

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25-06-2026

CORAM

THE HON'BLE MR JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR JUSTICE P.B. BALAJI

WP(MD) No. 7127 of 2022

and

WMP(MD)No.5401 of 2022

Sameer Ahamed. N
S/o. Narayanan,
1/35, North Street,
Terku Ilandaikulam,
Thoothukudi District 628 952.

..Petitioner(s)

Vs.

1. The District Collector
Thoothukudi District.
2. The Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Thoothukudi District.
3. The Tahsildar, Thoothukudi District.
4. The Secretary to Government,
Government of Tamil Nadu, Backward Classes,
Most Backward Classes and Minorities Welfare
Department, Secretariat, Chennai - 600 009.

(R4 suo motu impleaded vide court order dated
11.06.2026 in WP(MD)No.7127 of 2022 by
GRSJ AND RPJ)

..Respondent(s)



Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned rejection order of the online application of the Petitioner in Application No. TN-5202010151817 on the file of 3rd respondent and quash the same as illegal, consequently direct the respondent to issue community certificate to the Petitioner as Muslim Lebbai and to pass such further or other orders as this Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner(s): Mr.Maheswaran.R

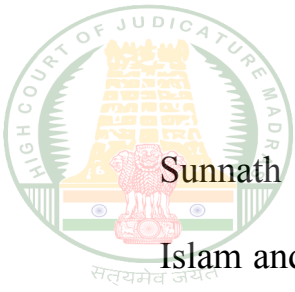
For Respondent(s): Mr.P.V.Balasubramaniam,
Additional Advocate General
assisted by Mr.M.P.Senthil,
Government Counsel

ORDER

(By G.R.SWAMINATHAN, J.)

Paramasivam S/o Narayanan becoming Sameer Ahamed would have passed off as exercise of one's fundamental right under Article 25 of the Constitution of India. But when after such metamorphosis, the converttee continues to claim the benefit of reservation, it triggers yet another conversation, nay debate, on the legitimacy and legality of such demand.

2.The writ petitioner was born on 12.04.1993 to a Hindu couple Narayanan and Gomathiammal in Tuticorin District. The certificate issued by



Sunnath Jamath, Kayathar on 11.09.2015 states that the petitioner embraced Islam and also changed his name to Sameer Ahamed. Gazette publication was made on 02.11.2016. The writ petitioner married one Vahitha as per Islamic rites and customs on 04.11.2016. Two children have been born through the wedlock. The petitioner applied for community certificate certifying him as “Muslim Lebbai”. The petitioner claims to follow the faith of Lebbai Muslims. His application was rejected by the Tahsildar, Kayathar. Challenging the same, this writ petition came to be filed.

3. Notice was issued 19.04.2022. It was taken up on 16.06.2022. It saw the light of the day only on 09.06.2026. The counsel for the writ petitioner was fair enough to submit that only in view of G.O (Ms) No.31, BC, MBC and MW Department dated 09.03.2024, he has a case. The Bench comprising one of us (GRSJ) and Justice R.Poornima after going through the said G.O, felt that it may not withstand judicial scrutiny. On 11.06.2026, the Government was impleaded as a party. The matter was called on 16.06.2026 and again posted to 22.06.2026. On 23.06.2026, the learned Additional Advocate General appeared and made certain prefatory remarks.

4. Today, when the matter was taken up for final disposal, the learned Additional Advocate General filed a detailed counter affidavit as well as a typed set of papers enclosing the relevant G.Os. But, before he could make his



submissions, the counsel for the petitioner informed the court that he had given change of vakalat.

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5. Given that the matter was taken up on so many occasions and that the counsel had also made his submissions and the matter was posted “for orders” only for the purpose of testing the validity of G.O (Ms)No.31 dated 09.03.2024, the petitioner is not being fair to the court by adopting the devious method of taking change of vakalat. We do not blame the counsel. He after all has to go by instructions. But on this ground, we do not want to adjourn this case either. As indicated at the outset, the writ petitioner had no case when he filed the writ petition. Life was infused into his case only by virtue of the aforesaid G.O. If the G.O is sustained, the writ petition has to be allowed. If the G.O is found to be bad in law, the petition will suffer dismissal. The Government has filed counter affidavit and the learned Additional Advocate General himself has appeared to strongly espouse the cause of the petitioner.

6. The G.O has a background. One U.Akbar Ali who belonged to the MBC category became a Muslim and wanted to be considered for public employment under BC(Muslim) category. TNPSC took the stand that he will come under General Category. The matter was heard at length by one of us (GRSJ) sitting singly. Vide order dated 01.12.2022 in WP(MD)No.1019 of



2022, I upheld the stand of TNPSC. In doing so, I merely followed the Division Bench decision of the Madras High Court rendered in ***G.Michael v.***

S.Venkateswaran (1952) 1 MLJ 239 and the decision rendered in ***S.Yasmine v.***

The Secretary, TNPSC 2013 (4) CTC 53. The substance of the said decisions

was that when a person converts to Islam, he becomes a Muslim and his place in

Muslim society is not determined by the caste to which he belonged before his

conversion. The said decision probably disincentivised conversion to Islam as

the beneficiaries of reservation face the prospect of losing the said benefit.

Islam being a proselytising religion, its votaries naturally took up the matter

with the Government. The matter was referred to the Tamil Nadu Backward

Classes Commission which *vide* letter dated 06.02.2024 recommended that the

government rationalise the granting of Backward Class Muslim community

certificate to those persons, belonging to Backward Classes, Most Backward

Classes, Denotified Communities or Scheduled Castes on conversion to any one

of the 7 groups or sections of Muslims identified as Backward Class Muslim

and issue community certificates as Backward Class Muslim, enabling them to

avail the benefits of reservation extended to Backward Class Muslims.

7.The learned Additional Advocate General submitted that the said recommendation is binding on the Government which issued G.O (Ms) No.31 dated 09.03.2024. According to him, the G.O was not issued arbitrarily. There



was a meeting of the stakeholders and only after a detailed deliberation, did the Commission make its recommendation. He pointed out that a convert from a forward community to Islam would not get the B.C (Muslim) tag. Only those who already enjoyed the benefit of reservation would not lose it on account of conversion to Islam. Thus, according to him, the social balance will not be affected. He added that the identified sects in Islam follow particular faith and practices and it was for the Jamath concerned to accept the converttee in one of the sects. Once the Jamath has issued a certificate, it is not for the revenue authority to question the same. He submitted in passing that the court also would not be justified in reviewing the same. He called upon us not to strike down the said G.O.

8.Though our Constitution prohibits discrimination on grounds of religion, race, caste, sects, place of birth or any of them, the State was authorised to make special provision for the advancement of any socially and educationally backward classes of citizens or for the scheduled castes or the scheduled tribes. Reservation policies are in furtherance of the aforesaid constitutional mandate. Since on the only ground of religion, one cannot be conferred with the benefit of reservation, the government has enumerated a list of backward classes apart from cataloguing Scheduled Castes and Scheduled Tribes. In the case on hand, we are concerned only with backward class



reservation for Muslims. The Government of Tamil Nadu has consciously, and if we may say so, rightly did not include all persons professing Islam under the

BC category. It identified only a few sects in Islam as falling under the category of backward class. One can take judicial notice of the fact that certain sects such as Dawoodi Bohras are socially and educationally advanced. The original list of BC(Muslims) was subsequently expanded on the basis of representations received from the members of the particular communities. As on date, the following 7 sects of Muslims have been notified as Backward Class Muslims as per Section 3(a) of the Tamil Nadu Act 45 of 1994 :

- “1.Ansar
- 2.Dekkani Muslims
- 3.Dubekula
- 4.Labbais including Rowthar and Marakayar (whether their spoken language is Tamil or Urdu)
- 5.Mapilla
- 6.Sheik
- 7.Syed”

A Muslim who does not belong to any of the aforesaid 7 sects cannot be called as a BC(Muslim).

9.The Government of Tamil Nadu vide G.O (Ms) No.31 dated 09.03.2024 had ordered that a convert to Islam from Backward Classes, Most Backward Classes, Denotified Communities or Scheduled Castes may be treated as BC(Muslim) for availing the benefit of reservation and on such conversion, he



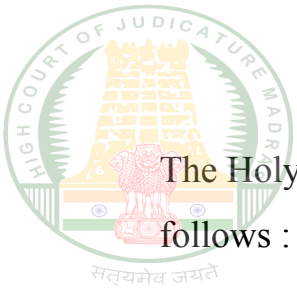
may be issued with community certificate as belonging to one of the notified 7 sects. The moot question is whether such a stand is constitutionally valid.

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10. As early as in 1951, the First Bench of the Madras High Court comprising Their Lordships Mr. Justice P.V. Rajamannar (CJ) and Mr. Justice T.L. Venkatarama Aiyar in ***G. Michael v. S. Venkateswaran (1952) 1 MLJ 239*** held that when a Hindu gets converted to Islam, he becomes just a Mussalman and his place in Muslim society is not determined by the caste to which he belonged before his conversion. It was further held that a member of one of the castes or sub-castes when he is converted to Islam ceases to be a member of any caste. This decision was approved by the Hon'ble Supreme Court of India in ***Kailash Sonkar v. Maya Devi (1984) 2 SCC 91; K.P. Manu v. Scrutiny Committee (2015) 4 SCC 1 and C. Selvarani v. Special Secretary cum District Collector (2024) 16 SCC 537***. *C. Selvarani* decision was pronounced on 26.11.2024 i.e., subsequent to the aforesaid G.O.

11. ***G. Michael*** decision is also in consonance with Islamic theology. The Holy Quran Proclaims the principle of equality in the following verse :

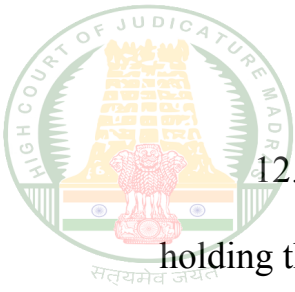
“O humanity! Indeed, We created you from a male and a female, and made you into peoples and tribes so that you may ‘get to’ know one another. Surely the most noble of you in the sight of Allah is the most righteous among you. Allah is truly All-Knowing, All-Aware. - [Sura: Huzurat Ayat No. 13]”



The Holy Prophet (Peace Be Upon Him), in his farewell sermon stated as follows :

"All mankind is from Adam and Eve. An Arab has no superiority over a non-Arab, nor does a non-Arab have any superiority over an Arab; a white person has no superiority over a black person, nor a black person over a white person, except by piety and good deeds. Learn that every Muslim is a brother to every Muslim and that the Muslims constitute one brotherhood."

The Christian missionaries as well as Islamic preachers harangued through decades and centuries that their religions offer social equality unlike Hinduism which has caste as its inherent feature. Having taken such a stand for effecting conversions, it is disingenuous to claim that there is hierarchy in Islam also. In our respectful view, categorising certain sects as Backward and the remaining as Forward is antithetical to Quranic injunctions. Islam seeks to establish an egalitarian society. Everyone is equal in the eye of God. There is no social hierarchy. Be that as it may, due to historical reasons, the Islamic society is also stratified into various communities. One can even boldly remark that they are akin to caste in Hinduism. Just as caste is determined by birth, one is a Rowther or Marakkayar or Deccani Muslim by birth alone. It is ridiculous to suggest that one can be converted into a Rowther Muslim. As held by the Division Bench of the Madras High Court more than 75 years ago, upon conversion to Islam, one becomes a Muslim. The Hon'ble Division Bench used the expression "just a Mussalman". He cannot be pigeonholed into any particular sect or community which can be only by virtue of one's birth therein.



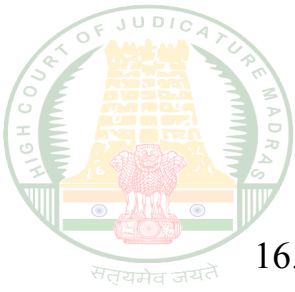
12. When the proposition laid down by the Hon'ble Division Bench is holding the field, it cannot be undone by issuing a mere Government Order.

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13. The doctrine of separation of powers is an entrenched principle in the Constitution of India and that it is an essential constituent of rule of law. This principle applies to the final judgments of the courts. The legislature cannot declare any decision of a court of law to be void or of no effect. A court's decision must always bind unless the conditions on which it is based or so fundamentally altered that the decision could not have been given in the altered circumstances (vide *State of T.N v. State of Kerala (2014) 12 SCC 696*). While the legislature has power and competence to make a validating law, the executive has no such privilege. It can never go against the final judgment of a court.

14. If the exercise of the power of judicial review can be set at naught by the State Government by overriding the decision against it, it would sound the death knell of the rule of law (vide *P.Sambamurthy v. State of A.P (1987) 1 SCC 362*). The executive cannot sit in an appeal or review or revise a judicial order (*UOI v. K.N.Shankarappa (2001) 1 SCC 582*).

15. When the Division Bench of the Madras High Court in *G.Michael* had held that a convert to Islam becomes just a Mussalman, it is not open to the State Government to issue a G.O undermining the said decision. That is exactly what the Government has done by recognising that there can be conversion to any one of the 7 sects of Muslims identified as Backward Class Muslim.



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16. The sheer arbitrariness of the impugned G.O. becomes manifest for one more reason. The Backward Classes Commission's recommendation as well as G.O (Ms) No.31 dated 09.03.2024 provide for accommodating BC/MBC/DNC/SC converttees in any one of the 7 slots. In other words, a SC who is at the bottom-most rung of the social ladder is put on par with a BC. The Hon'ble Supreme Court in catena of decisions has held that OBCs and SCs form separate categories. Just for the sake of ensuring that the converts to Islam continue to enjoy some form of reservation benefit, such a bunching has been done by the State Government. This exposes the inherent flaw in the approach adopted by the Government.

17. One can take judicial notice of the fact that when a person embraces Islam, the Jamath issues a certificate to the effect that he has become a Muslim. Even in the petitioner's case, the certificate issued by the Sunnath Jamath of Kayathar certifies that he has embraced the Islamic path. We have no option but to conclude that only to undo the judgments of this Court, has the Government come out with an innovation that is not only unconstitutional but also un-Islamic.

18. The third respondent, in a pithy order had noted that the petitioner had converted to a religion and not to any caste. Though some may take umbrage at equating an Islamic community with caste, this is not without precedent. The Madras Census Report, 1901 referred the Labbais as being a "Mussalman caste



of partly Tamil origin who are distinct from the Marakkayars, as they do not intermarry with them”. Edgar Thurston has catalogued the castes and tribes of Southern India and one finds “Deccani” in his list. This reinforces our conclusion that one becomes a member of a notified sect such as Syed or Sheik or Labbai only by virtue of one’s birth in the said community. The stand of the Government that there can be conversion to a notified Islamic sect is inconceivable in principle. When we consulted the standard texts, we found that sects normally meant Shia or Sunni or the sub-sects therein such as Hanafi, Ismaili etc., What has been notified in G.O (Ms) No.85 dated 29.07.2008 can only be called as communities and not as sects.

19.The learned Additional Advocate General submitted that in quite a few Division Bench decisions (WA No.2813 of 2021) etc., G.O (Ms) No.31 dated 09.03.2024 has been acted upon. This is no answer. In those decisions, the validity of this G.O was not in issue. It was also not considered if the said G.O overreached or circumvented what was laid down in **G.Michael**. Question may arise if we are justified in testing its validity, when the petitioner as well as the respondents swear by the G.O. We want to remind the Government that in **Bharathidhasan University v. AICTE (2001) 8 SCC 676**, the Hon’ble Supreme Court held that when the power to make regulations is confined to certain limits and made to flow in a well defined canal within stipulated bans, those actually made or shown and found to be not made within its confines but outside them,



the courts are bound to ignore them when the question of their enforcement arises and the mere fact that there was no specific relief sought for to strike down or declare them ultra-vires, particularly, when the party in sufferance is a respondent to the lis or proceedings cannot confer any further sanctity or authority and validity which it is shown and found to obviously and patently lack.

20. In these proceedings, the enforcement of G.O (Ms) No.31, BC, MBC and MWD dated 09.03.2024 has come up for consideration. The State government is very much a party to these proceedings. Counter affidavit has been filed and we heard the learned Additional Advocate General also at length on this very issue. Once we find that the said G.O is illegal, it is our bounden judicial duty to declare it to be so. We accordingly declare that the said G.O is unconstitutional. The order impugned in the writ petition is sustained. This writ petition is disposed of accordingly. No costs. Connected Miscellaneous Petition is closed. As a corollary, we hold that a convert to Islam cannot claim the status of Backward Class Muslim. He is only a Muslim and that's all there is to it.

(G.R.S.,J.) (P.B.B.,J.)
25-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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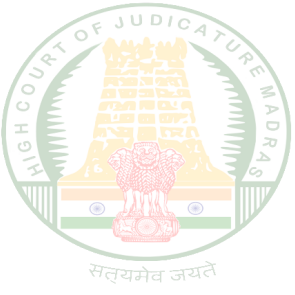
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