

Court No. - 81

Case :- WRIT - C No. - 1348 of 2024

Petitioner :- Smt Nikita @ Najrana And Another

Respondent :- State Of Up And 3 Others

Counsel for Petitioner :- Sanjay Kr. Srivastava

Counsel for Respondent :- C.S.C.

Hon'ble Kshitij Shailendra,J.

1. Heard Shri Sanjay Kumar Srivastava, learned counsel for the petitioners and Yogesh Kumar, learned Standing Counsel for the State-respondents.

2. By means of present writ petition, the petitioners have prayed for a writ of mandamus commanding the respondents 2 and 3 to provide adequate security to petitioners and further restraining the respondents from causing any interference in peaceful living of petitioners as husband and wife.

3. Learned Standing Counsel points out that petitioner No.1 earlier belonged to Muslim religion and the petitioner No.2 belongs to Hindu religion and in view of the provisions of the UP Prohibition of Unlawful Conversion of Religion Act, 2021, unless compliance of the provisions of Sections 8 and 9 is made by the parties belonging to different religions, no sanctity/validity can be attached to such marriage.

4. The Act of 2021 was enacted with the following object:

"An Act to provide for prohibition of unlawful conversion from one religion to another by misrepresentation, force, undue influence, coercion, allurement or by any fraudulent means of by marriage and for the matters connected therewith or incidental thereto."

5. Section 3 of the Act prohibits conversion from one religion to another religion by misrepresentation, force, fraud, undue influence, coercion or allurement. For the purpose of the present case, Explanation attached to sub-section (1) of Section 3 has significance and, therefore, the provision is being reproduced for a ready reference:

"3. Prohibition of conversion from one religion to another religion by misrepresentation, force, fraud, undue influence, coercion or allurement- (1) No person shall convert or attempt to convert, either directly or otherwise, any other person from one religion to another by use or practice of misrepresentation, force, fraud, undue influence, coercion or allurement or by any fraudulent means. No person shall abet, convince or conspire such conversion:

Explanation.- For the purposes of this sub-section conversion by solemnization of marriage or relationship in the nature of marriage on account of factors enumerated in this sub-section shall be deemed included."

6. Section 6 of the Act renders a marriage performed for the sole purpose of unlawful conversion or vice-versa as void, however, the proviso attached to the said section speaks of applicability of the provisions of Sections 8 and 9 as regards such marriages. For the convenience sake, Section 6 is extracted as under:

"6. Marriage done for sole purpose of Unlawful Conversion or vice-versa to be declared void.- Any marriage done for sole purpose of unlawful conversion or vice-versa by the man of one religion with the woman of another religion, either by converting himself/herself before or after marriage, or by converting the woman before or after marriage, shall be declared void by the Family Court or where Family Court is not established, the Court having jurisdiction to try such case on a petition presented by either party thereto against the other party of the marriage :

Provided that all the provisions of Section 8 and 9 shall apply for such marriages to be solemnized."

7. From the scheme of the Act of 2021, conversion from one religion to another is not impermissible. Rather, Sections 8 and 9 of the Act deal with the provisions for a valid conversion and its effect. For a ready reference, Sections 8 and 9 of the Act, 2021 are extracted as under:

"8. Declaration before conversion of religion and pre-report about conversion.- (1) **One who desires to convert his/her religion, shall give a declaration** in the form prescribed in Schedule-I at least sixty days in advance, to the District Magistrate or the Additional District Magistrate specially authorized by District Magistrate, **that he wishes to convert his/her religion on his/her own and with his/her free consent and without any force, coercion, undue influence or allurement.**

(2) The religious convertor, who performs conversion ceremony for converting any person of one religion to another religion, shall give **one month's advance notice** in the form prescribed in Schedule-II of such conversion, to the District Magistrate or any other officer not below the rank of Additional District Magistrate appointed for that purpose by the District Magistrate of the district where such ceremony

is proposed to be performed.

(3) The District Magistrate, after receiving the information under sub-sections (1) and (2), shall get an **enquiry conducted** through police with regard to real intention, purpose and cause of the proposed religious conversion.

(4) Contravention of sub-section (1) and/or sub-section (2) shall have the effect of rendering the proposed conversion, illegal and void.

(5) Whoever contravenes the provisions of sub-section (1) shall be punished with, imprisonment for a term which shall not be less than six months, but may extend to three years and shall also be liable to fine which shall not be less than rupees ten thousand.

9. Declaration post conversion of religion.- (1) The converted person shall send a **declaration** in the form prescribed in Schedule-III **within sixty days of the date of conversion**, to the District Magistrate of the District in which converted person resides ordinarily.

(2) The District Magistrate shall **exhibit a copy of the declaration** on the notice board of the office till the date of confirmation.

(3) The said declaration shall contain the **requisite details**, i.e., the particulars of the convert such as date of birth, permanent address, and the present place of residence, father's/husband's name, the religion to which the convert originally belonged and the religion to which he has converted, the date of place of conversion and nature of process gone through for conversion.

(4) The **converted individual shall appear before the District Magistrate** within 21 days from the date of sending/filing the declaration to establish her/his identity and confirm the contents of the declaration.

(5) The District Magistrate shall record the factum of declaration and confirmation in a register maintained for this purpose. If any objections are notified, he may simply record them, i.e., the name and particulars of objectors and the nature of objection.

(6) Certified copies of declaration, confirmation and the extracts from the register shall be furnished to the parties, who gave the declaration to his/her authorized legal representative on his/her request.

(7) The contravention of sub-sections (1) to (4) shall have the effect of rendering the said conversion illegal and void."

8. Learned counsel for the petitioners submits that a conversion certificate was issued in the year 2017 whereas the aforesaid Act has come into existence in 2021 and, therefore, the provisions of Section 8 and 9 of the Act, 2021, would not be applicable.

9. The Court has perused Annexure-2 to the writ petition, which is a copy of conversion certificate issued by some Arya Samaj Mandir.

10. It is now necessary to give reference to certain judicial pronouncements on purposive interpretation of a statute.

11. Jurisprudence of statutory interpretation has moved from "literal interpretation" to "purposive interpretation", which advances the purpose and object of a legislation. The Supreme Court, in catena of judgments, has dealt with the issue of literal interpretation vis-a-vis purposive interpretation.

12. The Apex Court, in **Central India Spinning and Weaving Manufacturing Comp. versus Municipal Committee, Wardha, AIR 1958 SC 341**, has held that it is a recognised principle of construction that general words and phrases, however wide and comprehensive they may be in their literal sense, must usually be construed as being limited to the actual objects of the Act.

13. The Supreme Court, in **Girdhari Lal & Sons versus Balbir Nath Mathur; 1986(2) SCC 237**, has held that the primary and foremost task of a Court in interpreting a statute is to ascertain the intention of the legislature, actual or imputed. Having ascertained the intention, the Court must then strive to so interpret the statute as to promote and advance the object and purpose of the enactment. For this purpose, where necessary the Court may even depart from the rule that plain words should be interpreted according to their plain meaning. There need no meek and mute submission to the plainness of the language. To avoid patent injustice, anomaly or absurdity or to avoid invalidation of a law, the court would be well justified in departing from the so-called golden rule of construction so as to give effect to the object and purpose of the enactment by supplementing the written word if necessary. It went to observe that ascertainment of legislative intent is a basic rule of statutory construction and that a rule of construction should be preferred which advances the purpose and object of a legislation and that though a construction, according to plain language, should ordinarily be adopted, such a construction should not be adopted where it leads to anomalies, injustices, or absurdities, vide **K.P. Varghese v. ITO, (1981) 4 SCC 173, State Bank of Travancore v. Mohd. M. Khan, (1981) 4 SCC 82, Som Prakash Rekhi v. Union of India (1981) 1 SCC 449, Ravula Subba Rao v. CIT, AIR 1956 SC 604, Govindlal V Agricultural Produce Market Committee, (1975) 2 SCC 482 and Babaji Kondaji v. Nasik Merchants Co-op Bank Ltd. (1984) 2 SCC 50.**

14. The Supreme Court, in **Utkal Contractors & Joinery Pvt. Ltd. versus State of Orissa; 1987 (3) SCC 279**, has observed that a statute is best understood if we know the reason for it. The

reason for a statute is the safest guide to its interpretation. The words of a statute take their colour from the reason for it. There are external and internal aids. The external aids are Statement of Objects and Reasons when the Bill is presented to Parliament, the reports of Committees which preceded the Bill and the reports of Parliamentary Committees. Occasional excursions into the debates of Parliament are permitted. Internal aids are the Preamble, the scheme and the provisions of the Act. Having discovered the reason for the statute and so having set the sail to the wind, the interpreter may proceed ahead. No provision in the statute and no word of the statute may be construed in isolation. Every provision and every word must be looked at generally before any provision or word is attempted to be construed. The setting and the pattern are important. It is again important to remember that Parliament does not waste its breath unnecessarily. Just as Parliament is not expected to use unnecessary expressions, Parliament is also not expected to express itself unnecessarily. Even as Parliament does not use any word without meaning something, Parliament does not legislate where no legislation is called for. Parliament cannot be assumed to legislate for the sake of legislation; nor can it be assumed to make pointless legislation. [**See-Eera (through Dr. Manjula Krippendorf) v. State (NCT of Delhi) and Anr 2017(15) SCC 133**].

15. The more stringent the Law, the less is the discretion of the Court. Stringent laws are made for the purpose to achieve its objectives. This being the intendment of the legislature, the duty of the court is to see that the intention of the legislature is not frustrated. If there is any doubt or ambiguity in the statutes, the rule of purposive construction should be taken recourse to, to achieve the objectives. (See **Swedish Match AB & Anr. Securities & Exchange Board, India & Anr., (2004) 11 SCC 641**).

16. The Apex Court, in **Reserve Bank of India Vs. Peerless General Finance and Investment Co. Ltd. & Ors. (1987) 1 SCC 424**, held that Interpretation must depend on the text and the context. They are the bases of interpretation. One may well say if the text is the texture, context is what gives the colour. Neither can be ignored. Both are important. That interpretation is best which makes the textual interpretation match the contextual. A statute is best interpreted when we know why it was enacted. With this knowledge, the statute must be read, first as a whole and then section by section, clause by clause, phrase by phrase and word by word. If a statute is looked at, in the context of its enactment, with

the glasses of the statute-maker, provided by such context, its scheme, the sections, clauses, phrases and words may take colour and appear different than when the statute is looked at without the glasses provided by the context. With these glasses we must look at the Act as a whole and discover what each section, each clause, each phrase and each word is meant and designed to say as to fit into the scheme of the entire Act. No part of a statute and no word of a statute can be construed in isolation. Statutes have to be construed so that every word has a place and everything is in its place.

17. Same view has been reiterated in **S. Gopal Reddy Vs. State of Andhra Pradesh, (1996) 4 SCC 596, Prakash Kumar Alias Prakash Bhutto Vs. State of Gujarat, (2005) 2 SCC 409, Anwar Hasan Khan Vs. Mohd. Shafi & Ors. (2001) 8 SCC 540, Union of India & Ors. Vs. Filip Tiago De Gama of Vedem Vasco De Gama, (1990) 1 SCC 277, Reserve Bank of India v. Peerless General Finance and Investment Co. Ltd., (1987) 1 SCC 424: (AIR 1987 SC 1023) and N. K. Jain v. C. K. Shah (1991) 2 SCC 495: (AIR 1991 SC1289).**

18. In the present case, as per the writ petition itself, the alleged marriage between the petitioners has been performed on 2.1.2024 by which date the aforesaid Act of 2021 had come into existence. Therefore, before the date of marriage, the petitioners should have complied with the provisions of the Act, in case, they wanted to attach sanctity/legality to the conversion, which is now controlled and governed by the enactment passed by UP Legislature.

19. The scheme of the Act envisages that if conversion is done in relation to marriage of the persons belonging to different religions, irrespective of any past event, which might or might not attach sanctity to conversion, in case a marriage is solemnized after the Act of 2021 has come into force, i.e., after 27.11.2020 as per Section 1 (3) of the Act, the parties have to ensure compliance of Sections 8 and 9 of the Act and, in such event, conversion, if any, done in the past, may be a relevant fact during the course of inquiry conducted by the District Magistrate as per Sections 8 and 9 of the Act subject to satisfaction of the District Magistrate but it, in itself, cannot be a substantive proof of a valid conversion so as to attach sanctity to a marriage performed after the Act, 2021 has come into force. Therefore, the concerned party to a proposed inter-faith/inter-religion marriage has to comply with the provisions of the Act. Hence, the submission of learned counsel for the petitioners that since Act has come into force in 2020-21, but conversion was done in 2017 at Arya Samaj Mandir and, therefore,

no fresh conversion is required, is not acceptable and is hereby discarded.

20. In view of the above, this writ petition stands **disposed of** with liberty to the petitioners to file a fresh petition after ensuring compliance of Sections 8 and 9 of the UP Prohibition of Unlawful Conversion of Religion Act, 2021.

Order Date :- 30.1.2024

LN Tripathi