

Reserved

**In Chamber**

**Case :-** CRIMINAL MISC. WRIT PETITION No. - 1634 of 2023

**Petitioner :-** Dr. R.B. Lal And 7 Others

**Respondent :-** State Of U.P. And 3 Others

**Counsel for Petitioner :-** Anuj Srivastava, Sr. Advocate

**Counsel for Respondent :-** G.A., Kamla Singh, Vishal Tandon

**Hon'ble Anjani Kumar Mishra, J.**

**Hon'ble Gajendra Kumar, J.**

Heard Shri Gopal Chaturvedi, learned Senior Advocate assisted by Shri Anuj Srivastava for the petitioners and Shri Manish Goel, Additional Advocate General for the State of U.P.

The instant writ petition seeks the following reliefs:-

*"a. Issue an appropriate writ, order or direction declaring Section 3, 5 & 12 of the U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 as ultra vires to the Constitution of India.*

*b. Issue an appropriate writ, order or direction in the nature of certiorari quashing Section 3, 5 & 12 of the U.P. Prohibition of Unlawful Conversion of Religion Act, 2021.*

*c. Issue an appropriate writ, order or direction in the nature of certiorari quashing the impugned First Information Report dated 20.01.2023 bearing Case Crime No. 0047 of 2023 lodged at Police Station Kotwali, District Fatehpur under Sections 120B of I.P.C. and Section 3/5(1) of U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 as ultra vires to the Constitution of India.*

*d. Issue an appropriate writ, order or direction in the nature of mandamus directing the Respondent Nos. 2 & 3 not to arrest the petitioners in pursuance of the impugned First Information Report dated 20.01.2023 bearing Case Crime No. 0047 of 2023 lodged at Police Station Kotwali, District Fatehpur under Sections 120B of I.P.C. and Section 3/5(1) of U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 as ultra vires to the Constitution of India.*

*e. Issue any other appropriate writ, order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the present case.*

*f. Award the costs of the petition to the petitioners."*

It is contended that though the main offence against the petitioners is violation of the provisions of the U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 (hereinafter

referred to a the Act), no offence is disclosed because the provisions of law contained in Section 8 and 9 of the Act, which are mandatory have not been complied with. Section 8(7) provides that any conversion without compliance of the mandatory provisions contained in sub-sections 1 to 4 of Section 9 shall render any conversion, void. Therefore no religious conversion actually took place.

The second contention is regarding challenge to the vires of Section 3, 5 and 12 of the said Act.

Since the vires of some sections of the Act, are under challenge, the respondents may file counter affidavits within two weeks.

Petitioners will have two weeks thereafter to file rejoinder affidavit.

List the petition thereafter for admission/hearing.

On the question of grant of stay, two authorities have been relied upon by learned counsel for the petitioner, they are:-

**1. *Health For Millions Trust vs Union Of India (2014 14 SCC 496) and***

**2. *Bhavesh D. Parish & Others vs Union Of India And Another, 2005 SCC 471.***

The judgments cited hold that unless a provision of law whose vires is impugned, is ex facie unconstitutional or manifestly unjust or glaringly unconstitutional, no interim order should be granted during the pendency of the petition.

Section 3 of the Act provides that 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, undue influence, coercion, allurement or by any fraudulent means. It also provides that no person shall abet, convince or conspire in such conversion.

The punishment for contravention of Section 3 is provided under Section 5 of the Act.

Upon a perusal of the FIR, we find therein, direct allegations of allurement having been offered by the petitioners to the first informant and, therefore, in our considered opinion, the allegation, prima facie, constitute an offence under Section 3 of the Act. Therefore, the impugned first information report cannot be quashed, till such time, the primary relief prayed for in the writ petition, namely striking down of Section 3 as

unconstitutional, is granted.

We are see no justification for granting any interim order to the petitioners as the provisions of Section 3 & 5 prima facie do not appear to be glaringly unconstitutional or ex facie unconstitutional.

The stay application is, therefore, rejected.

**Order Date :- 2.6.2023**

Mayank