of Part III of the Constitution. This means the right to worship God according to the dictates of one's conscience. Man's relation to his God is made no concern of the State. Freedom of conscience and religious belief cannot, however, be set up to avoid those duties which every citizen owes to the nation e.g. to receive military training, to take an oath expressing willingness to perform military service and so on.

77. Though the freedom of conscience and religious belief are absolute, the right to act in exercise of a man's freedom of conscience and freedom of religion cannot override public interest and morals of the society and in that view it is competent for the State to suppress such religious activities which are prejudicial to public interest. That apart, any activity in furtherance of religious belief must be subordinate to the criminal laws of the country. It must be remembered that crime will not become less odious because it is sanctioned by what a particular sect may designate as religious. Thus polygamy or bigamy may be prohibited or made a ground of disqualification for the exercise of political

⁶ (2004) 12 SCC 770

rights, notwithstanding the fact that it is in accordance with the creed of a religious body.”

18. A Division Bench of Bombay High Court in **Dr. Ranjeet Suryakant Mohite** (supra) has held that an individual in exercise of right of freedom of conscience is entitled to express an opinion that he does not follow any religion or any religious tenet. He has a right to say that he does not believe any religion.

19. In the backdrop of the aforesaid legal proposition, we may advert to the facts of the case in hand. The State Government in exercise of powers conferred under Sections 33-A to 33-O of the Andhra Pradesh Education Act, 1982 has framed the Andhra Pradesh Registered Schools (Establishment, Recognition, Registration and Regulation) Rules, 1987. Rule 16(4) of the aforesaid Rules provides that students of any recognised school may seek admission in or transfer from any such school to any registered school and *vice versa* and the transfer certificate issued by the registered school shall be in the proforma as prescribed in the Annexure No.IV to the said Rules. The proforma of transfer certificate is extracted below for the facility of reference:

ANNEXURE IV
[See Rule 16 (4)]

(Name and address of the School)
(with emblem, if any)

Book No.

Transfer Certificate

Transfer Certificate No.....

Date:.....

Register No. (Roll No.)

1. Name of the pupil (in block letters) :
2. Name of the parent/guardian :
3. Date of birth (in words) as entered in the Admission Register :
4. Special status of the pupil –
 - (1) Nationality :
 - (2) Religion :
 - (3) Caste :
 - (4) Whether the pupil belongs to S.C./S.T./B.C. communities, if so, the particulars thereof:
5. Date of class in which the pupil was first admitted in the school :
6. (a) Date and class in which the pupil was studying at the time of leaving the school :
(b) Subjects taken for study:

Language Subjects	Options
(i)	(i)
(ii)	(ii)
(iii)	(iii)

7. (a) Mother tongue :
(b) Medium of Instruction :
 8. Whether the pupil has been declared eligible by the competent authority for the next higher class/course :
 9. Whether the pupil was in receipt of any educational concession or scholarship (nature of the same has to be mentioned) :
 10. Conduct of the pupil :
 11. Personal Marks of Identification :
(a)
(b)
 12. General remarks :
- Signature of the
Head of the Institution
(with office stamp)
- Station :
Date :

COUNTER SIGNED

***[Signature and Designation of the
Competent Authority]***
[with office stamp]

20. Similarly, a scheme for Secondary School Certificate (Tenth Class Public Examination) has been framed. The aforesaid Annexure 1 is a format for issue of Secondary School Certificate. The aforesaid Annexure 1 is extracted below for the facility of reference:

ANNEXURE 1
Secondary School Certificate

(Issued under the Authority of the Government of Andhra Pradesh)

Issued by Serial No.....
Station Signature
Date Designation

1. Name of the pupil (in full)
2. Father's name
3. Nationality
4. Sex
5. Date of birth (in figures & words)
6. Place of birth
7. Personal marks of identification
 - 1.
 - 2.
8. Nature of course

Date: Signature of Headmaster/Headmistress
Name of the School.....Class.....Period of Study.....

From the perusal of the aforesaid Secondary School Certificate, it is evident that there is no requirement of either mentioning the religion or caste.

21. In the instant case, the petitioners have neither pleaded the particulars nor have annexed any document to show the quantifiable data with regard to the persons whose wards have been denied admission to educational institutions on account of non-mentioning of their religion and caste in the school admission forms or online examination form of Secondary School Certificate. In the rejoinder filed on behalf of the petitioners, the petitioners have given the particulars of some individuals who have offered comments to the online petition addressed by the petitioners to the Chief Justice of the Telangana High Court on 'no religion no caste'. From the said particulars of the aforesaid individuals, no inference can be drawn that the wards of the said persons have been denied admission to educational institutions for not furnishing the particulars of the religion or caste. There is no requirement of mention of either the caste or religion in the Secondary School Certificate. Similarly, no details of the persons have been either

pleaded or furnished to whom the school leaving certificates, education and employment forms have not been issued, on account of non mentioning of their caste or religion.

22. It is also pertinent to note that persons who practice 'no religion' have been granted the liberty by the Indian Census Commission not to mention any caste. In the absence of any quantifiable data with regard to the persons who are aggrieved, on whose behalf this public interest litigation has been filed, it is not possible for us to issue any directions in this public interest litigation.

23. Even otherwise, the fact that the petitioners had approached this Court by filing W.P.No.9469 of 2010 and other aggrieved persons had filed W.P.No.27398 of 2021 before this Court, in which they were granted the relief. It is evident that the aggrieved persons are in a position to approach this Court for redressal of their grievance. From perusal of paragraph 12 of the counter affidavit filed on behalf of the respondent No.5, it is evident that it is the stand of the School Education Department that the petitioners are at liberty to mention no caste and no religion in an appropriate column and for not mentioning the details of religion and caste, admission will not be denied to a

child. In view of the stand taken by the School Education Department, it is not necessary for us to issue any direction in this public interest litigation.

24. Accordingly, the writ petition is disposed of. There shall be no order as to costs.

Miscellaneous petitions, pending if any, shall stand closed.

ALOK ARADHE, CJ

J.SREENIVAS RAO, J

21.10.2024

Pln