

1. Union of India represented by The Secretary

Ministry of Social Justice and Empowerment,

Government of India,

Room No. 604, A-Wing,

Shastri Bhawan,

New Delhi - 110 001

2. The Secretary

National Commission for Scheduled Castes,

Government of India

5th Floor,

Lok Nayak Bhawan,

Khan Market,

New Delhi-110003.

3. The Secretary

National Commission for Minorities

Government of India

3rd Floor,

Block-3,

CGO Complex,

New Delhi 110003

4. The Registrar General of India

Office of The Registrar General and Census Commissioner, India

Government of India

NDCC-II Building,

Jai Singh Road,

New Delhi -110001.

5. The Secretary

Ministry of Law and Justice

Government of India

4th Floor,

A-Wing,

Shastri Bhawan,

New Delhi-110 001

6. The Secretary,

Ministry of Parliamentary Affairs,

Government of India

Room. No. 92,

Parliament House,

New Delhi - 110001.

7. The secretary

Ministry of Minority Affairs

Government of India

11th Floor, Room No. 1110

Pandit Deendayal Antyodaya Bhawan,

CGO Complex,

Lodhi Road,

New Delhi-110003.

8. The Cabinet Secretary

Cabinet Secretariat

Government of India

Rashtrapathi Bhavan

New Delhi- 110004.

National Council of Dalit Christians (NCDC) was started in the year 2006 as a network of Christians of Scheduled Castes Origin people/ Dalit Christians in India. Formed in Delhi, this has spread to all other parts of India.

Vision: All Christians of Scheduled Castes Origin/ Dalit Christians get their constitutional Scheduled Castes rights, eradication of untouchability practice and the empowerment of Christians of Scheduled Castes Origin.

Mission: Fight for the getting the constitutional rights of Christians of Scheduled Castes Origin/ Dalit Christians from state as well as Central government/ Union of India.

Organisation Build -up:

Apart from the National level, the organisational set up is divided into 5 Regions- North, West, East, Upper south, and Lower South.

The states in the regions are

1). Northern Region:

Jammu and Kashmir

Punjab

Haryana

UP

Delhi

Himachal Pradesh

2). Western Region :

Rajasthan

Gujarat

Maharashtra

Madhyapradesh

3). Eastern Region :

Odisha

Jharkhand

West Bengal

Bihar

Chattisgarh

4). Upper Southern Region :

Andra Pradesh

Telengana

Karnataka

5). Lower Southern Region :

Kerala

Tamil Nadu

Pondicherry

Struggles:

So far, most of the Struggles have been done for securing the Constitutional (Scheduled Castes) Rights of Christians of Scheduled Castes Origin/ Dalit Christians. NCDC had conducted march towards Parliament about 16 Times in Delhi. Besides, State level Agitations were conducted in all states.

NCDC Office bearers had met Prime Minister and Union Ministers and members of parliament with Memorandum several times. NCDC had met Chief Ministers and Ministers in the state with delegations. Also NCDC had met National Commissions and Committees like (Scheduled Castes Commission, Minority Commission, Human Rights Commission, Parliament Committees, and so on for getting the Scheduled Castes status to the above said people).

Formation and Launching:-

National Council of Dalit Christians (NCDC) was formed on 24 July 2006 in New Delhi as a platform (collective) of State level and

National level organisations of Christians of Scheduled Castes Origin people/ Dalit Christians in India. It was originally started by a group of Dalit Christian activists who committed themselves for the cause of the constitutional Scheduled Castes rights of Christians of Scheduled Castes Origin/ Dalit Christians. It also visualised a non-registered entity in the beginning till state level collectives of Dalit Christians are formed in different states and affiliated to NCDC. The official launching of the organisation took place on 24 August 2006 when a Dharna was organised in Jantar Mantar, New Delhi in the name of NCDC in which hundreds of people participated from all over the country. There was a seminar on Dalit Christian rights in St. Thomas High School Auditorium, Mandir Marg, New Delhi- 1 by 4 pm after the one day Dharna in Jantar Mantar, New Delhi. Memoranda were submitted to prime Minister and Ministers, as part of the Dharna and seminar.

Relay Hunger Strike in Delhi:-

The second major event organised by NCDC was the 14 days Relay Hunger Strike organised in Delhi from 20 November to 03 December 2006. This was meant for creating continuous pressure on the Central Government to take up the issue of Dalit Christians for extending them the Scheduled Castes status. The relay hunger strike in Jantar Mantar, New Delhi was started by delegates from Kerala and Tamil Nadu on 20 November 2006 and they continued the strike till 22 November 2006 for 3 days together. On 23 November 2006, the hunger strike was taken

over by delegates from Karnataka, Pondicherry and Andhra Pradesh who conducted the hunger strike till 25 November. Then the teams from Maharashtra and Gujarat took over on 26 November and continued sitting on hunger strike for next three days till 28 November. Then the delegates from Odisha and West Bengal came to sit on hunger strike from 29 November to 1st December 2006. Finally, the last two days were occupied by teams from Punjab and second delegation from Kerala and Tamil Nadu. Every day memoranda were sent to Prime Minister of India and to various ministers.

Parliament March July 2007:- The next major event organised by NCDC in the direction of securing the Constitutional Scheduled Castes Rights of Christians of Scheduled Castes Origin/ Dalit Christians was the Parliament March conducted in July 2007 in Delhi. Thousands of people from all over the country marched towards Parliament in Jantar Mantar. Many members of Parliament were participating in the March. Memoranda were submitted to Prime Minister of India as well as to the offices of concerned Union Ministers.

Advocacy- Lobby Programme in October 2007:- The advocacy Lobby programme was conducted for two weeks in Delhi. A team of leaders have come to Delhi and stayed there for two weeks and conducted rigorous lobby work, meeting MPs, Ministers and other bureaucrats in Delhi with representation for the Scheduled Castes status of Christians of Scheduled Castes Origin/ Dalit Christians.

Parliament March in March 2008:- Another Parliament March was conducted in March 2008 in Delhi and people from all over India participated. Memoranda were submitted to the Prime Minister's Office and President's office.

Parliament March November 2008:- Again in November 2008 NCDC conducted another Parliament March. This time there were more participation of people in the March. Memoranda were submitted to the Prime Minister Office and President's office. Besides, lobby work was conducted in the offices of Ministers and Members of parliament.

Representation to the National Commission for Religious and Linguistic Minorities (NCRLM) headed by former Chief Justice of India Hon. Renganath Misra :- When Justice Renganath Misra Commission (National Commission for Religious and Linguistic Minorities) organised fact finding seminar in Tata Institute Mumbai, NCDC has sent a delegation under the leadership of the National Convener of NCDC and presented the evidences relating to the social, educational and economic backwardness of Christians of Scheduled Castes Origin/ Dalit Christians for the conferment of Scheduled Castes status to them.

5-Day hunger strike and parliament March 2009:- Another remarkable campaign NCDC organised for the SC rights of Dalit Christians was the 5 days hunger strike in Delhi which culminated into a massive Parliament March in July 2009. The programme was organised jointly by NCDC, Catholic Bishops' Conference of India (commission for SC/BC) and the Dalit and Adivasi

department of National Council of Churches in India. About 20,000 people from all over India participated in the Parliament March and many Bishops and church heads were part of the rally from Ramleela Ground, Delhi to Jantar Mantar, New Delhi. Memoranda were submitted on all days to the authorities. Many political leaders and Members of parliament addressed the gathering.

Regional Marches and Rallies:- Regional rallies and campaigns were conducted in Chennai, Trivandrum and Bhubaneswar by the State Chapters of NCDC in association with the local leaders and other organisations.

Parliament March 2010:- Another Parliament March was conducted in October 2010. Thousands of people participated from all over the country.

Parliament March 2011:- In the year 2011 two Parliament Marches were conducted in Delhi for getting the Scheduled Castes status. The first was in February 2011 and the second in November 2011. Thousands of people participated in these programmes

Parliament March 2012:- During the winter session of the parliament, another rally was conducted by NCDC which was also attended by thousands of people from all over India.

Parliament March 2013:- In December 2013 another massive parliament March was conducted by NCDC in association with Catholic Bishops Conference- CBCI and National Council of Churches in India-NCCI.

Parliament March 2015:- Another Parliament march was conducted in July 2015 during the winter session of the parliament. About 5000 people gathered for the programme in Ramleela Ground, Delhi and marched towards Jantar Mantar, New Delhi. Memorandum was given to the Prime Minister's office.

Dharna, March 2017:- The next struggle of NCDC in Delhi was in March 2017 and it was a Dharna in Jantar Mantar from 10 am to 1 pm. It was attended by 4000 persons from all over India. Memorandum was given to the Prime Minister's office for getting the Scheduled Castes status.

Parliament March 2019:- Again in March 2019, another Parliament March was conducted in Delhi in March 2019. The participants marched from Janpath to Jantar Mantar and sat on Dharna till 2 pm. Memorandum was given to the Prime Minister's office.

Lobby Work:- From 2006 onwards NCDC has conducted series of Lobby work in Delhi. Thrice the team met Prime Minister and hold discussions about the Scheduled Castes status to Christians of Scheduled Castes Origin/Dalit Christians. Besides many Union Ministers, Leaders of Political parties, Bureaucrats, Members of Parliament, etc, were met several times with representation regarding the plight of Dalit Christians and request for their intervention for getting them the Scheduled Castes status.

National Council of Dalit Christians (NCDC) was registered under society Registration Act from Hyderabad, Telengana State.

Because of the religious ban of the Constitution Scheduled Castes Order 1950, paragraph 3/ (C. O. 19)- **ANNEXURE NO. 1/** Published with the Ministry or Law Notification No. S.R.O. 385, dated the 10th August, 1950, Gazette of India, Extraordinary, 1950, Part II, Section 3, page 163, these Christians of Scheduled Castes Origin people/ represented by the National Council of Dalit Christians (NCDC) are not entitled to avail the Scheduled Castes privileges, only the Scheduled Castes Origin people who profess Hinduism, Sikhism and Buddhism are entitled to avail the Scheduled Castes privileges. Since this petitioner Organisation is legally and democratically fighting for getting this Scheduled Castes right, NCDC has the locus standi to file this case for getting the special privilege to the affected people of the impoverished Christians of Scheduled Castes Origin, this Honourable Court is humbly requested to permit NCDC to file this Writ Petition Civil for getting the Scheduled Castes status to Christians of Scheduled Castes Origin. The denial of this Scheduled Castes privileges to these people based on the religious ban of the above said **Annexure No. 1/** Constitution Scheduled Castes Order 1950, paragraph No. 3/ C. O. No. 19 is discriminatory which is against the Indian Constitution Article 14, 15, 16 and 25, because the Christians of Scheduled Castes Origin are socially and educationally backward arising out of the practice of untouchability.

QUESTION OF LAW:

1. Whether the caste discrimination based on the descent and profession have any link with the religious value of all the religions, particularly with Hindu, Sikh and Buddhist religions? Whether all the religion ask human beings to discriminate fellow human being based on caste? Whether the discriminatory mind set is recognised by any religion?
2. Whether the Christians of Scheduled Castes Origin people are not discriminated by the people who have caste mind though Christians of Scheduled Castes Origin do the menial job as manual Scavengers, cremating dead body in the crematorium, repairing the old shoes and foot wears, doing agricultural slavery duty, working as Washer men and so on?
3. Whether the untouchability practice is happening only in the Sanctum Sanctorum of all the religion and whether it is practised in the outside world of the religious worshipping places?
4. Whether is there any religious restriction in the Indian Constitution Article 341 (1) and 341 (2) to bring religious ban, on what basis, how the President of India had brought the religious ban oriented Constitution Scheduled Castes Order 1950, Paragraph 3 which restricts Christians of Scheduled Castes Origin to avail the Scheduled Castes Status?
5. Whether the Constitution Scheduled Castes Order 1950, Paragraph 3 which restricts Christians of Scheduled Castes Origin to avail the Scheduled Castes Status was approved by the Indian Parliament before its promulgation date 10.08.1950 or after its promulgation date?

6. Whether the Constitution Scheduled Castes Order 1950, Paragraph 3's religious ban which restricts Christians of Scheduled Castes Origin to avail the Scheduled Castes Status is not against the meaning of the Indian Constitution Article 14, 15, 16 and 25 which talk about equality, non-discrimination, non-discrimination in job allotment and religious freedom?

7. When the Christians of Scheduled Castes Origin are following Indian way of life and its culture in their life (not the foreign way of life and culture), why they are discriminated as Christians by linking the foreign Countries way of life with their life in the process of granting the Scheduled Castes status?

8. When Hinduism is considered as way of life and not as religion by this Honourable Court, whether the Christians of Scheduled Castes Origin people who follow the Indian culture and Indian way of life are not discriminated to avail the Scheduled Castes status, is it correct?

9. Whether it is correct for granting the Scheduled Castes status to Sikhs and Buddhist of Scheduled Castes Origin people in the year 1956 and 1990 respectively without having any data to prove their socio educational backwardness arising out of the traditional practice of untouchability from the year 1950 to 1956 and 1950 to 1990?

10. When the Sikhs of Scheduled Castes were not treated as Scheduled Castes by the respondent from 10.08.1950 up to 1956, by telling because they were socially and educationally forward position from the year 1950 up to 1956 (up to do the

amendment); how did they suddenly become socially and educationally backward people after the related amendment was done in the year 1956? What data did the respondent lastly have regarding their socio and educational backwardness of Sikhs of Scheduled Castes Origin people?

11. When the Buddhist of Scheduled Castes were not treated as Scheduled Castes by the respondent from 10.08.1950 up to 1990, by telling because they were socially and educationally forward position from the year 1950 to 1990 (up to do the amendment); how did they suddenly become socially and educationally backward people when the related amendment was done in the year 1990? What data did the respondent have regarding their socio and educational backwardness of Buddhist of Scheduled Castes Origin people?

12. Whether Caste discrimination and untouchability practice is there only in India, whether it is not there in non- Hindu other religious people dominated adjacent Countries?

13. Whether castes discriminatory/ hereditary mindset/ birth and occupation oriented discriminatory practice is not followed among the Indian people collectively who are living in other Countries?

14. Whether in India how many people had disassociated the caste mind and the caste sur- names identity from their names? Whether the people who have the Caste discriminatory untouchability mindset and the hereditary birth supremacy thinking would not see and discriminate the Christians of

Scheduled Castes Origin by identifying their Christian names and Christian religious identity?

15. If the Christians of Scheduled Castes Origin people do not reveal their Christian identity-oriented names, could the caste minded perpetrators from all the religions and the dominant communities treat the above said people as touchable and equals par with them?

16. When the Christians Of Scheduled Castes Origin people are treated as equals par with dominant caste Christians in India for hypothetical imagination, in the same way could the other religious Hindu, Sikh and Buddhist majority dominant caste people could treat the Christians of Scheduled Castes Origin as touchable and equal without having the caste mind set?

17. When the Atheist Scheduled Castes people in India who do not believe in God, caste discriminatory practice and untouchability practice, are forcefully treated as Hindus by the Hindu mythology and the Hindu Marriage Act, 1955, why not the Christians of Scheduled Castes Origin who follow Indian way of life and Indian culture and accept the traditional practice of untouchability and allow the impression of the traditional practice of untouchability on them could not be extended the Scheduled Castes privileges?

18. Whether the Caste discriminatory practice is practised in all the religious worshipping places? Whether it is not practised in the daily life of profession and menial jobs of the Christians of Scheduled Castes Origin people in fields, Office, drinking water

supplying place, Water resource places, road, bus, common places, agriculture fields, work spot, Roads, Schools, Colleges, Hair cutting Shops and so on?

19. When the Hindu way of life was allowed by the religious teaching and the discriminatory practice was prevailing in Indian society, in the same way, the Holy Book Bible also indicates about the discriminatory practice followed by the Jewish people particular sects with other Jewish people who were called as the Samaritan?

20. Whether is it correct to say/ assume that Christians do not discriminate other Christians of Scheduled Castes Origin as inferior to them? when all the religions teach the morality, some people go against it and do the immoral things, in the same way, some religious ideology of Bible teaching would say eradication of discrimination, but the Christian people could follow the wrong ways. In that circumstances, cannot the dominant caste Christians discriminate the Christians of Scheduled Castes Origin as inferior to them? Why because some of the people are not following the good religious value of that particular religion, could the entire community of that religion be blamed for that wrong doing?

21. Whether the Hinduism could able to own, retain and sanction and promote untouchability practice when as per Indian Constitution Article 17, untouchability is abolished as on 26.01.1950 and as per the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act, 1989, Chapter II, under the

head line offences of Atrocities, sub section “u” gives punishment for the promotion and motivation of untouchability by any person living or unliving (idol, religion, trust, society and so on are the legal entity)?

22. Whether the respondent have any valid reason to deny the granting of Scheduled Castes status to Christians of Scheduled Castes Origin though the respondent in the year 1996 had brought the Bill, Cabinet Note, ordinance and proper objective and reasoning by telling that even after conversion to Christianity there would not be any change of their/ Christians of Scheduled Castes Origin in their social and educational status? Whether all the respondent could say by bringing some material evidence, from the year 1996 up to as on date that the Christians of the Scheduled Castes Origin had developed socially, educationally after 1996 year, they are not facing any traditional practice of untouchability after 1996 year?

23. Whether the respondent have any valid reason to deny the granting of Scheduled Castes status to Christians of Scheduled Castes Origin though the respondent No. 1, 2, 3, 4, 5, 6, 7 and 8 have lot and voluminous cogent, authoritative and detailed Government evidences to prove the socio, educational backwardness of Christians of Scheduled Castes Origin arising out of the practice of untouchability?

24. When the respondent No. 1/ Union of India represented by the Secretary, Ministry of Social Justice and Empowerment had referred the matter to National Commission for Religious and

Linguistic Minorities (NCRLM) after taking a decision in the Cabinet Committee on Political Affairs simultaneously informed the decision in this Court the assignment for granting the Scheduled Castes status to Christians of Scheduled Castes Origin, could the Government/ the Union of India deny the recommendation of the above said Commission?

25. When the National Commission for Religious and Linguistic Minorities, after conducting many seminars and research by using the TATA Institute of Social Science and other Social Science Organisations, conducting public hearings from all people (those who are supporting this issue and opposing this issue) and consulting all the authoritative persons of all the State Governments and Union Territories had recommended for de-linking religion from the Scheduled Castes net, could the first respondent able to oppose?

26. When the Second and the third respondent National Commission for Scheduled Castes and the National Commission for Minorities were treated as Parties by this Honourable Court and they had brought the positive response to this Honourable Court, could the first respondent oppose the right to Christians of Scheduled Castes Origin?

27. When Christians of Scheduled Cates Origin are entitled to avail the legal remedy under the Protection of Civil Rights Act, 1955/ Untouchability Offences Act, 1955 when they are discriminated in their religious places and in the common places, why do not these people/ Christians of Scheduled Castes Origin

could not get legal remedy under Scheduled Castes and Scheduled Tribes (Prevention) of Atrocities Act, 1989 and amended latter in the year 2018 when they are victimised in the society by the caste discriminatory/ untouchability thinking oriented practice?

28. When all the Hindu, Sikh and Buddhist Scheduled Castes Origin people who are rich, who do not see/ taste the traditional practice of untouchability in their generation, who are socially, educationally in a better condition could avail the Scheduled Castes status without any creamy layer restriction, why do not the poorest Christians of Scheduled Castes Origin people could not avail the Scheduled Castes status par with them?

29. Whether the Scheduled Castes status is given to Hindu, Sikh and Buddhist of Scheduled Castes Origin based on the individual backwardness data or the backwardness data of the entire communities which were kept in the Constitution Scheduled Castes Order 1950?

30. Whether Christian religion could able to make a Scheduled Castes person from Hindu, Sikh and Buddhist religions who comes to Christianity and forthwith make him as socially, educationally forward from backward position and suddenly makes him as a person who could not be facing the traditional practice of untouchability?

31. Can't the Christian religious principles of the Bible prevent some of the Catholic Christians, the Protestant Christians and the independent denomination Christians not to follow the Indian way

of life and the Indian cultural religious behaviours like idol worship, wearing the dress to the idols, worshipping Portrait and idols of Jesus, Joseph, Mary, Angels and Saints, tying mangal sudra (marriage agreement symbol to denote the marriage tie as symbolic visible representation to reveal that the concerned lady is married), wearing Metti on the leg fingers, putting Tilak on the fore head, Aarthi during the marriage, puberty, birth ceremony, death remembrance, frank incense and myrrh powder burning and fuming, agar pathi burning/ aroma coil burning, Candle burning, worshipping the idols of the Saints, worshipping the cemeteries of the Saint people and their fore fathers, wearing Saffron dress and going to Church, Flag Hosting in every Church, doing Car festivals by putting the idols on the Car and bringing it to all the places of the devotees for worshipping, fortieth day remembrance after death of a human being, animal sacrifice in small rural Churches and so on?

32. When some of the Hindus, Sikhs and Buddhists of Scheduled Castes Origin come to the Church for worshipping, could the people able to loose the Scheduled Castes status when they regularly come to the Church as believer without officially getting marriage registration there in the Church record and registering the birth by the way of getting the baptism to the Children? Is it a correct logic and ethics, that particular Hindu religion and its God only motivate untouchability practice?

33. Could the Hinduism, Sikhism and Buddhism able to suddenly decrease the socio, educational forwardness of the people to

lower level and treat them as the people who are facing the traditional practice of untouchability, when the Christians of Scheduled Castes Origin could convert/ come to Hindu, Sikh and Buddhist religions?

34. When the Arya Samaj Marriage Act allows the inter caste marriages with all Hindus as Arya Samajists, whether Arya Samaj Hindu Scheduled Castes Origin people are neglected from using the Scheduled Castes status because that particular sect/ Arya Samaj of Hinduism does not recognise the untouchability and caste discrimination?

35. What evidence and material did the Honourable. President / Union of India have before him for indicating that the depressed classes/ Scheduled Castes of Hindu, Sikh and Buddhist communities suffered from economic and social disabilities and cultural and educational backwardness so gross in character and degree that as the members of those castes?

In the same way the Honourable. President/ Union of India concerning with the Christians of Scheduled Castes Origin people's plight, what materials and the evidences related with their plight does the Honourable. President of India is lacking related with the communities suffered from economic and social disabilities and cultural and educational backwardness so gross in character and degree that as the members of those castes?

36. Does the Union of India represented by the Secretary, Ministry of Social Justice and Empowerment / Respondent No. 1 has the materials concerning with the socio, educational

backwardness of Christians of Scheduled Castes Origin which shows in drawing the list of Scheduled Castes, the test applied was the social, educational, economic and cultural backwardness arising out of the historical customs of untouchability?

37. Whether in the rural area of India, the Christians of Scheduled Castes Origin people are not treated as untouchables based on the caste discriminatory mind set by the dominant Caste Christians and dominant Caste Hindus?

38. When, in the Varna system, Scheduled Castes people were not accommodated/ the move to accommodate still others/ Scheduled Castes community people not so distinguished led to the rather unofficial acceptance of a fifth class, the panchama (Sanskrit: "fifth") in the Hinduism and the off- shoot Sikhism and Buddhism, which include the "untouchable" classes and others, such as tribal groups, who are outside the system and, consequently, avarna ("classless") was correct?

39. When the dominant Caste Hindus and the dominant Castes Christians want to give the menial jobs to some of the Christians of Scheduled Castes Origin like mending the old foot wears and washing the old clothes, manual scavenging/ cleaning the wet and dry latrine/ human excreta, cleaning the filthy Gutters manually, because these people have Christian religious identity, could the dominant caste people deny to give them the menial jobs because these people belong to Christian religion?

40. When the Caste Disabilities Removal Act, 1850 is alive, can the respondent No. 1 could able to curtail the civil rights of the

Christians of Scheduled Castes Origin to avail the Scheduled Castes and Scheduled Tribes (Prevention) of Atrocities Act, 1989, amended in the year 2018 when these people are affected by caste atrocities and untouchability practice?

41. Whether the caste discrimination and the traditional practice of untouchability is a social phenomenon or religious phenomenon?

42. Whether Christians of Scheduled Castes Origin people are not depressed on account of the occupation followed and when that occupation would be subject to social disability?

43. Whether some poorest Christians of Scheduled Castes Origin people are not serving as water Carrier, barbers, drummers, Cobblers, manual Scavengers, Washer men, Manuel Scavengers etc and could these Christians of Scheduled Castes Origin people could serve the dominant Caste Hindus and dominant Caste Christians?

44. Whether the argument, Christianity does not recognise caste discrimination and untouchability practice, is a legal logic? When all the religions talk not to do the immoral things, why some people of all the religions are indulging and doing the crime against religious and ethics?

45. On what material/ evidence basis, the Registrar General of India, Ministry of Home Affairs/ Respondent No. 4 had given negative opinion for granting the Scheduled Castes status to Christians of Scheduled Castes Origin earlier? Whether the

respondent No. 4 did peruse the voluminous documentary evidence, of the first respondent/ Union of India, Ministry of Social Justice and Empowerment the second respondent/ National Commission for Scheduled Castes, third respondent/ National Commission for Minorities and other all respondents?

46. When the major Church groups in India are demanding the Scheduled Castes status to Christians of Scheduled Castes Origin by accepting the severity and prevalence of the caste discrimination which is prevailing among Indian Christians, why the respondents are denying to extend the Scheduled Castes status to Christians of Scheduled Castes Origin by telling that the Indian Church Community & International Christian community would say that Government of India is dividing Christians based on Caste?

47. Whether all the respondents did get the opinion from the Christian religious authorities of India and International to prove the version that is Christianity does not recognise caste discrimination? Whether in the old and new testament of the Bible there is no discriminatory practice which is followed, condemned and allowed?

48. Whether the Constitution Scheduled Castes Order 1950, Paragraph 3's religious ban would be justified as per the findings of this Honourable Court's reliance?

49. Whether the Christian manual Scavengers who do the manual Scavenging in India could be neglected to avail the Scheduled Castes status because most of them belong to Christian religion?

50. Whether the religion of the Christians of Scheduled Castes Origin people play any role in the practice of forms of untouchability, descent-based profession oriented and birth conveyed stigma of untouchability? Whether some of the caste minded perpetrators from the dominant caste Hindus and dominant caste Christians do not to follow any form of untouchability practice because the petitioner's community people/ Christians of Scheduled Castes Origin are touchable par with the dominant caste Christians and Hindus?

51. Whether the process of giving water sprinkling baptism to the Children of Christians of Scheduled Castes Origin people and making them as Christians compulsorily in Church record are correct? since these Children do not know anything about the process of water baptism and making them as members of the Church as Christians (from birth up to 7 years maximum- by Catholic and Protestant Christian Sect Churches)? Whether mere only the decision of making the Christians of Scheduled Castes Origin Children as Christians by giving them the infant water baptism is right? would it be correct for compulsorily treating them as Christians without having Children's individual voluntary decision after attaining the major age?

52. Whether as per the Indian Christians Marriage Act, 1872, in the case of marriage between two Scheduled Castes Origin couple, when one of the partner either Wife or Husband could be a Christian of Scheduled Castes Origin and other non- Christian partner/ Hindu Scheduled Castes Origin could avail the Scheduled

Castes status continuously by following the non- Christian religion/ Hinduism individually? In that circumstances, could the both non- Christian Scheduled Castes Origin and the Christians of Scheduled Castes Origin Partner's Children could avail the Scheduled Castes status?

FOUNDATIONS:

A. Because the social exclusion is different from religious practice, caste-based discrimination and untouchability is descent based professional oriented discrimination practised through out Asia and south Asia. Partly all the religions say to the people not to discriminate people based on castes and race, but people are not following. The discriminatory mindset is not recognised by any religion. More than 260 million people affected by Discrimination Based on Work and Descent (DWD)

or caste-based discrimination (CBD) globally, around 210

million (80 percent) live in South Asia: India (201 million,

or 16.6 percent of the total population), Nepal (about 3.6

million, or 13.6 percent in the total population), Bangladesh

(3.5 to 5.5 million), Pakistan (330,000 to 2 million) and Sri

Lanka (4 to 5 million). Untouchability and segregation is based on descent and blood, or according to their hereditary roles and functions. Based on their low social status, "untouchables" are made to perform specific work, it is not motivated only by religious dogmas.

B. Because the poor Christians of Scheduled Castes Origin people are working as menial job doing labourers like Drummers for death ceremony, manual Scavengers, as menial job doers who could cremate the dead body in the crematoriums, repairing/ mending the old Shoes and Footwear of others, doing agricultural slavery work, washing the old clothes of others and so on. Irrespective of religious affiliation both the dominant/ upper Caste Christians and dominant Caste Hindus are discriminating these people as untouchables because of their hereditary, descent and birth-based Caste stigma inheritance.

C. Because the untouchability practice is not only practised in the sanctum sanctorum/ worshipping places of all the religions, mainly it is practised in the public places like Pond, Lake, School, Street, Institutions, Working spot, common places like hair cutting Shops, public health oriented work like manual scavenging, cremation place, in the field of washing the old clothes of others, mending the old foot wear of others and so on. The division of labour is there throughout the whole world, here in India in a peculiar way the division of labourers is practised irrespective of religious affiliation based on the birth and descent-based discrimination. Christians of Scheduled Castes Origin are treated as untouchables in the worshipping places, once in a week, they come to the Church for one hour, mainly these people are dwelling in the Caste ridden society and its geographical dwelling locations, they do not always live inside the Church compound,

these people dwell in the society where the caste discrimination is practised in the civil society.

D. Because the Union of India had brought the Constitution Scheduled Castes Order, 1950, paragraph 3's (ANNEXURE NO. 1) religious ban, which is contrary to Indian Constitution Article 341 (1) and 341 (2). The Union of India and the Hon. President of India did not give any justification and substantiate with reason for banning the Christians of Scheduled castes Origin to avail the Scheduled Castes status.

E. Because on 10th of August, 1950 the Constitution Scheduled Castes Order 1950 was signed by the then President of India (Published by the Ministry of Law Notification No. S.R.O. 385, dated on the 10th August, 1950, Gazette of India, Extraordinary, 1950, Part II, Section 3, page 163. As on 26th of January, 1950 Constitution of India had come in to existence. Though the Parliament existence was not there during the time, the Provincial Parliament was passing other Bills, other Presidential Orders and Acts. Particularly in this case the Constitution Order 19, The Constitution Scheduled Castes Order 1950 was not approved by the Provincial Parliament. Officially on 26th of January, 1950, Indian Constitution had come in to existence, before that the following work was done without the guidance of the Article 341 (1)- Existence of the Indian Constitution Article 341 (1). This Order was not originally approved by the Parliament of India as per Indian Constitution. Without the Parliament's approval President of India had given his assent.

The Original Constitution Order 19, year 1950 was not approved by the provincial Parliament. New Parliament came into existence during April 1952. So, the Presidential Order/ The Constitution Scheduled Castes Order 1950 is unconstitutional as per the following Judgment of the Apex Court of India.

Narendra Kumar and Others Vs Union of India and Others

Date of Judgment: 03/12/1959.

Citation No: 1960 AIR 430; 1960 SCR (2) 375.

F. Because of the denial of the Scheduled Castes status to Christians of Scheduled Castes people, as per Indian Constitution Article 14 which render equality, 15 which render non-discrimination, 16 which render equality in employment, the above said people are completely affected/ discriminated because though they live along with the Hindus of Scheduled Castes Origin in the same geographical location by facing the same traditional practice of untouchability which would lead for social exclusion and educational backwardness. Mere for availing the Scheduled Castes status/ privileges the Christians of Scheduled Castes are induced and forced to convert to Hindu, Sikh and Buddhist religions, as per Indian Constitution Article 25, these people are not equally entitled to freedom of conscience and the right, freely to profess, practise and propagate religion when comparing to the Hindus, Sikhs and Buddhist of Scheduled Castes Origin.

G. Because the Christians of Scheduled Castes Origin are following Indian way of life and culture and not foreign European

way of life. For example tying Tali/ Mangal Sudra by Male on Female for identifying the marriage unification is followed during the Church ceremony (in both Catholic and protestant Churches), mainly majority people are following the Catholic sect of Christianity, that is wearing saffron dress and going to the pilgrimage Centres like Indian way, hoisting the Flag of the God, Jesus and Saints during the time of festival, worshipping the Photos of Jesus Christ and putting aroma to the Lord by using myrrh, sweet spices, stacte, and onycha, and galbanum, sweet spices with pure frankincense (of each shall there be an equal part), and make an incense blended as by the perfumer, seasoned with salt, pure and making sweet aroma and fumes to convince God, allowing the idol worship inside the Church, for worshipping through the idol to Almighty God, Car festival i. e Car procession by putting the idol of Saints, Jesus, Mary, Joseph and bringing to all the Village area where the people are dwelling, by vowing a vow to God, after getting good result/ output as thanks giving, tonsuring the head hair in the Christian pilgrimage centres, birth ceremonies, puberty ceremonies of Girls, death ceremony, worshipping Cemeteries, relying on Astrology and Palmistry, for conducting marriage ceremony in Indian way and starting important work on auspicious Calendar day of the Indian way of life, allowing Indian way of untouchability oriented caste discriminatory practice, Aarthi (welcoming ceremony) by showing Indian ritualistic symbolic representation, animal sacrifice and eating the food offered to Saint Idols, using of Candles and Incense sticks during the religious rituals, sprinkling the Holy

water on the people during the worshipping timing, lighting auspicious lamp during the devotional worshipping timing, Women and Girls putting Tilak/ religious identity on the forehead, observing fortieth day death ceremony for the people who demised and so on. This is Indian way of life and culture is followed by the majority of the Christians of Scheduled Castes Origin people in rural area of both Catholic and Protestant Christian sect. So, the Christians of Scheduled Castes Origin people are discriminated by the dominant Caste/ upper Caste Hindus as well as by dominant Caste/ upper Caste Christians, because these upper caste Christian and Hindu people are following Indian way of caste discrimination and untouchability practice, simultaneously the Christians of Scheduled Castes Origin people are victimised because of the effect of the Indian way of life untouchability practice.

H. Because, Hinduism is considered as Indian way of life and not as religion by this Honourable Court, Christians of Scheduled Castes Origin people are following in Indian way of life and its culture as per the following judgment of this Honourable Court, convert Christian Members of the enumerated people ought to be treated as Scheduled Castes as per Indian Constitution.

Please see the judgment content of this Honourable Court:

Bramchari Sidheswar Bhai & Ors Vs. State of West Bengal Etc.
Civil Appeal Nos. 4434A-34D of 1986 with Civil Appeal Nos.
4937/85.5676-78/85, Date of Judgment, 02/07/1995.

(29). When we think of the Hindu religion, we find it difficult, if not impossible, to define Hindu religion or even adequately describe it. Unlike other religions in the world, the Hindu religion does not claim any one prophet; it does not worship any one God; it does not subscribe to any one dogma; it does not believe in any one philosophic concept; it does not follow any one set of religious rites or performances; in fact, it does not appear to satisfy the narrow traditional features of any religion or creed. It may broadly be described as a way of life and nothing more.

I. Because, the Union of India does not have sufficient socio, educational backwardness data arising out of the traditional practice of untouchability faced by the Hindus, Sikhs and Buddhist of Scheduled Castes Origin people par with Christians of Scheduled Castes Origin people, the religious ban in the Constitution Scheduled Castes Order 1950 is unconstitutional. The Union of India has sufficient quantity of authentic materials to prove the socio, educational backwardness data arising out of the traditional practice of untouchability of the Christians of Scheduled Castes Origin people when comparing to the data of the Sikhs and Buddhist of Scheduled Castes Origin people.

J. Because from 10.08.1950 up to the year 1956, the Sikhs of Scheduled Castes Origin people were socially, educationally forward, they were not facing any traditional practice of untouchability, during that time they were not treated as Scheduled Castes by the Union of India. Suddenly without having any data, the first respondent Union of India, Ministry of Social

Justice and Empowerment had given the Scheduled Castes status to Sikhs of Scheduled Castes Origin in the year 1956 by doing amendment in Parliament. As justification, the first respondent had said that because the Sikhism is the off- shoot of Hinduism as per Indian Constitution Article 25 (2), the Sikhs of Scheduled Castes Origin had been given the Scheduled Castes status (Whereas as per the National Commission for Minorities Act, 1992, Sikhism is the separate religion). If it was so, 1950 year itself they would have been got the privilege, why did the first respondent had brought amendment in the year 1956. The first respondent only had the first Backward Class Commission recommendation (1953) headed by Kaka Kalelkar for granting the Scheduled Castes status to Sikhs of Scheduled Castes Origin, par with them, the same Commission had recommended for granting the Scheduled Castes status to Christians of Scheduled Castes Origin and many Government reports are there for granting the SC status to Christians of SC Origin, but Christians of the Scheduled Castes Origin people were left out. So, the Union of India/ the first respondent had discriminated the petitioner's communities.

K. Because from 10.08.1950 up to the year 1990, the Buddhist of Scheduled Castes Origin people were socially, educationally forward, they were not facing any traditional practice of untouchability, because these people were not treated as Scheduled Castes by the Union of India. Suddenly without having any data, the first respondent Union of India had given the Scheduled Castes status to Buddhist of Scheduled Castes Origin

in the year 1990 by doing amendment in Parliament. As justification, the first respondent had said that because the Buddhism is the off- shoot of Hinduism as per Indian Constitution Article 25 (2), the Buddhist of Scheduled Castes Origin had been given the Scheduled Castes status (Whereas as per the National Commission for Minorities Act, 1992, Buddhism is the separate religion). If it was so, in the year 1950 itself they would have been got the privilege as Buddhist of Scheduled Castes Origin, why did the first respondent had brought amendment in the year 1990. The first respondent only had only the Report of the High Power Panel on Minorities, Scheduled Castes, Scheduled Tribes and other weaker sections, year 1983, in their Report they had recommended for granting the Scheduled Castes status to Buddhist of Scheduled Castes Origin, par with them, the same High Power Committee on Minorities had recommended for granting the Scheduled Castes status to Christians of Scheduled Castes Origin also and many Government reports are there for granting the SC status to Christians of SC Origin, but Christians of Scheduled Castes Origin people were left out. So, the Union of India/ the first respondent had discriminated the petitioner's communities.

L. Because, the caste-based discrimination/ untouchability practice, descent-based profession and hereditary based discrimination is followed in adjacent Countries like Pakistan, Srilanka, Malaysia, Bangladesh and other south Asian Countries. Wherever Indian go, caste based discriminatory mind set is going

along with them. In Europe, Romas of Indian Origin and Gypsies are discriminated as untouchables. The plight of the buraku people of Japan is not just a part of history. Discrimination is faced by descendants of buraku even today. Buraku families still live in segregated neighbourhoods in some Japanese cities. While it is not legal, lists circulate identifying burakumin, and they are discriminated against in hiring and in arranging marriages. So, the caste discrimination based on descent is International phenomenon.

M. Because some of the caste minded people of India, when they go to foreign countries like United Kingdom, United States of America, Europe, Fiji, Malaysia, Trinidad Tobago, some African countries, the caste discrimination is followed among the Indians those who could dwell in foreign countries because of the birth oriented, hereditary and descent based discriminatory of Caste and its degraded inequality.

N. Because some of the dominant Caste/ upper Caste Hindus and dominant Caste Christians who have the Caste mind set would treat the menial job doing poorest Christians of Scheduled Castes Origin as inferior class people and untouchables, though these people have the Christian identity names, still they are given the menial jobs by giving throw away wage by the caste minded perpetrators.

O. Because Christians of Scheduled Castes Origin people could wear some Christian religious symbol, those who are giving them the menial jobs are not leaving these people from giving the

menial jobs and suppressing by giving menial jobs. Before giving the menial jobs, before treating these people as untouchables and humiliating them, no body could ask and find the religious identity of the Christians of Scheduled Castes Origin people for not humiliating them. These people are not treated as touchable and equals by the dominant Caste/ upper Caste people of all the religious side.

P. Even assuming for hypothetical imaginary purpose, if these Christians of Scheduled Castes Origin people are treated as touchable and equals by the dominant Caste Christians and all Caste Christians are treating each other (including the Christians of SC Origin) as equals, there is inter- Caste marriages and inter-dining and there is no social exclusion, it is a fact that all the dominant Caste other Hindu, Sikh and Buddhist religious people are treating them as untouchables and discriminating these people, whereas the entire Christians population are only numbered around 2.34 percentage of the entire Country's population, the remaining majority other religious dominant caste people could treat Christians of Scheduled Caste origin as equals.

Q. Because there are also millions of syncretic believers who believe in more than one faith who do not go through any particular religious ceremony/ ritual, even the Hinduism is a federation of many religious thoughts. As per the Hindu Mythology and various rulings of this Honourable Court, the Scheduled Castes Origin Atheist who do not believe in the caste system, untouchability practice, Hindu religion and its ideology,

dogmas and principle are treated as Hindus and are given the Scheduled Castes privileges. If it is so, why not the people/ the Christians of Scheduled Castes Origin who believe in the Indian way of life and in the Indian culture could not be entitled to get the Scheduled Castes privileges.

Please see the following judgment of this Honourable Court:

V. T. S. Chandarasekhara Mudaliar ... vs Kulandaivelu Mudaliar And Others, 1963 AIR 185, 1963 SCR (2) 440

“The fact that he does not believe in such thing does not make him any the less a Hindu. The non-belief in rituals or even in some dogmas does not ipso facto remove him from the fold of Hinduism.”

R. Because the caste mindset oriented, descent based, professional oriented Caste based discrimination is not only practised in the sanctum sanctorum of the religious places, once in a while per week per hour only the Christians of Scheduled Castes Origin people are coming to the Church, most of the time they dwell in the civil society's common places where the Castes discrimination is practised, like using the Ponds, Hair cutting Shops, educational Institutions, work spot, Offices, Streets, Hotels which are there in the rural area, tea Stalls, Agricultural fields, day to day life and so on. Since the Christians of Scheduled Castes Origin people are not living inside the Church Compounds/ Walls, they dwell in the society where the Castes discrimination is practised and they are victimised.

S. Because some of the manmade Hindu mythological and religious teaching books stories could endorse descent based profession oriented discrimination in some place, in the same way the manmade Bible related religious teaching also talks about the discrimination in between the Jewish people and the Egyptian of the Bible, the discriminatory practice in between the Jewish people and the Jewish Samaritan community people, the difference in between the Wood Cutters of the Jewish people with the Jewish People, because of this, social exclusion should not be linked with the religious teachings.

T. Because all the religions talk about the morality to be maintained, no religion/ Supreme God would allow the untouchability practice and the discriminatory mind set oriented/ practical oriented descent based thinking to be followed in between the human being. All the religious values teach to follow the non- discrimination, if the human beings are following caste discrimination, it would not be the fault of the religious values and its teaching. No religion would recognise telling lie, but some people are telling lie, it is not the fault of the religion, it is the fault of the people. In the same way, following caste discrimination is the fault of the human being.

U. Because as on date 26.01.1950, as per Article 17 of the Indian Constitution and the Scheduled Castes and Scheduled Tribes (Prevention) of Atrocities Act, 1989 (including the amended one) and the related Rules, since untouchability practice is abolished, following untouchability practice is a crime, no religion would be

promoting, motivating, and recognise untouchability practice, no religion including Hinduism would take responsibility for its practice, it is against Indian Constitution and the Scheduled Castes and the Scheduled Tribes (Prevention) of Atrocities Act, 1989.

Please see the following Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act, 1989.

CHAPTER II

OFFENCES OF ATROCITIES

3. Punishments for offences atrocities.—3

[(1) Whoever, not being a member of a Scheduled Caste

or a Scheduled Tribe,—

(u) by words either written or spoken or by signs or by visible representation or otherwise promotes or attempts to promote feelings of enmity, hatred or ill-will against members of the Scheduled Castes or the Scheduled Tribes;

Whether the Hinduism could able to owns, retains and sanctions and promotes untouchability practice when as per Indian Constitution Article 17, untouchability is abolished as on 26.01.1950 and as per the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act, 1989, Chapter II, under the head line offences of Atrocities, sub section “u” gives punishment for the promotion and motivation of untouchability by any person living or unliving (because idol, religion, trust, society and so on are the legal entity). As per the above said interpretation, when

the present Respondents say that Hinduism only could recognise and promote untouchability, it is not possible as per the above said law to prosecute/ punish the particular religion and the authoritative person for that particular religion/ Hinduism. As per real Hindu religion, nobody could promote untouchability and discriminatory practice, some of the manmade Hindu theological Books might have been written some discrimination oriented, untouchable mindset oriented and caste supremacy oriented Authors whose personal agenda might be recognising untouchability based on the caste supremacy, but not the omnipotent, omniscience and omnipresence Universal/ Hindu Gods and Goddesses.

V. By accepting the severity and the prevalence of the caste discrimination faced by the Christians of Scheduled Castes Origin people, the Union of India's Cabinet Committee of the Ministers and the Executive of the Union of India had brought and introduced the Bill, Cabinet Note and the Ordinance (**ANNEXURE No. 2**) for extending the Scheduled Castes privileges to these people, the above said Cabinet Note, Bill and the Cabinet Note for the Ordinance say that the change of religion from Hinduism to other religions would not change the socio and educational backwardness of the Christians of Scheduled Castes Origin arising out of the practice of untouchability. When in the year 1996, the plight of the above said people was low socially and educationally, in the same way, these Christians of Scheduled Castes Origin people are socially and educationally backward

arising out of the practice of untouchability as on date also. All the present respondents could not bring any cogent, authoritative and detailed evidences to prove that these people had come up socially and educationally and these people are not facing the traditional practice of untouchability by bringing data from March 1996 up to till date.

W. Because the following cogent, authoritative and detailed emphatic evidence of the Union of India are in favour of the Christians of Scheduled Castes Origin which prove their socio and educational backwardness arising out of the traditional practice of untouchability. For denying the following reality, the respondent could not substantiate by bringing the materials to disprove the following material testimonies.

(1). National Commission to Review the Working of the Constitution (NCRWC) was wound up on 30-04-2002. Volume II, Book III, (vii) Pace of Socio-Economic Change and Development under the Constitution- Background Papers:

“In view of the fact that in some parts of the country particularly in the south converts to Christianity from specific SCs are subjected to crimes and atrocities as their exact Hindu counterparts are (difference of religion making no difference in this regard) and the fact that trials in such cases get bogged down on the issue whether this is an atrocity since they are not SC on account of conversion. Clause (c) of section 2 of the Act should be amended by adding the following words at the end of it "and converts to Christianity from Scheduled Castes." An

explanatory note may be added that this is only for the purpose of this Act and not for any other purpose since the question whether SC converts to Christianity should be included in Scheduled Castes or not by amending the proviso in Presidential Orders is a different issue to be dealt with separately by the appropriate Ministry.”

(2). “Dalits in the Muslim and Christian communities, A status Report on current social scientific knowledge”; Prepared for the National Commission for Minorities, Government of India By Prof. Satish Deshpande (on 17th January 2008) with the assistance of Geetika Bapna, Department of Sociology, University of Delhi in its, Chapter 5, Page: 83, Conclusion summary of findings, we find the following version:

“To conclude based only on the descriptive and statistical evidence available, there is a strong case for including Dalit Muslims and Dalit Christians in the Scheduled Caste category. There are compelling arguments in favour of such an inclusion based on principles of natural justice and fairness. The balance of pragmatic consideration is also in favour of their inclusion. According due statutory recognition to Dalit Muslim and Dalit Christians would not only right a wrong, it would also remove an indefensible anomaly in our politico-legal system that can legitimately be construed as discriminatory. Whether or not such discrimination can be proven in a court of law, it will surely weigh on the conscience of every fair-minded Indian.”

Page: 81 “. . . there is no compelling evidence to justify denying scheduled castes status to Dalit Muslims and Dalit Christians ...”

(3). On 11th March 1996, the then Union Minister for Welfare had proposed one Bill (No: 17) to be discussed in Parliament of India by giving the following statement of objects and reasons:

“Converts to the Christian religion who are of the Scheduled Caste origin are preclude from the statutory benefits and safeguards applying to members of the Scheduled Castes. Demands have been made from time to time for extending these benefits and safeguards to the Christians of the Scheduled Caste origin by granting them recognition as the Scheduled Castes on the ground that change of religion has not altered their social and economic conditions. Upon due consideration of these demands, it is proposed to amend the relevant Constitution (Scheduled Castes) orders to include the Christian converts from the Scheduled castes as the Scheduled castes therein.”

(4). Union of India, Ministry of Welfare’s Note for the cabinet, No. 12016 / 30 / 90 – SCD (Cell), paragraph 25:

“ ...The High Power Panel on Minorities, Scheduled Castes, Scheduled Tribes and other weaker sections, in their 1983 Report referred to at Para 12, had also found that earlier disabilities continued even after leaving the Hindu fold. The National Commission on Minorities has also recently recommended the extension of statutory benefits to SC Christians (as also to Muslim converts from these communities) as Scheduled Castes. Taking these factors into consideration, the Ministry of Welfare proposes

that the demand be accepted. This will require amendment, by an Act of Parliament ...”

For the above said Cabinet Note the following States/ UT had given very positive concurrence: Madhya Pradesh, Punjab, Pondicherry, Tamil Nadu and West Bengal.

(5). High Power Panel on Minorities, SCs, STs and other weaker sections (Report on Minorities - Volume (I), 14th June 1983), Page No: 8, Point No: 12. Ministry of Home Affairs, Government of India:

“The Christians and the Neo-Buddhists need the same kind of concessions for their converts from the scheduled castes as are offered to Hindu and Sikhs. And their plea, we have recommended, should be fulfilled with utmost sympathy. They too suffer from the same economic handicaps and social neglect and isolation as the Hindu Scheduled Castes, as is amply illustrated by us in our report elsewhere.”

(6). Educational Status of the Muslim Community of India:

Prime Minister’s High Level Committee, Cabinet Secretariat, Government of India, November, 2006. A Report, SC status for Muslim groups, Pages: 201, 202.

“While the Ashrafs and the Ajlafs occupy the highest and the middle positions in the Muslim social structure, the Arzals are the lowest comprising of those having similar traditional occupation as their Hindu counterparts in the list of Schedule Castes. It is widely believed that these communities are converts from the

'untouchables' among Hindus. Change in religion did not bring any change in their social or economic status. Because of the stigma attached to their traditional occupation, they suffer social exclusion. Despite this, they have been deprived of SC status available to their Hindu counterparts. Their exclusion from the SC list dates back to 1936 when the Imperial (Scheduled Caste) Order rejected SC status to Christians and Buddhists of similar origins. Depressed classes among the Muslims such as Halalkhors were included in the list but were barred from availing the benefits. This colonial decree remained the basis on which the government of Independent India, through the Constitutional (Scheduled Caste) Order, 1950, has denied them the status in accordance with the deprivations that they face. The Order, however, has been amended twice; once in 1956 to include the SCs among the Sikhs and later in 1990 to include the neo-Buddhists. Thus, practically only the Muslims and Christians of such origins continue to be denied the status. As a result, such Muslim groups namely, gadheris, gorkuns, mehtars or halalkhors, Muslim dhobis, bakhos, nats, pamarias, lalbegis and others remain impoverished and marginalized. Their inclusion in the OBC list has failed to make any impact as they are clubbed with the more advanced middle castes. Many have argued that the Order of 1950 is inconsistent with Article 14, 15, 16 and 25 of the Constitution that guarantee equality of opportunity, freedom of conscience and protect the citizens from discrimination by the State on grounds of religion, caste or creed."

(7). Report of the Committee on Untouchability (Parliamentary Committee), Economic, Educational development of the Scheduled Castes and Connected Documents Year 1969, Government of India, Department of Social Welfare - Present Ministry of Social Justice and Empowerment (L. Elayaperumal Commission Report), headed by Mr. L. Elayaperumal:

Page No: 32, "The Committee found during tours that all Scheduled Castes who got themselves converted to religions other than Hinduism should be given all concessions which are available to Scheduled Castes. This is because the committee found during tours that they suffer from same disabilities, which the Scheduled Castes suffer."

(8). Report of Backward Class Commission, Volume I, Government of India headed by Kaka Kalelkar, Page. vi, 160:

"We discovered to our pain and sorrow that untouchability did obtain in the extreme south amongst Indian Christians and Indian Christians were prepared in many places to assert that they were still guided by the caste not only in the matter of untouchability but in social hierarchy of high and low.

In practice, it was found that segregation of converts from Scheduled Castes was not successfully overcome in certain parts of South India."

This Honourable Court had asked the petitioners to prove the traditional practice of untouchability which is faced by the Christians of Scheduled castes origin as per Soosai Vs Union of

India, Writ Petition No. 9596 of 1983, Date of Judgment: 30/09/1985.

“It is not sufficient to show that the same caste continues after conversion. It is necessary to establish further that the disabilities and handicaps suffered from such caste membership in the social order of its origin - Hinduism continue in their oppressive severity in the new environment of a different religious community.

To establish that paragraph 3 of the Constitution (Scheduled Castes) Order, 1950 discriminates against Christian members of the enumerated castes it must be shown that they suffer from a comparable depth of social and economic disabilities and cultural and educational backwardness and similar levels of degradation within the Christian community necessitating intervention by the State under the provisions of the Constitution.

The real question is whether on the material before us it can be said that in confining the declaration to members of the Hindus and the Sikh religions, paragraph 3 of the Constitution (Scheduled Castes) Order, 1950 discriminates against members of the Christian religion.”

From the above said cogent authoritative detailed documentary evidences of the respondents, it is proved that the Christians of Scheduled Castes Origin people are socially and educationally backward arising out of the practice of untouchability.

It is quite evident that the President has (On behalf of him, Union of India has all the materials) the above said materials before him/ before Union of India, indicating that the depressed classes of the Christian communities (Christians of Scheduled Castes Origin) suffered from economic and social disabilities, cultural and educational backwardness, so gross in character and degree that the members of these Castes in the Christian religious community called for the protection of the Constitutional provisions relating to the Scheduled Castes. Based upon the following cogent Union of India's evidences, authoritative detailed studies, it is proved that the Christian, members of the enumerated castes are affected by the traditional practice of untouchability. The President of India does not have sufficient evidence to prove that the Hindus, Sikhs and Buddhist of Scheduled Castes Origin are socially and educationally backward arising out of the traditional practice of untouchability, except the hypothetical version, because Hinduism, Sikhism and Buddhism and its religious teaching only recognise untouchability practice and allows the discriminatory mind set of the people, the Scheduled Castes privilege is given to the Hindu, Sikh and Buddhist of Scheduled Castes Origin people.

X. Because the Union of India's Cabinet Committee on Political Affairs which contained many Cabinet Ministers had appointed the National Commission for Religious and Linguistic Minorities for granting its view on granting the Scheduled Castes status to Christians of Scheduled Castes Origin, the same Commission had

recommended the following things for granting the Scheduled Castes status by striking the religious ban of the Constitution Scheduled Castes Order 1950, paragraph 3.

For announcing the above said paragraph 3 as unconstitutional (for the extension of Scheduled Castes status to Dalit Christians and Dalit Muslims), a Writ Petition (Civil) No.180 of the year 2004 was filed in the Supreme Court of India collectively on 22nd of March 2004 by the Centre for Public Interest Litigation & T. Franklin Caesar against Union of India, represented by the Secretary, Ministry of Social Justice and Empowerment (Respondent). After the year 2004 as on date, many Christians of Scheduled Castes persons and Organizations including the Catholic Bishops' Conference of India and the National Council of Churches in India had filed supportive Civil Writ Petitions, Interlocutory Applications, impleadment Petitions and Intervention Petitions by accepting the prevalence and the severity of the untouchability which is practiced among Christians and by producing very important evidences to prove the socio, educational backwardness of the Christians of Scheduled Castes Origin's Castes and the traditional practice of untouchability faced by the Christians of Scheduled Castes Origin in the Christian and Civil society.

Related with the above said case which is pending in this Honourable Court (As per this Honourable Court's reference) Joint Secretary to the Government of India, Ministry of Social Justice and Empowerment (After taking a collective decision in the

Cabinet Committee on Political Affairs-CCPA meeting) via letter No. 14/6/2005-MC dated 28th September 2005 had resolved to expand the terms of reference of the National Commission for Religious and Linguistic Minorities, constituted vide Resolution No: 1-11/2004/MC (D) dated the 29th October 2004 to add the following clause to its terms of reference as follows:

(d) “ To give its recommendations on the issue raised in Writ petition 180 / 2004 (for granting Scheduled Castes status to convert Christian members of the enumerated castes people by deleting constitution scheduled castes order 1950, paragraph ‘3’) and 94/2005 filed in the Supreme Court of India and in certain High Courts relating to Para 3 of the Constitution (Scheduled Castes) order, 1950, in the context of ceiling 50% on reservation as also the modalities of inclusion in the list of the Scheduled Castes (This Cabinet decision was informed to the Supreme Court of India). After doing eighteen months study by getting twelve state Governments’ recommendations (Tamil Nadu, Pondicherry, West Bengal, Punjab, Utter Pradesh, Bihar, Andhra Pradesh, Haryana, Kerala, Mizoram, Sikkim, Uttranchal), the above said NCRLM had submitted the following recommendation to Union of India on 21-05-2007. It had very clearly recommended to Union of India for deleting the Constitution (Scheduled castes) order 1950, Paragraph 3.

NCRLM Report volume I, page 154, part 16.3.5 declares as follows:

“In view of what has been said above, we recommend that Para 3 of the Constitution (Scheduled Castes) order 1950, which originally restricted the scheduled caste net to the Hindus and later opened it to Sikhs and Buddhists, thus still excluding from its purview the Muslims, Christians, Jains and Parsis etc. – should be wholly deleted by appropriate action so as to completely de-link the scheduled caste status from religion and make the scheduled castes net fully religion – neutral like that of the Scheduled Tribes.”

NCRLM Report volume I, page 141, Sub division ‘a’

“So the Presidential Order of 1950 is unconstitutional and it is a black letter written outside the constitution introduced through the back door by an executive order Para 3 of the presidential order is anathema which disfigures the beauty of the written Constitution of India.”

Y. Because National Commission for Religious and Linguistic Minorities, after conducting many seminars and research by using the TATA Institute of Social Science and other Social Science Organisations, conducting public hearings from all people (those who are supporting this issue and opposing this issue) and consulting all the authoritative persons of all the State Governments and Union Territories/ by getting it in , the above said National Commission for Religious and Linguistic Minorities had recommended for de-linking religion from the Scheduled Castes net for the consideration of extending the Scheduled Castes status to Christians of Scheduled Castes Origin.

Z. Because the Co- Respondent National Commission for Scheduled Castes (Respondent No. 2) and National Commission for Minorities (Respondent No. 3) had given the following response to this Honourable Court. It is well known to the 1st respondent No. 1/ Union of India, represented by the Secretary, Ministry of Social Justice and Empowerment, 2nd respondent/ National Commission for Scheduled Castes, 3rd respondent/ National Commission for Minorities, 4th respondent/ The Registrar General of India, Ministry of Home Affairs, 5th respondent Ministry of Law and Justice, 6th respondent Ministry of Parliament Affairs, 7th respondent Ministry of Minority Affairs and the 8th respondent Cabinet Secretariat that voluminous, cogent, authoritative and detailed Government invented/ created documentary evidences concerning with the socio, educational, economic and cultural backwardness arising out of the practice of untouchability of the Christians of Scheduled Castes Origin people are with all the above said Offices and authorities

(1). As per the direction of the Supreme Court of India, both the above said Commissions were considered as Co Respondents along with Union of India. On 18.07.2012, the Co Respondent National Commission for Minorities' Affidavit was filed in the Supreme Court of India, which says:

“That the Commission again its meeting dated 06.05.1997 made a statutory recommendation under section 9 (1) (g) of the NCM Act recommending in continuation of its earlier recommendation for outright removal of the proviso in (Constitution Scheduled

Caste) Order, 1950 which confines the SC status strictly to three specified religions to the exclusion of all other religions. It is necessary in the opinion of the Commission to do so in order to fully implement Constitutions stress on the guarantee of equality before law and equal protection of law and Constitutional prohibition of all religion-based discrimination.” **(ANNEXURE NO. 3)**

(2). On 04. 04. 2011, the Co Respondent National Commission for Scheduled Castes’ Affidavit was sent to the Ministry of Law and Justice’s Wing in the Supreme Court of India for filing it in the Supreme Court of India, which says:

Date: 18.09.2007, “It was decided that reservation should be extended to them but the share of 15% of SCs should not be disturbed...”

Date: 22.04.2010, “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).”

Date: 14.02.2011, “The issue of inclusion of Dalit Christian and Dalit Muslims in the Scheduled Castes was discussed at length. After the discussion the Commission decided that the issue should be tested on the following two parameters.”

(i). Whether Dalit Christians and Dalit Muslims are following the same traditions and customs after conversion from SC as before conversion.

(ii). Even after conversion to Christianity or Islam, do they suffer from the same social disabilities (Example: untouchability, discrimination etc.) as before.

Since the matter is reported to be urgent, the Commission recommends inclusion of Dalit Christians and Dalit Muslims in the category of Scheduled Castes, if they fulfil the above said two parameters.” **(ANNEXURE NO. 4).**

AA. Because the Christians of Scheduled Castes Origin people are getting legal remedy under the protection of Civil Rights Act, 1955 or otherwise called as Untouchability Offences Act, 1955 when these people are victimised because of the untouchability-oriented caste discriminatory crime. Since untouchability Offences Act, 1955 and the Scheduled Castes and Scheduled Tribe (Prevention) of Atrocities Act, 1989 amended in the year 2018 deal with the same form of untouchability, Christians of Scheduled Castes Origin people ought to get the legal protection under the Scheduled Castes and Scheduled Tribes (Prevention) of Atrocities Act, 1989 amended in the year 2018 because these people are affected by the untouchability practice. Because these people are belonging to the lower Caste status, they are discriminated, because these Christians of Scheduled Castes Origin belong to the Christian religion, some of the caste minded perpetrators are not skipping them from the untouchability practice, still these people are discriminated because of their menial job, give birth from the communities and the descent based discrimination.

BB. Because as per Indian Constitution Article 17, untouchability is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of Untouchability shall be an offence punishable in accordance with law.

As on 26th of January 1950, untouchability is completely abolished; if it is so why Hindu, Sikh and Buddhist Scheduled Castes Origin (whose castes names are there in the Schedule of the Constitution Scheduled Castes Order 1950) avail the Scheduled Castes status irrespective of some of the elite people's socio, educational (two requirement as per constitution), economic and cultural (some requirement of the Court in some judgment) advancement and there is no creamy layer restriction for the Scheduled Castes people to avail the Scheduled Castes privileges. Whether for the individual backwardness the Scheduled Castes is given to the above said people or because the castes names are there in the Schedule, the Scheduled Castes status is given to the above said Hindu, Sikh and Buddhist of Scheduled Castes Origin. This privilege is given to the Hindus, Sikh and Buddhist of Scheduled Castes Origin because of their mere Caste name entry in the Scheduled Castes List/ Constitution Scheduled Castes Order 1950. If is so, why not the poor Christians of Scheduled Castes Origin who are socially, educationally, culturally and economically backward when comparing the above said other elite and rich Hindu, Sikh and Buddhist religious Scheduled Castes people could avail the Scheduled Castes status. In the case of the petitioners only, the respondent is insisting to

prove the socio and educational forwardness arising out of the practice of untouchability for getting the Scheduled Castes status, whereas as per Indian Constitution Article 17, untouchability practice is abolished as on date 26.01.1950. For proving the socio and educational backwardness of the Hindu, Sikh and Buddhist Scheduled Castes Origin communities arising out of the traditional practice of untouchability, what data do this respondent could able to give, when the Scheduled Castes status is given to all the Hindu, Sikh and Buddhist Scheduled Castes Origin communities people without any creamy layer restriction, so this religious ban of the Constitution Scheduled Castes Order 1950, Paragraph 3 is discriminatory as per Indian Constitution 14 and 15.

CC. Because in the case of Hindu, Sikh and Buddhist Scheduled Castes Origin the Scheduled Castes status is given to all the communities for the communities backwardness not by considering the individual backwardness, but in the case of the Christians of Scheduled Castes Origin based on the individual persons' collective data, the Christians of Scheduled Castes Origin are insisted to prove the individual persons backwardness data in collective manner, for the Hindu, Sikh and Buddhist Scheduled Castes Origin, there is no creamy layer restriction, the Hindu, Sikh and Buddhist of Scheduled Castes Origin never proved their socio and educational backwardness arising out of the traditional practice of untouchability . Still as per the respondent's cogent, authoritative and detailed evidence, it is proved that the Christians of Scheduled Castes Origin are socially and

educationally backward arising out of the traditional practice of untouchability.

DD. Because when some Hindu, Sikh and Buddhist of Scheduled Castes Origin person embraces Christianity, when other own brothers and Sisters are not embracing Christianity, by living in the same family and in the same caste and the geographical environment, how the new converted person only could become socially, educationally forward position and there is no traditional practice of untouchability practise by them, when their own brothers and sisters by living in same geographical situation, by dwelling among the same caste minded people in the same House could be treated as socially and educationally backward people for availing the Scheduled Castes status.

EE. Because the Christians of Scheduled Castes Origin people are following the Indian cultural oriented way of life. Some of the New Testament related Christian religious principles of the Bible do not prevent some of the Catholic Christians, the Protestant Christians and the independent denomination Christians not to follow the Indian way of life and the Indian cultural religious behaviours like idol worship, wearing the dress to the idols, idol worshipping, worshipping Portrait of Jesus, Mary, Joseph, Angels and Saints, tying mangal sudra (marriage agreement symbol to denote the marriage tie as symbolic visible representation to reveal that the concerned lady is married), wearing metti on the leg fingers, putting Tilak on the fore head, Aarthi during the marriage ceremonies, puberty, birth ceremony, death remembrance, frank

incense and myrrh powder burning and fuming, agar pathi burning/ aroma coil burning, Candle burning, worshipping the idols of the Saints, worshipping the cemeteries of the Saint people, wearing Saffron dress and going to Church, Flag Hosting in every Church, fortieth day remembrance after death of a human being, animal sacrifice in small rural Churches and so on. Even the old Testament Bible principle allow some of the above said human behaviour for worshipping God, for example making aroma powder and worshipping stone as remembrance by pouring Oil on the Stone. Even in old testament Biblical stories, some people were treated as inferiors, superiors, because of that discriminatory practice was allowed.

FF. Because, some of the Hindus of Scheduled Castes Origin people are also coming to the Church and participating in the Christian worshipping service, could the Hindus of Scheduled Castes Origin could be ceased to be treated as Hindus, it is not.

As per Hindu law, why the atheist Scheduled Castes origin people are treated as Hindus and given the Scheduled Castes privileges, when these atheist of Scheduled Castes Origin people do not believe in the Hindu religious ideology, dogmas, mythology and the caste degradation system. No religion could motivate and recognise the practice of untouchability. "Untouchables" are generally defined as people belonging to castes that rank below the Sudra varna. They have traditionally been regarded as having such low status they don't even register on the caste system and they are not under the purview of Hinduism. The Dalits/

Scheduled Castes people (formally known as Untouchables) have traditionally been regarded as having such a low status they were not even considered being members of the caste system. Other terms used to describe them include Depressed Classes, Avarna (outside the varna system), Antyaja (last-borne), Outcastes (inaccurate since they are in caste system), Adi-Dravida (meaning original Dravidians"), external caste, backwards castes, Panchama (meaning fifth varna, a term developed to accommodate inter-caste offspring into the caste system). Even as per Hindu mythology, these people were not treated as Hindus and these people were not born from the body of Brahma. If it is so, why the Hindus of Scheduled Castes Origin are only given the Scheduled Castes status by forcefully telling and treating them as Hindus, because the Hinduism is the way of life, some time it is not considered as religion. In the same way, the same non-Hindu (Christians of Scheduled Castes) people who were not the part of the Hindu Varna system, since these people are following the Indian cultural way of life ought to be treated as Scheduled Castes.

GG. Because when a Christian of Scheduled Caste Origin person who is educationally, socially, economically and culturally in a forward position comes to Hinduism, Sikhism and Buddhism, forthwith how he or she becomes socially, educationally, economically and culturally in a backward position. Could the Hindu, Sikh and Buddhist religions change the educational and social status of a person forthwith after sudden change forthwith

very swiftly. Once again, if he or she becomes to his or her religion Christianity, how he or she once again becomes socially, educationally, economically and culturally forward forthwith.

HH. Because as per the Arya Marriage Validation Act, 1937, when all the Caste Arya Samajists are able to do the inter- caste marriages including the Scheduled Castes Origin Bride or Groom, Arya Samajists group is treated as Hindu sect. Though Arya Samaj/ a group of Hindu Sect is not recognise the Caste discriminatory practice, the Arya Samaj convert many Christians of the Scheduled Castes Origin to Hinduism and the people are availing the Scheduled Castes status. But in principle, the Arya Samajists Sect of Hindu religion and its dogmas do not allow the caste discrimination and its practice. But, the Arya Samajist Scheduled Castes Origin are entitled to avail the Scheduled Castes status, though the Arya Samajists of Scheduled Castes Origin people and the upper caste Arya Samajists do not believe in the untouchability and caste discriminatory principle and both upper caste and lower caste Arya Samajists do not believe in the caste system. In the same way, the Christians of Scheduled Castes Origin ought to be treated as the people who follow Indian way of life and discriminated because of the caste mind oriented Indian way of life. So, the religious ban of the Constitution Scheduled Castes Order 1950, Paragraph 3 ought to be struck down by this Honourable Court.

Please see the following Act:

The Arya Marriage Validation Act, 1937

(XIX of 1937)

“Marriage between Arya Samajists not to be invalid. –Not standing with any provision of Hindu Law, usage or custom to the contrary no marriage contracted whether before or after the commencement of this Act between two persons being at the time of the marriage Arya Samajists shall be invalid or shall be deemed ever to have been invalid by reason only of the fact that the parties at any time belonged to different castes or different sub-castes of Hindus or that either or both of the parties at any time he marriage belonged to a religion other than Hinduism.”

II. Because the President of India does not have sufficient data regarding the socio, educational, economic and cultural backwardness data of the individuals of the entire Scheduled Castes communities of the Hindu, Sikh and Buddhist Scheduled Castes Origin which are in the Constitution Scheduled Castes Order 1950. Simply by linking the untouchability with the approval of some of the manmade books of Hindu religion and by considering the Sikhism and Buddhism as the offshoot of Hinduism, the entire Hindu, Sikh and Buddhist Scheduled Castes Origin people had been given the Scheduled Castes status. Whereas, the President of India and all the respondents have voluminous Government documents and evidence to prove the socio, educational, economic and cultural backwardness of the Christians of the Scheduled Castes Origin arising out of the traditional practice of untouchability. So, the ban of the paragraph 3 of the Constitution Scheduled Castes Order 1950 id

unconstitutional against the Indian Constitution Articles 14 and 15.

JJ. Because the respondents have voluminous authentic, cogent and authoritative detailed evidences concerning with the socio, educational, economic and cultural backwardness arising out of the traditional practice of untouchability concerning with the Christians of Scheduled Castes Origin people like various Central and State Governments nominated Commission Reports, Union of India's Cabinet Note for bringing Bill in Parliament and Ordinance, various recommendations from the National Commission for Minorities, National Commission for Scheduled Castes, National Commission for Religious and Linguistic Minorities Report, many State Governments' support during the proposal of the Cabinet Note in the year 1996 by the Ministry of Social Justice and Empowerment like Madhya Pradesh, Punjab, Pondicherry, Tamil Nadu and West Bengal, Private Members Bills proposed in Indian Parliament by the Members of Parliament and the Union of India's proposed Bill and the Cabinet Note, many State Governments' Legislative Assemblies passing resolution like Bihar, undivided Andhra Pradesh and Uttar Pradesh for extending the Scheduled Castes status to Christians of Scheduled Castes status.

KK. Because the Christians of Scheduled Castes Origin are affected by the dominant caste Hindus and dominant caste Christians because of the caste discriminatory mind set of some of the oppressors. Very negligible percentage of Christians of Scheduled Castes Origin people are once in a while per week one

hour, they could go to the worshipping place called as Churches, most of the remaining time they live in the society where the caste discrimination exists. The discrimination is not only practised in the Church activities, it is there everywhere like Office, usage of ponds and Lakes, Roads, public places, in the fields, agricultural working places, Schools, Colleges, Institutions and so on. It is descent based, profession-oriented birth inheriting discriminatory practice which is followed by the dominant castes Hindus and dominant caste Christians.

LL. Because the Scheduled Castes people were the people who were born in between the four varna people, they were not born from the body of the Brahma as per Hindu dogmas. The four Varna people only were the Hindus, other all Scheduled Castes people were born as illegitimate Children who were born in between the four Varna people/ who were only born from the body of the creator Brahma. So, against the Hindu dogmas, mythology and religious ideology, all the Scheduled Castes people were treated as out Castes, against the religious ideology of the Hindu religion, they are wrongly called as Hindus for compulsion. Because the untouchable/ Scheduled Castes Origin are eating Beef, they are treated as untouchables and discriminated. No dominant caste Hindu and the dominant caste Christian would treat Christians of Scheduled Castes Origin as touchable because of the eating behaviour of Beef.

Varna in Sanskrit means, any one of the four traditional social classes of India. Although the literal meaning of the word varna

(Sanskrit: “colour”) once invited speculation that class distinctions were originally based on differences in degree of skin pigmentation between an alleged group of lighter-skinned invaders called “Aryans” and the darker indigenous people of ancient India, this theory has been discredited since the mid-20th century. The notion of “colour” was most likely a device of classification. Colours were frequently used as classifiers; e.g., the Vedic scripture known as the Yajurveda is divided into two groups of texts, White and Black.

The varnas have been known since a hymn in the Rigveda (the oldest surviving Indian text) that portrays the Brahman (priest), the Kshatriya (noble), the Vaishya (commoner), and the Shudra (servant) issued forth at creation from the mouth, arms, thighs, and feet of the primeval person (purusha). Males of the first three varnas are “twice-born” (dvija): after undergoing the ceremony of spiritual rebirth (upanayana), they are initiated into manhood and are free to study the Vedas, the ancient scriptures of Hinduism. The Shudra live in service to the other three. The Vaishya, in turn, as common people, grazers, and cultivators, contrast with the governing classes—i.e., the secular Kshatriya, or barons, and the sacerdotal Brahmans. Brahmans and Kshatriya themselves contrast in that the former are the priests, while the latter have the actual dominion. In the older description, far greater emphasis is placed on the functions of the classes than on hereditary membership, in contradistinction to caste, which emphasizes heredity over function.

The system of the four classes (caturvarna) is fundamental to the views the traditional lawgivers held of society. They specified a different set of obligations for each: the task of the Brahman is to study and advise, the baron to protect, the Vaishya to cultivate, and the serf to serve. History shows, however, that the four-class system was more a social model than a reality. The multitudinous of castes (or jati) is explained as the result of hypergamous and hypogamous alliances between the four classes and their descendants. The inclusion of the Shudra into the four-varna system bestowed on them a measure of dignity. A move to accommodate still others not so distinguished led to the rather unofficial acceptance of a fifth class, the panchama (Sanskrit: "fifth"), which include the "untouchable" classes and others, such as tribal groups, who are outside the system and, consequently, avarna ("classless").

In modern times, traditional Hindus, awakened to the inequities of the caste system yet believing the four-varna system to be fundamental to the good society, have often advocated a return to this clear-cut varna system by reforming castes. Individual castes, in turn, have sought to raise their social rank by identifying with a particular varna and demanding its privileges of rank and honour.

MM. Because, some of the Christians of Scheduled Castes Origin people are given the menial jobs like manual Scavenging/ cleaning dry and wet Latrines, cleaning and clearing the human excreta, cleaning the closed and open filthy water filled Sewage

and Sewerage, washing the old Clothes, mending the old Shoes and Foot Wears, doing agricultural slavery works, removing the Carcases of dead animals, Cow, Bullock and other Animals, cremating the dead bodies and the burial of the dead bodies and so on. Because these people are having the Christian names, because these people are following Christian religion, no dominant caste people could deny to give them the menial jobs, still they insist the Christians of Scheduled Castes Origin people to do the menial jobs. Here division of Labour is not the problem, but division and discrimination of the Labourers based on the descent and profession is the problem, thus the Christians of Scheduled Castes Origin people are facing the descent based traditional practice of untouchability, hereditarily, as descent to descent, by birth these people are forced to do the menial jobs.

NN. Because, The Caste Disabilities Removal Act, 1850 says:

“Whenever in any civil suit the parties to such suit may be of different persuasion, when one party shall be of the Hindu and the other of the Muhammadan persuasions, or where one or more of the parties to the suit shall not be either of the Muhammadan or Hindu persuasions the law of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled.”

“The territories subject to the Government of the East India Company (India) as inflicts on any person forfeiture of rights or property or may be held in any way to impair or affect any right of

inheritance, by reason of his or her renouncing or having been excluded from the communion of any religion or being deprived of caste, shall cease to be enforced as law”.

Christians of Scheduled Castes origin are not entitled to use one of the civil right Act when they when they are socially backward that is Scheduled Castes and Scheduled Tribes prevention of Atrocities Act 1989's provision. Since the Civil Rights of the Christians of Scheduled Castes origin people is denied as per (SC & ST Prevention of Atrocities Act, 1989), this injustice is contrary to the above said Freedom of Religion Act. After conversion to Christianity, the Christians of Scheduled Castes Origin are loosing the legal right to protect them under Scheduled Castes and Scheduled Tribes (Prevention) of Atrocities Act, 1989 amended in the year 2018, when they are victimised in the society because of the prevalence of the untouchability practice. In this way as per the above said Act, these people loose their civil rights of protecting them, which is contrary to the above said law.

OO. Because social exclusion is different from the religious dogmas and ideologies. The Hindu religious way of life and the God never ask others to discriminate and treat the poor feeble people as untouchables. By birth the Christians of Scheduled Castes Origin people inherit the impurity because of their lower Castes nature and nomenclature. Though the African- American Black people of Europe, America and the White people are following Christianity, the Racism is vehemently practiced among the White Christians and the African- American Black Christians,

so Casteism and the Racism are the social exclusion, because of these exclusion, it is profession and descent based discrimination, untouchability is prevailing among the people of India. The practice of untouchability is often wrongly associated with Hinduism and believed to be found only in India. But as per reality, it has been prevalent by different names in Japan (the Buraku), Korea (the Paekchong), Tibet (the Ragyappa), and Burma (Pagoda slaves). Some societies in Islam are also believed to follow a social classification scheme, where Ashrafs are given a superior status owing to their aristocratic ancestry, while Ajlafs and Arzals are confined to menial jobs and are considered "low-born." caste discrimination and the traditional practice of untouchability is a social phenomenon, it is not religious phenomenon.

PP. Because Caste systems are a form of social and economic governance that is based on principles and customary rules:

Caste systems involve the division of people into social groups (castes) where assignments of rights are determined by birth, are fixed and hereditary.

The assignment of basic rights among various castes is both unequal and hierarchical, with those at the top enjoying most rights coupled with least duties and those at the bottom performing most duties coupled with no rights.

The system is maintained through the rigid enforcement of social ostracism (a system of social and economic penalties) in case of any deviations.

Inequality is at the core of the caste system.

Those who fall outside the caste system are considered “lesser human beings”, “impure” and thus “polluting” to other caste groups. They are known to be “untouchable” and subjected to so-called “untouchability practices” in both public and private spheres.

“Untouchables” are often forcibly assigned the most dirty, menial and hazardous jobs, such as cleaning human waste. The work they do adds to the stigmatisation they face from the surrounding society.

The exclusion of ‘caste-affected communities’ by other groups in society and the inherent structural inequality in these social relationships lead to high levels of poverty among affected population groups and exclusion from, or reduced benefits from development processes, and generally precludes their involvement in decision making and meaningful participation in public and civil life.

The division of a society into castes is a global phenomenon not exclusively practised within any particular religion or belief system.

In South Asia, caste discrimination is traditionally rooted in the Hindu caste system. Supported by philosophical elements, the caste system constructs the moral, social and legal foundations of Hindu society. Scheduled Castes are ‘outcastes’ or people who fall outside the four-fold caste system consisting of the Brahmin,

Kshatriya, Vysya and Sudra. Scheduled Castes people are also referred to as Panchamas or people of the fifth order. However caste systems and the ensuing caste discrimination have spread into Christian, Buddhist, Muslim and Sikh communities.

Caste systems are also found in Africa, other parts of Asia, the Middle East, the Pacific and in Diaspora communities around the world. In Japan association is made with Shinto beliefs concerning purity and impurity, and in marginalized African groups the justification is based on myths.

Caste discrimination affects approximately 260 million people worldwide, the vast majority living in South Asia.

Caste discrimination involves massive violations of civil, political, economic, social and cultural rights. It is often outlawed in countries affected by it, but a lack of implementation of legislation and caste-bias within the justice systems largely leave Dalits/ Scheduled Castes people without protection. Christians of Scheduled Castes Origin people are depressed on account of the occupation followed and also would be subject to social disability without any reference to any religious faith and its ideology.

QQ. Because some poorest Christians of Scheduled Castes Origin people are serving as water Carrier only for the usage of the Scheduled Castes people, barbers, Drummers during death ceremonies, Cobblers, manual Scavengers, Washer men, Manuel Scavengers etc. these people could not be treated as equals by dominant Caste Hindus and dominant Caste Christians.

The three main causes of untouchability in India are 1. Racial Causes, 2. Religious Causes 3. Social Causes:

It will be illegitimate to conceive that the attribute causing untouchability is the caste system alone. Besides casteism there are several. Factors that have contributed to the persisting existence of untouchability. As J.H. Hutton writes: "The origin of the position of exterior caste is partly a matter of social custom."

(i) Racial Factors;

(ii) Religious Factors;

(iii) Social Factors.

(i) Racial Factors:

Racial factors are the most important in nourishing the seed of untouchability. It is the racial difference that segments the members in the category of 'touchables' and 'untouchables'. In almost all the cases the victor considers the vanquished inferior to him and wants to keep the latter in separation and assigns a degenerated status.

"Historically, untouchability was the social fruit of the Aryan conquest of India. In the process of social interaction, a portion of the indigenous conquered population was incorporated into the Aryan fold. The most backward and despised section of this incorporated population, it appears constituted the hereditary caste of untouchables." In Assam the Aao sect of the Naga tribe is prohibited from wearing ornaments made from ivory on both

arms. Hutton reports that this restriction is due to the racial difference between the Nagas and the Aao sect.

Similarly, in the Garhwal region the brides and the bridegrooms belonging to artisan as well as Harijan castes were not allowed to use palanquin or a horse. This restriction is due to the racial diversity.

All these practices prove that racial difference has been the root cause of untouchability in India. Majumdar has rightly commented that, "The disabilities of the so-called "depressed" castes are not ceremonial but probably founded on racial and (ii) Religious Factors:

Very little religious convictions and conventions have also contributed to the emergence of untouchability in India, in very small percentage. Purity and divinity are much emphasized attributes of Hindu way of life. The idea of all religious man made discriminatory ideologies as the basis of untouchability has been among others, suggested by Ghurye when he says "Idea of purity, whether occupational or ceremonial, is found to have been a factor in the genesis of caste or the very soul of the idea and practice of untouchability.

The job of sweepers and cobblers was impure, so they were treated as untouchables. This difference was mainly owing to the impurity, adjudged from religious angle.

Social taboos are also contributory to the growth of untouchability. Inter-caste marriages, using or consuming the

object of totem or its disrespect were strictly forbidden. Hutton rightly comments, "There can be little doubt that the idea of untouchability originates in taboo."

(iii) Social Factors:

The influence of social conventions that members do not dare to defy the imposed disabilities as well as the custom of untouchability.

The untouchables were not permitted to enter the city without proper announcement. They were not allowed to enter into temples and also were forbidden to draw water from common wells. Similarly, in some parts of the country, they were not allowed, to wash their clothes in the day time.

RR. Because, Christianity does not recognise caste discrimination is not the legal logic. When all the religions talk not to do the immoral things, why some people of all the religions are indulging and doing the crime against religious and ethics. Please see in India how the caste discrimination is prevailing in all the religious geographical locations.

Please see the following documents of the main line Churches in India and in the International level.

The Statement of the Catholic Bishops' Conference of India (Kottayam 1988) says: "We are sadly aware that Christians too retain many negative aspects of the larger society of which they are part. The Scheduled Castes who have joined the Church should have found in it a community of equality and of freedom

from caste oppression. But many of them feel twice discriminated against. The Secular State deprives them of economic benefits on a purely religious basis. The discrimination based on caste that is rampant in the rest of society continues also among Christians. Most Christians of Scheduled Caste origin is still deprived of economic opportunities, access to adequate educational facilities, leadership roles and participation in decision-making.”

The Statement of the CBCI (Varanasi, March 21-28, 1998) says: “The prevalence of the caste-based practices, not only in society but also in some parts of the Church in India even at the close of the 20th century, is a matter of shame and disgrace to all of us. It is a cause of sorrow and expression of our inability to live our Christian faith adequately. It is not only a denial of human dignity and equality, but also against the fundamental teachings of Christ...”

Please see the writing of Mahatma Gandhi concerning with the caste discrimination faced by the Christians of Scheduled Castes Origin/ Catholic Christians at Kumbakonam, Tamil Nadu in the Church.

It was reported that during Sunday service in St. Mary's Cathedral at Kumbakonam, caste Catholics withdrew from the service when Catholic Harijans entered the Cathedral and seated themselves among caste Catholics, instead of occupying the position intended for them. Commenting on the incident, Gandhiji wrote in Harijan on 26.12.1936.

"Whether the Harijan is nominally a Christian, Muslim or Hindu and now Sikh, he is still a Harijan. He can't change his spots inherited from Hinduism so called. He may change his garb and call himself a Catholic Harijan or a Muslim Harijan or neo- Muslim or neo-Sikh, his untouchability will haunt him during lifetime. It is one and the same thing whether you call numeral after five, half a dozen or six. Not until untouchability is

removed from Hinduism will the taint be removed from Harijans, no matter what label they adopt. Therefore, Harijans have it in their hands either to save Hinduism or to destroy it, as caste Hindus have it in theirs. It is no doubt easier for Harijans to change labels than for caste Hindus to change their hearts, but it may be easier for Harijans to rise superior to every earthly temptation and be consciously steadfast in the faith in which they have been denied by their fellows the most elementary human rights. It is no doubt difficult for anybody to resist the temptations to which Harijans are exposed today. It will therefore be a marvel if they prove true and cling to their ancestral faith with determination to purify it by conscious supreme effort. They can do this as they could not before for they know that there is a growing body of caste Hindus who are making common cause with them and making reparation for their own past wrongs and the continuing wrongs of fellow caste Hindus. Thus viewed, the Kumbakonam incident

is as much a shame of the Roman Church as it is of Hinduism."

Policy of Dalit Empowerment in the Catholic Church in India, An Ethical Imperative to Build Inclusive Communities, CBCI DALIT POLICY, Catholic Bishops' Conference of India, Published by CBCI Office for Scheduled Castes and Backward Classes, New Delhi-110001, December, 2016 in the Chapter, Status of Dalit Christians, paragraph No, 25, Page No. 15 says as follows:

“...There is wider acceptance that the practice of untouchability and discrimination against Dalits exists in the Church and there is need to address these issues urgently...” **ANNEXURE NO. 5.**

The Document on THE CATHOLIC DALITS (The Oppressed of untouchables) and their present status in India, Presented to his Holiness Pope Francis On Tuesday 26th May 2015 by Malayappan Chinnappa SDB, Arch Bishop Emeritus, Madras- Mylapore and Periyannayagam Soundararaj SDB (Bishop of Vellore), Representing the Catholic Dalit Community of India, Chapter No. 2. 1: Social Disabilities, please see the following declaration:

“...The Government Backward Class Commission like Kalelkar Commission (1951), Kumar Pillai Commission (1965), Elayaperumal Commission (1969), Sattanathan Commission (1970), Mandal Commission (1982), and Mandal Case Judgment (1992), Ranganath Misra Commission Report (2007) proved all the disabilities of Dalit Christians...”

“...All the reports prove that Dalits suffer triple discrimination ie; by the society, Christian Community and the Government of India...”

“...They are victims of atrocities but they cannot protect themselves by SC/ST preventions of atrocities act because they are not deemed to be Dalits (Scheduled Caste). **ANNEXURE No. 6.**

“Canon law of the Catholic Church. 208. From their rebirth in Christ, there exists among all the Christian faithful a true equality regarding dignity and action by which they all cooperate in the building up of the Body of Christ according to each one’s own condition and function.

Canon Law of the Catholic Church. 222 (2). They are also obliged to promote social justice and, mindful of the precept of the Lord, to assist the poor from their own resources.

Canon Law. 223 (1). In exercising their rights, the Christian faithful, both as individuals and gathered together in associations, must take into account the common good of the Church, the rights of others, and their own duties toward others.” (Courtesy Holy See Web Site).

“Inequality is the root of social evil,” Holy Father Pope Francis.

Address of John Paul II, to the Bishops of India, on their “Ad Limina” visit, Date, Monday, 17 November 2003.

“All the times, you must continue to make certain that special attention is given to those belonging to the lower castes,

especially the Dalits. They should never be segregated from other members of the society. Any semblance of a caste-based prejudice in relations between Christians is a countersign to authentic human solidarity, a threat to genuine spirituality and a serious hindrance to the Church's mission of evangelisation. Therefore, customs or traditions that perpetuate or reinforce caste division should be sensitively reformed so that they may become an expression of the solidarity of the whole Christian community."

Address of His Holiness Benedict XVI to Bishops of Tamil Nadu on their "Ad Limina" visit Monday, 18 June 2011.

"The witness of the reciprocal love and service between you and your priests - without regard for caste or ethnicity but focussed upon the love of God, the spread of the Gospel and the sanctification of the Church - is earnestly desired by the people you serve."

Special Envoy of the Holy Father Pope Benedict XVI, Cardinal Fernando Filoni, Prefect of the Congregation for the Evangelization of Peoples had emphasised the necessity for bringing more Bishops from the Dalit Christian Community, Pastoral visit to India, 9-16 February 2013, meeting with the Bishops - CCBI, Sunday, 10 February 2013:-

"A missionary-minded Bishop pays pastoral attention to all the categories of people present in his diocese, without regard for caste or ethnicity but focused upon the love of God and the spread of the Gospel. No ethnic group, low-caste group, or minority group, must feel side-lined, marginalized or left out from the initiatives or pastoral works in your Diocese - I am thinking in admission to the Seminaries, in promoting to important parishes and curial duties, and episcopal candidates."

PONTIFICAL COUNCIL FOR PROMOTING CHRISTIAN UNITY

This is the international version of the text
of the Week of Prayer 2013

Resources for

THE WEEK OF PRAYER FOR CHRISTIAN UNITY

and throughout the year 2013

What does God require of us?

(cf. Micah 6:6-8)

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The Commission on Faith and Order of the World Council of Churches

"The Dalits in the Indian context are the communities which are considered 'out-castes'. They are the people worst affected by the

caste-system, which is a rigid form of social stratification based on notions of ritual purity and pollution. Under the caste-system, the castes are considered to be 'higher' or 'lower'. The Dalit communities are considered to be the most polluted and polluting and thus placed outside the caste-system and were previously even called 'untouchable'. Because of casteism the Dalits are socially marginalized, politically under-represented, economically exploited and culturally subjugated. Almost 80% of Indian Christians have a Dalit background."

"Some 80-90% of Christians in India are Dalit converts."

"It is said that 80-90% of the Indian church are of Dalit origin. In some parts of India 100% Christians are Dalit converts."

Episcopal Conference said during the XXX Assembly of Indian Bishops, which was being held from 1 to 8 February 2012 in Bangalore in the Indian state of Karnataka, Archbishop Pennacchio recalled in particular the Church's task to "encourage small Christian communities, befriend the poor and marginalized and in this context especially the Dalits Christians so that they get their right to equality in the Constitution"; Asia/ India - The Indian Bishops: "The Church has a crucial role in the country's future"; Agenzia Fides 02/02/2012, Vatican news.

World council of Churches

Statement on caste-based discrimination

02 September 2009

Continuing the practice of caste-based discrimination and untouchability affecting such a large number of people in so many ways must, therefore, be confronted. It is unfortunate that the practice of caste-based discrimination exists in some churches in India. The Dalit Christians in India are also discriminated against by the state, which denies them certain rights and privileges ascribed to other Dalits as part of its affirmative action. It is becoming increasingly evident that the similar features of the South Asian caste system that are a product of inherited social exclusion and discrimination are shared with a number of other geographically and culturally disparate societies.

Asserts its conviction that “caste-based discrimination is a crime” and that “casteism is sin” because it contradicts the Christian teaching that all are created in the image and likeness of God.

Action Plan for the Integrated Development of Catholic Dalits in Tamil Nadu.

By Tamil Nadu Bishop Council (TNBC)

Tamil Nadu- Pondicherry Catholic Religious of India (TNPCRI).

“In places of worship and burial grounds Christians of Scheduled Castes Origin should be treated on a footing of equality and there should be no discrimination.”

Catholic Bishops' Conference of India- CBCI General Body Meeting, Trichy, January, 14, 1982).

“We state categorically that caste, with its consequent effects of discrimination and caste mentality, has no place in Christianity. It is, in fact, a denial of Christianity because it is inhuman. It violates the God-given dignity and equality of the human person.”

National Council of Churches in India XXVIII Quadrennial Assembly, held at Jabalpur from April 27 to April 30, 2016:
Resolution on Public Issues

Churches must seriously implement the campaign of NCCI “No one can serve Christ and caste”, and actively take measures to end caste-based discrimination within their bodies.

SS. Because the 4th Respondent/ The Registrar General of India had opposed the granting of Scheduled Castes status to Christians of Scheduled Castes Origin based on the findings of the two books which were written by the individuals based on the imaginary/ hypothetical data like, “Caste and Christianity, written by Dunccan B. Forrester and another, “People of India written by K. S. Singh. Whereas the present Respondent No. 4/ The Registrar General of India did not see the voluminous documents which were invented and created by all the respondents by using its own exchequer from 1 to 8 (even kept in his/ her Office) and stored in their Office as authentic Government documents which

prove the socio, educational, economic and cultural backwardness of the Christians of the Scheduled Castes Origin people of India. The 4th Respondent might have got all the supportive documents from the present respondent No. 1 to 8 (kept even in his/ her Office) and it would have recommended to all the respondents for granting the Scheduled Castes status to the above said people by amending the Constitution Scheduled Castes Order 1950, paragraph 3 by the way of inserting the word, "Christians" or by deleting the ban from the above said Order.

TT. Because the Indian main line Churches and the International Christian community never says that the Indian Christian people are egalitarian in nature as per the social structure, these organizations are also demanding the Scheduled Castes status to Christians of Scheduled Castes Origin people from the date 10.08.1950 in which date the Order was approved by the President of India, the respondent should not deny the Scheduled Castes status to these people based on the illogical imagination.

UU. Because the respondent had never got it in writing from the main line Indian Church authorities for justifying the version, "Christianity does not recognise, caste discrimination," even the respondent could not prove as per which Christian ideology, the above said version is correct. Christianity does not recognise telling lie, but some Christians are telling lie. So practical oriented human's real life is different from the religious perception and command. The respondent also do not able to categorically prove that on what theological angle, the version, "Christianity does not

recognise caste discrimination,” is proved, whether during the time of Bible’s old and new Testament time, was there any Indian form of caste discrimination practised, in the place from where the Christianity came to India. Is there any way of linking the Indian way of evil practice/ caste discrimination by linking it with the religious teaching of Christian religion which was born in a Country from middle east/ Israel. In the case of Sikhism and Buddhism, these religion also do not recognise the untouchability and caste discrimination, but by linking the Sikhism and Buddhism as off-shoots of Hinduism as per Indian Constitution Article 25 (2), they had been given the privileges without relying on data in the year 1956 and 1990 by doing the amendment in the Constitution Scheduled Castes Order 1950 paragraph 3. If that logic is correct, as on date 10.08.1950 itself in which date the Order was promulgated the Sikhs and Buddhist of Scheduled castes Origin people might have been given the Scheduled Castes status automatically, why did the respondent do the separate amendment in the year 1956 for accommodating the Sikhs of Scheduled Castes Origin people and separate amendment in the year 1990 for accommodating the Buddhist of Scheduled Castes Origin people to avail the Scheduled Castes status? The Respondent says, Buddhism and the Sikhism are the off-shoots of Hinduism, but as per the National Commission for Minorities Act, 1992, Buddhism and the Sikhism are the minority religions which are different from Hinduism. From 10.08.1950 up to 1956 (up to doing the amendment for giving them the Scheduled Castes status), the Sikh Scheduled Castes Origin people were socially

and educationally forward and they were not facing the traditional practice of untouchability. But from 1956 as on date suddenly these people/ Sikhs of Scheduled Castes Origin people had become socially and educationally backward, they were facing the traditional practice of untouchability. From 10.08.1950 up to 1990 (up to doing the amendment for giving them the Scheduled Castes status), the Buddhist Scheduled Castes Origin people were socially and educationally forward and they were not facing the traditional practice of untouchability. But from 1990 as on date suddenly these people/ Buddhist of Scheduled Castes Origin people had become socially and educationally backward, they were facing the traditional practice of untouchability.

The main line Churches of India like the Catholic Bishops' Conference of India (CBCI) and the National Council of Churches in India (NCCI- National wide umbrella Organisation of all the protestant and Orthodox Churches together) had filed intervention petition (for impleading in the Civil Writ Petition No. 180 of the year 2004) in this ongoing litigation which is pending in this Honourable Apex Court for getting the Scheduled Castes status to Christians of Scheduled Castes Origin by accepting the severity and prevalence of caste discrimination and untouchability practice among the Indian Christians, the argument of the respondent like, the International and the Indian Christian community would oppose the extension of the Scheduled Castes status to Christians of SC Origin does not have any logic.

VV. Because this Honourable Court had accepted the severity and prevalence of the caste discrimination faced by the Christians of Scheduled Castes Origin, so it is proved the Christians of Scheduled Castes people are socially and educationally backward arising out of the traditional practice of untouchability. Please see the reliance of this Honourable Court:

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 7065 OF 2008

K.P. Manu ... Appellant

Versus

Chairman, Scrutiny Committee for

Verification of Community Certificate ... Respondent

Judgment delivered by: Honourable Justice. Dipak Misra and Honourable Justice. V. Gopala Gowda

New Delhi

February 26, 2015

22. At this juncture, we are disposed to think that reference to certain reports and articles would be profitable for the purpose of understanding the ground reality and appreciate factual score in proper perspective. In the article, namely, "Dalits in India" by James Massey, B.R. Ambedkar, as is reflected from the said article, has devoted two long essays on the subject under the title "Christianising the Untouchables" and "The Condition of the

Convert". Speaking about the general conditions of Christians Dalits, Ambedkar had put a direct challenge by saying:

"It is necessary to bear in mind that Indian Christians are drawn chiefly from the Untouchables (Dalits) and, to a much less extent from low ranking Shudra castes. The social services of Missions must therefore be judged in the light of the needs of these classes. What are those needs? The services rendered by the Missions in the fields of education and medical relief are beyond the ken of the Indian Christians. They go mostly to benefit the high caste Hindu." 23. James Massey has analysed the reasons ascribed by Ambedkar by stating:

"What has Christianity achieved in the way of changing the mentality of the convert? Has the Untouchable convert risen to status of the touchables? Have the touchable and untouchable converts discarded caste? Have they ceased to worship their old pagan gods and to adhere to their old pagan superstitions? These are far-reaching questions. They must be answered and Christianity in India must stand or fall by the answers it gives to these questions." 24. James Massey, the learned author has referred to the observations of Karnataka Backward Classes Commission, 1952. The relevant part is as follows:

"A Scheduled Caste (man) might have made some progress, or might have embraced Islam or Christianity, and thereby the disabilities, under which he suffered as a result of untouchability, might have, to some extent, disappeared. But the fact remains that such castes, tribes and racial groups still continue to suffer

under other social, educational and economic handicaps and taboos.”

25. 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. Casteism is rampant among the clergy and the religious. Though Dalit Christians make 65 per cent of the 10 million Christians in the South, less than 4 per cent of the parishes are entrusted to Dalit priests. There are no Dalits among 13 Catholic bishops of Tamil Nadu or among the Vicars-general and rectors of seminaries and directors of social assistance centres.”

26. Mandal Commission report of the Backward Classes Commission 1980, speaking about the Indian Christians in Kerala had expressed thus:“.... Christians in Kerala are divided into various denominations on the basis of beliefs and rituals and into various ethnic groups on the basis of their caste background even after conversion, the lower caste converts were continued to be treated as Harijans by all sections

of the society including the Syrian Christians, even though with conversion the former ceased to be Harijans and untouchables.....

In the presence of rich Syrian Christians, the Harijan Christians had to remove their head-dress while speaking with their Syrian Christian masters. They had to keep their mouth closed with a hand It was found that the Syrian and Pulaya members of the same Church conduct religious rituals separately in separate buildings ... Thus lower caste converts to a very egalitarian religion like Christianity, ever anxious to expand its membership, even after generations were not able to efface the effect of their caste background.” 27. A Church of South India Commission in 1964 investigating the grievances of Dalit Christians, whether they split off or remain with the Church of South India, wrote:

“First and foremost is the feeling that they are despised, not taken seriously, overlooked, humiliated or simply forgotten. They feel that again and again affairs in the diocese are arranged as if they did not exist. Caste appellations are still occasionally used in Church when they have been abandoned even by Hindus. Backward class desires and claims seem again and again to be put on the waiting list, while projects which they feel aim chiefly at the benefit of the Syrian community seem to get preferential consideration. In appointments, in distribution of charity, in pastoral care and in the attitude shown to them, in disputes with the authorities, the treatment they receive, when compared with that received by their Syrian brothers, suggests a lack of sympathy, courtesy and respect.”

28. Chinappa Commission Report (1990) states:- “By and large, the Christian community in Karnataka is an advanced community except for SC and ST converts, whose position has not improved very much for the better. Thanks to the all- pervasive caste system which has penetrated the barriers of religion also, SC and ST converts to Christianity and their descendants continue, to a great degree, to be victims of the same social injustice to which the SCs and STs are subjects”. 29. Dr. Y. Antony Raj, the author of “Social Impact of Conversion” comments:

“The mass conversion from Christianity to Hinduism, Islam and Buddhism is often explained as the frustration of the converts to Christianity. Devadason names the reason for such reconversion as ‘disillusionment’ among the CSCOs. “Till recently” says he, “the conversion to Christianity was considered an attractive proposition. That trend has slowed down, if not stopped. This was because of the disillusionment among the Harijan converts, who discovered that they had carried with them their caste stigma and that inter-caste marriage and other contacts continued to be as difficult as before.”

30. As per the analysis made by John C.B. Webster, in the book, “The Dalit Christians: A History”, in Chapter III titled “The Politics of Numbers”, Dr. Ambedkar, being aware of the continuing problems of Dalit Christians had ruled out conversion to Christianity. To quote the learned author:

“He was certainly aware of them. In what was probably the most perceptive analysis of the Christian community from this period,

Ambedkar noted that caste Hindus were the chief beneficiaries of Christian educational and medical work, that caste continued within the churches, and that Dalits suffered from the same disabilities after as before conversion to Christianity. More importantly, Christianity failed the political test. For one thing, while Christianity may have inspired Dalit converts to change their social attitudes, it had not inspired them to take practical steps to redress the wrongs from which they suffered.”

AIR 1993 SUPREME COURT 477

"Indra Sawhney v. Union of India"

= 1992 AIR SCW 3682

Coram : 9 M. H. KANIA, C.J.I., M. N. VENKATACHALIAH, S. RATNAVEL PANDIAN, Dr. T. K. THOMMEN, A. M. AHMADI, KULDIP SINGH, P. B. SAWANT, R. M. SAHAI AND B. P. JEEVAN REDDY, JJ.

Page No: 496. The President of India issued the Constitution (Scheduled Castes) Order, 1950 relating to the States, and the Constitution (Scheduled Castes) Union Territories Order, 1951 relating to the Union Territories. Para (2) of the 1950 Order speaks of 'castes, races or tribes which are to be deemed Scheduled Castes in the territories of the States mentioned in the Order". Para(3) of the Order (as amended by Act 108 of 1976 w.e.f. 27-7-1977) provides "notwithstanding anything contained in para(2), no person professing a religion different from the Hindu, the Sikh or the Buddhist religion shall be deemed to be a member

of the Scheduled @page-SC685 Castes". See Manual of Election Law, Vo. I (1991) p. 141.*1

*1. The 1951 Order relating to the Union Territories, however, regards only persons professing Hindh or Sikh religion as members of the Scheduled Castes and does not include those professing Buddhist or any other religion.

Page No: 497. The 1950 Order of the President (as amended) shows that in the territories of the States mentioned in the Order no person who is not a Hindu or a Sikh or a Buddhist can be regarded as a member of the Scheduled Castes. Art. 15(4) speaks of 'socially and educationally backward classes of citizens' and 'the Scheduled Castes and the Scheduled Tribes' while Art. 16(4) speaks only of 'any backward class of citizens. The 'backward class' mentioned in Art. 16(4) is a synonym for the classes mentioned in Art. 15(4); M. R. Balaji, (AIR 1963 SC 649) (supra); Janki Prasad Parimoo, (AIR 1973 SC 930) (supra). These two provisions read with the President's Order of 1950 (as amended in 1976) show that the benefit of Art. 15(4) and Art. 16(4) extends to the Scheduled Castes (which ex-expression is confined to those professing the Hindu, the Sikh or the Buddhist religion) and the Scheduled Tribes as well as the backward classes of citizens who must necessarily be such backward classes of citizens who would have, but for their not professing the Hindu, the Sikh or the Buddhist religion, qualified to be notified as members of the Scheduled Castes. This means, all those depressed classes of citizens who suffered the odium and isolation of untouchability

prior to their conversion to other religions and whose backwardness continued despite their conversion come within the expression 'backward classes of citizens' in Arts. 15(4) and 16(4). Untouchability is a humiliating and shameful malady caused by deep-rooted prejudice which does not disappear with the change of faith. To say that it does would imply that faith is the ultimate cause of untouchability. This is, of course, not true. If backwardness caused by historical discrimination and its consequential disadvantages are the reasons for reservation the Constitution mandates that all backward classes of citizens, who are the victims of the continuing ill effects of prior discrimination, whatever be their faith or religion, or whether or not they profess any religion, receive the same benefits which are accorded to the Scheduled Castes and the Scheduled Tribes. Backward class is composed of persons whose backwardness is in degree and nature comparable to that of the Scheduled Castes and the Scheduled Tribes, whatever be their religion. There can be no doubt about the identity of the Scheduled Castes and the Scheduled Tribes. Nor can there be any doubt about the identity of backward classes other than the Scheduled Castes and the Scheduled Tribes, if this identifying characteristic, bearing the stamp of prior discrimination and its continuing ill effects, is borne in mind. *M. R. Balaji v. State of Mysore*, (1963) Supp 1 SCR 439, 458 : (AIR 1963 SC 649); *State of Uttar Pradesh v. Pradip Tandon*, (1975) 2 SCR 761, 766: (AIR 1975 SC 563); *Janki Prasad Parimoo v. State of Jammu and Kashmir*, (1973) 3 SCR 236,252: (AIR 1973 SC 930).

Page No: 498. What is sought to be identified is not caste, religion and the like, but social and educational backwardness, generally manifested by disabilities such as illiteracy, humiliating isolation, poverty, physical and mental degeneration, incurable diseases, etc. Living in abject poverty and squalor, engaged in demeaning occupations to keep body and soul together, and bereft of sanitation, medical aid and other facilities, these unfortunate classes of citizens bearing the badges of historical discrimination and naked exploitation are generally traceable in the midst of the lowest of the low classes euphemistically described as Harijans and in fact treated as untouchables. To deny them the constitutional protection of reservation solely by reason of change of faith or religion is to endanger the very concept of secularism and the *raison d'etre* of reservation.

Page No: 510. The question is not whether the Constitution is caste-blind or caste-prejudiced; the question really is who are the backward classes of citizens intended to be protected by reservation under Art. 15 or Art. 16. If reservation is limited solely to the Scheduled Castes and the Scheduled Tribes and other comparably backward classes of citizens, as it must be under the Constitution, then the Harijans, the Girijans, the Adivasis, the Dalits, and other like backward classes of citizens, once known as the "untouchables" or the "outcastes" or the "depressed classes" by reason of their "low" birth and "demeaning" occupation, or any other class of citizens afflicted by like degree of degeneration and @page-SC689 deprivation caused by prior and continuing

discrimination, exploitation, neglect, poverty disease, isolation, bondage and humiliation, whatever be their caste, religion or place of origin, will alone qualify for reservation. Call them a class or a caste or a race or a tribe or whatever nomenclature is appropriate, they are the only legitimately intended beneficiaries of reservation. Their roots of origin in the lowest of the low segments of society; their affiliation with what is traditionally regarded as demeaning occupations; their humiliating and inescapable segregation and chronic isolation from the rest of the population; their social and educational deprivation and helplessness; their abysmal poverty and degenerating backwardness; all this and more most humiliatingly branded them in the past as 'outcastes' or 'untouchables' or 'depressed classes' or whatever other nomenclature one might ascribe to describe them. It is their present plight of continuing poverty and backwardness stemming from identified historical discrimination, whatever be the religion or faith they presently profess, that the Constitution entitles them to the special protection of reservation. The fact that the search to identify backwardness for the purpose of reservation will invariably lead one to these so-called outcastes or the lowest of the low castes or untouchables does not vitiate identification so long as what is sought to be identified is not caste but backwardness.

Page No: 418. It is further not correct to say that the caste system is prevalent only among the Hindus, and other religions are free from it. Jains have never considered themselves as apart from

Hindus. For all practical purposes and from all counts, there are no socially and educationally backward classes in the Jain community for those who embraced it mostly belonged to the higher castes. As regards Buddhists, if we exclude those who embraced Buddhism along with Dr. Ambedkar in 1955, the population of Buddhists is negligible. If, however, we include the new converts who have come to be known as Nav-Buddhists, admittedly almost all of them are from the Scheduled Castes. In fact, in some States, they were sought to be excluded from the list of Scheduled Castes and denied the benefit of reservations on the ground that they had no longer remained the lower castes among the Hindus qualifying to be included among the Scheduled Castes. On account of their agitation, perverse reasoning was set right and today the Nav-Buddhists continue to get the benefit of reservation on the ground that their low status in society as the backward classes did not change with the change of their religion. As regards Sikhs, there is no doubt that the Sikh religion does not recognise caste system. It was in fact a revolt against it. However, the existence of Mazhabis, Kabirpanthis, Ramdasias, Baurias, Sareras and Sikligars and the demand of the leaders of the Sikhs themselves to treat as Scheduled Castes could not be ignored and from the beginning they have been notified as a Scheduled Caste (See: pp. 768-772 of Vol. I and p. 594 of Vol. IV of the Framing of India's Constitution - Ed. B. Shiva Roa), As far as Islam is concerned, Islam also does recognise castes or caste system. However, among the Muslims, in fact there are Ashrafs and Ajlafs, i.e., high born and low born. The Census Report of 1901 of the

Province of Bengal records the following facts regarding the Muslims of the then Province of Bengal:

"the conventional division of the Mahomedans into four tribes - Sheikh, Saiad, Moghul and Pathan - has very little application to this Province (Bengal). The Mahomedans themselves recognise two main social divisions, (1) Ashraf or Sharaf and (2) Ajlaf. Ashraf means 'noble' and includes all undoubted descendants of foreigners and converts from high caste Hindus. All other Mahomedans including the occupational groups and all converts of lower ranks, are known by the contemptuous terms, 'Ajlaf, 'Wretches' or 'mean people' they are also called Kamina or Itar, 'base' or Rasil, a corruption of Rizal, 'worthless'. In some places a third class, called Arzal or 'lowest of all', is added. With them no other Mahomedan would associate and they are forbidden to enter the mosque and to use the public burial ground.

Within these groups there (sic.) castes with social precedence of exactly the same nature as one finds among the Hindus.

1. Ashrat or better class Mahomedans.

(i) Saiads, (ii) Sheikhs, (iii) Pathans, (iv) Moghul, (v) Mallik, (vi) Mirza.

2. Ajlaf or lower class Mahomedans.

(i) Cultivating Sheikhs, and other who were originally Hindus but who do not belong to any functional group, and have not gained admittance to the Ashrat Community e.g. Pirali and Thakrai, (ii) Darzi, Jolaha, Fakir and Rangrez, (iii) Barhi, Bhatihara, Chik,

Churihar, Dai, Dhawa, Dhunia, Gaddi, Kala, Kasai, Kula, Kunjara, Laheri, Mahifarosh, Mallah, Naliya, Nikari, (iv) Adbad, Bako Bediya, Bhat, Chamba, Dafali, Dhobi, Hajjam, Mucho, Nagarchi, Nat, Panwaria, Madaria, Tuntia.

3. Arzal or degraded class. Bhanar, Halalkhor, Hirja, Kashi, Lalbegi, Mangta, Mehtar.

The Census Superintendent mentions another feature of the Muslim social system, namely, the prevalence of the 'Panchayat system.' He states:

"The authority of the Panchayat extends to social as well as trade matters and... marriage @page-SC655 with people of other communities is one of the offences of which the governing body takes cognizance. The result is that these groups are often as strictly endogamous as Hindu castes. The prohibition on inter-marriage extends to higher as well as to lower castes, and a Dhuma, for example, may marry no one but a Dhuma. If this rule is transgressed, the offender is at once hauled up before the panchayat and ejected ignominiously from his community. A member of one such group cannot ordinarily gain admission to another, and he retains the designation of the community in which he was born even if he abandons its distinctive occupation and takes to other means of livelihood thousands of Jalahas are butchers, yet these are still known as Jolahas." [See : pp. 218-220 of Pakistan or Partition of India by Dr. B. R. Ambedkar.)

Similar facts regarding the then other Provinces could be gathered from their respective Census Reports. At present there

are many social groups among Muslims which are included in the list of Scheduled Castes in some States. For example, in Tamil Nadu, Labbais including Rawthars and Marakayars are in the list of Scheduled Castes. This shows that the Muslims in India have not remained immune from the same social evils as are prevalent among the Hindus.

Though Christianity also does not recognise caste system, there are upper and lower castes among Christians. In Goa, for example, there are upper caste Catholic brahmins who do not marry Christians belonging to the lower castes. In many churches, the low. caste Christians have to sit apart from the high caste Christians. There are constant bickering between Goankars and Gawdes who form a clear-cut division in Goan Christian society. In Andhra Pradesh there are Christian Harijans, Christian Madars, Christian Reddys, Christian Kammas etc. In Tamil Nadu, converts to Christianity from Scheduled Castes - Latin Catholics, Christian Shanars, Christian Nadars and Christian Gramani are in the list of Scheduled Castes. Such instances are many and vary from region to region.

The division of the society even among the other religious groups in this country between the high and low castes is only to be expected. Almost all followers of the non-Hindu religions except those of the Zoroastrianism, are converts from Hindu religion, and in the new religion they carried with them their castes as well. It is unnatural to expect that the social prejudices and biases, and

the notions and feelings of superiority and inferiority, nurtured for centuries together, would disappear by a mere change of religion.

Page No: 371. Because of its pernicious caste system which may truly be described as its original sin, the Indian Society has, for ages, remained stratified. The origin of the caste system is shrouded in speculation, neither the historians nor the sociologists being able to trace it in its present form to any particular period of time or region, or to a specific cause or causes. The fact, however, remains that it consists of mobility-tight hierarchical social compartments. Every individual is born in and, therefore, with a particular caste which he cannot change. Hitherto, he had to follow the occupation assigned to his caste and he could not even think of changing it. The mobility to upper caste is forbidden, even if today he pursues the professions and occupations of the upper caste. He continues to be looked upon as a member of the lower caste even if his achievements are higher than of those belonging to the higher castes. In social intercourse, he has to take his assigned caste place. The once casteless and unireligious Indian society of Vedic times became multi-factious and multi-religious mainly on account of the rebellion of the lower castes against the tyranny of the caste system and their exploitation by the higher castes. Various sects emerged within the Hindu fold itself to challenge the iniquitous system. Distinct religions like Buddhism, Jainism and Sikhism were born as revolts against casteism. When, therefore, first Islam and then Christianity made their entries here and ruled this

country, many from the lower castes embraced them to escape the tyranny and inequity, while some from the higher castes for pelf and power. However, the change of religion did not always succeed in eliminating castes. The converts carried with them their castes and occupations to the new religions. The result has been that even among Sikhs, Muslims and Christians casteism prevails in varying degrees in practice, their preaching notwithstanding. Only Zoroastrianism is an exception to the rule; but that is because entry into it by conversion is impermissible. Casteism has thus been the bane of the entire Indian society, the difference in its rigidity being of a degree varying from religion to religion and from region to region.

Page No: 210. Though Christianity does not acknowledge caste system, the evils of caste system in some States are as prevalent as in Hindu society especially among the converts. In Andhra Pradesh, there are Harijan Christians, Reddy Christians, Kamma Christians etc. Similarly, in Tamil Nadu, there are Pillai Christians, Marvar Christians, Nadar Christians and Harijan Christians etc. That is to say all the converts to Christianity have not divested or set off themselves from their caste labels and crossed the caste barrier but carry with them the banners of their caste labels. Like Hindu they interact and have their familiar relationship and marital alliances only within the converted caste groups.

Classification is stated as a specific clause, it does not follow that the very concept and power of classification implicit in clause (i) is exhausted thereby. To say so would not be correct in principle.

But, at the same time, one thing is clear. It is in very exceptional situations, - and not for all and sundry reasons - that any further reservations, of whatever kind, should be provided under clause (i). In such cases, the State has to satisfy, if called upon, that making such a provision was necessary (in public interest) to redress a specific situation. The very presence of clause (4) should act as a (sic) done upon the propensity to create further classes deserving special treatment. The reason for saying so is very simple. If reservations are made both under clause (4) as well as under clause (1), the vacancies available for free competition as well as reserved categories would be correspondingly whittled down and that is not a reasonable thing to do.

Whether clause (i) of Article 16 does not permit any reservations?

Page No: 70. This issue was gone into in some detail in Vasant Kumar (AIR 1985 SC 1495), where all the five Judges constituting the Constitution Bench expressed different opinions. Chandrachud, C.J. did not express himself on this aspect but other four learned Judges did. Desai, J. recognised that "in the early stages of the functioning of the Constitution, it was accepted without dissent or dialogue that caste furnishes a working criterion for identifying socially and educationally backward class of citizens for the purpose of Art. 15(4). "He also recognised that "there has been some vacillation on the part of the judiciary on the question whether the caste should be the basis for recognising the backwardness." After examining the significance

of caste in the Indian social structure, the learned Judge observed:

"Social hierarchy and economic position exhibit an indisputable mutuality. The lower the caste, the poorer its member. The poorer the members of a caste, the lower the caste. Caste and economic situation, reflecting each other as they do are the Deus ex-Machina of the social status occupied and the economic power wielded by an individual or class in rural society. Social status and economic power are so woven and fused into the caste system in Indian rural society that one may without hesitation, say that if poverty be the cause, caste is the primary index of social backwardness, so that social backwardness is often readily identifiable with reference to a person's caste."

The learned Judge also recognised that caste system has even penetrated other religions to whom the practice of caste should be anathema. He observed:

"So, sadly and oppressively deep-rooted is caste in our country that it has cut across even the barriers of religion. The caste system has penetrated other religious and dissentient Hindu sects to whom the practice of caste should be anathema and today we find that practitioners of other religious faiths and Hindu dissentients are sometimes as rigid adherents to the system of caste as the conservative Hindus. We find Christians harijans, Christian Madars, Christian Reddys, Christian Kammas, Mujbi Sikhs. etc. etc. In Andhra Pradesh there is a community known as Pinjars or Ludekulas (known in the North as 'Rui Panjane Wala'):

(professional cotton-beaters) who are really Muslims but are treated in rural society, for all practical purposes, as a Hindu caste. Several other instances may be given."

Having thus noticed the pernicious effects of the caste system, the learned Judge opined that the only remedy in such a situation is to devise a method for determining social and educational backward classes without reference @page-SC547 to caste. He stressed the significance of economic criterion and of poverty and concluded that a time has come when the economic criterion alone should be the basis for identifying the backward classes. Such an identification has the merit of advancing the secular character of the nation and will tend towards nullifying caste influence, said the learned Judge.

Page No: 83. Now, we may turn to the identification of "backward class of citizens". How do you go about it? Where do you begin? Is the method to vary from State to State, region to region and from rural to urban? What do you do in the case of religions where caste system is not prevailing? What about other classes, groups and communities which do not wear the label of caste? Are the people living adjacent to cease-fire line (in Jammu and Kashmir) or hilly or inaccessible regions to be surveyed and identified as backward classes for the purpose of Art. 16(4)? And so on and so forth are the many questions asked of us. We shall answer them. But our answers will necessarily deal with generalities of the situation and not with problems or issues of a peripheral nature which are peculiar to a particular State, district or region. Each

and every situation cannot be visualised and answered. That must be left to the appropriate authorities appointed to identify. We can lay down only general guidelines.

At the outset, we may state that for the purpose of this discussion, we keep aside the Scheduled Tribes and Scheduled Castes (since they are admittedly included within the backward classes), except to remark that backward classes contemplated by Art. 16(4) do comprise some castes - for it cannot be denied that Scheduled Castes include quite a few castes.

Coming back to the question of identification, the fact remains that one has to begin somewhere - with some group, class or section. There is no set or recognised method. There is no law or other statutory instrument prescribing the methodology. The ultimate idea is to survey the entire populace. If so, one can well begin with castes, which represent explicit identifiable social classes/ groupings, more particularly when Art. 16(4) seeks to ameliorate social backwardness. What is unconstitutional with it, more so when caste, occupation, poverty and social backwardness are so closely intertwined in our society? (Individual survey is out of question, since Art. 16(4) speaks of class protection and not individual protection. This does not mean that one can wind up the process of identification with the castes. Besides castes (whether found among Hindus or others) there may be other communities, groups, classes and denominations which may qualify as backward class of citizens. For example, in a particular State, Muslim community as whole may be found

socially backward. (As a matter of fact, they are so treated in the State of Karnataka as well as in the State of Kerala by their respective State Governments). Similarly, certain sections and denominations among Christians in Kerala who were included among backward communities notified in the former princely State of Travancore as far back as in 1935 may also be surveyed and so on and so forth. Any authority entrusted with the task of identifying backward classes may well start with the castes. It can take caste 'A', apply the criteria of backwardness evolved by it to that caste and determine whether it qualifies as a backward class or not. If it does qualify, what emerges is a backward class, for the purposes of clause (4) of Art. 16. The concept of 'caste' in this behalf is not confined to castes among Hindus. It extends to castes, wherever they obtain as a fact, irrespective of religious sanction for such practice. Having exhausted the castes or simultaneously with it, the authority may take up for consideration other occupational groups, communities and classes. For example, it may take up the Muslim @page-SC555 community (after excluding those sections,, castes and groups, if any, who have already been considered) and find out whether it can be characterised as a backward class in that State or region, as the case may be. The approach may differ from State to State since the conditions in each State may differ, Nay, even within a State, conditions may differ from region to region. Similarly, Christians may also be considered. If in a given place, like Kerala, there are several denominations, sections or divisions, each of these groups may separately be considered. In this manner, all

the classes among the populace will be covered and that is the central idea. The effort should be to consider all the available groups, sections and classes of society in whichever order one proceeds. Since caste represents an existing, identifiable, social group spread over an overwhelming majority of the country's population, we say one may well begin with castes, if one so chooses, and when go to other groups, sections and classes. We may say, at this stage, that we broadly commend the approach and methodology adopted by Justice O. Chinnappa Reddy Commission in this respect.

We do not mean to suggest - we may reiterate -- that the procedure indicated hereinabove is the only procedure or method/ approach to be adopted. Indeed, there is no such thing as a standard or model procedure/ approach. It is for the authority (appointed to identify) to adopt such approach and procedure as it thinks appropriate, and so long as the approach adopted by it is fair and adequate, the Court has no say in the matter. The only object of the discussion in the preceding para is to emphasise that if a Commission/ Authority begins its process of identification with castes (among Hindus) and occupational groupings among others, it cannot by that reason alone be said to be constitutionally or legally bad. We must also say that there is no rule of law that a test to be applied for identifying backward classes should be only one and/or uniform. In a vast country like India, it is simply not practicable. If the real object is to discover and locate backwardness, and if such backwardness is found in a

caste, it can be treated as backward; if it is found in any other group, section or class, they too can be treated as backward.

Also please see the following judgment of the Honourable Madurai Bench of the Madras High Court which very clearly shows the caste discrimination and the untouchability faced by the Christians of Scheduled Castes Origin in Tamil Nadu among the Christians and in the civil society.

1. Before the Madurai Bench of the Madras High Court.

G. Stephen Doss vs The District Collector and Others on 27 November 2017, Coram, The Honourable Mr. Justice. S. S. Sundar, W. P. (MD) Nos. 21189 of 2017 and 21503 of 2017

W.P. (MD) No. 21189 of 2017.

2. Before the Madurai Bench of the Madras High Court

Date of Judgment: 16.06.2015

Coram: Honourable. Mr. Justice. S. Manikumar

Honourable. Justice. Mr. G. Chockalingam

W. P. (MD) No. 8723 of 2015

And

M. P (MD) No. 1 of 2015

P. Joseph Raj vs. The District Collector and others.

3. Before the Madurai Bench of the Maras High Court

Dated on: 09.04.2014

Coram

The Honourable. Mr. Justice. D. Hariparanthaman

W. P. (MD) No. 4209 of 2013

And M. P. (MD). No. 1 of 2013

MU. Aariffaa vs. The Secretary to the Government and others.

Total Three Reliance of the cases. **ANNEXURE NO. 7**

WW. Because among the manual Scavengers of India, major chunk of the manual Scavengers are living in South India, Punjab, Haryana and in other places. These people are cleaning the filthy gutters, Sewage, Sewerage, Dry Latrines, Wet Latrines, Human Excreta and filthy items, because these people are personally following Christianity as their faith, when the people's castes names are in the Schedule of the Constitution Scheduled Castes Order 1950, as per the paragraph 3 of the above said Order, the Christian Manual Scavengers should not be avoided to be treated as Scheduled Castes, when the same Scheduled castes status are availed by Hindu, Sikh and Buddhist Scheduled Castes people who are very rich, Bureaucrats, top level Ministers, top level Executives, Judges, Business people, member of Parliament, Member of Legislative Assemblies and so on. So, this Honourable Court is requested to strike the religious ban of the Constitution Scheduled Castes Order 1950, paragraph 3 and extend the Scheduled Castes status to Christians Manual Scavengers and other Christians of Scheduled Castes Origin of India whose castes

names are there in the Schedule of the Constitution Scheduled Castes Order 1950.

XX. Because the Christians of Scheduled Castes Origin people are facing the following form of discrimination in the civil society and among the Christians par with Hindu, Sikhs and Buddhists of Scheduled Castes Origin people.

Segregation of drinking vessels, the SC-STs are supposed to get their tumblers or bowls to relish the menu at these outlets.

In some instances, Scheduled Castes people are served in Aluminium metal tumblers contrary to steel tumblers used for dominant caste groups. Because these people are following Christianity, the perpetrators are not skipping the following practice to be implemented on them. By knowing the caste, Christian names and with out knowing the Christian religious affiliation of the Christians of Scheduled Castes Origin people, the upper caste/ dominant caste Hindus and Christians, because of the hierarchy oriented caste mind set, treat these people as untouchable and insist the degraded discrimination and inequality/ discriminatory practice on these people.

In case of common water source Scheduled Castes people are not allowed to fetch water but dominant castes draw the water for the Scheduled Castes people and pour into their pots. They have to wait until dominant caste people come and pleased to fetch the water for them.

In certain cases, Scheduled Castes people and dominant castes stand in separate queues at different pulleys of the wells.

Scheduled Castes are not supposed to touch the pots of dominant castes. Scheduled Castes have to fetch water only after dominant castes draw water.

In most of the villages, separate wells and bore-wells persist for Scheduled Caste people and dominant caste. In case of acute shortage of water dominant castes can fetch water from the Scheduled Castes people water source. But on the contrary, if a similar situation arises for Scheduled Castes Origin people, they are denied. In case dominant castes want to fetch water from Scheduled Castes Origin people's bore-well they primarily are supposed to clean the bore-well and its surroundings.

In case of natural lakes, ponds, and tanks Scheduled Castes Origin people are supposed to fetch from the downstream where dominant castes do not approach.

Pouring drinking water into the hands of SC-STs instead of giving it in a glass.

Scheduled Castes Origin people are not allowed to enter into their houses, and they are compelled to stand far away from the houses of dominant castes. Scheduled Castes Origin people can only go to certain parts of their houses i.e. the outer extension of the house, outside the threshold but not the interior parts of their houses. In some cases, Scheduled Castes Origin people are allowed but they are asked to clean their feet and hands before

they come into their houses. Scheduled Castes Origin people are sometimes allowed to enter to store their agricultural produce at the time of harvest.

On occasion of marriage or a function in dominant caste families, Scheduled Castes Origin people are not invited, in case invited they are supposed to dine after the dominant caste finish their turn. In certain cases, Scheduled Castes Origin people are supposed to get their plates and in certain instances, they are told to wash their plates after the dinner.

Sometimes they are served with towels or they hold their upper garment. In most of the cases, Scheduled Castes Origin people are served at a distant place from the hostel premises.

Segregation in seating – Scheduled Castes Origin people students have to sit separately that too at backside in the schools, Teachers abuse SC ST children by Caste Name and Not allowed to eat together with non-Scheduled Castes Origin students, there will be segregation of Water facilities

Discrimination between Scheduled Castes Origin people and non-Scheduled Castes Origin people teachers, Discrimination between Scheduled Castes Origin people students and non-Scheduled Castes Origin people teacher, Not admitting children in schools Non-Scheduled Castes Origin People's Children at SC/ ST villages, Prohibit to wear clean/good clothes come to the vicinity of dominates castes.

Scheduled Castes Origin people are not allowed to sit in public places such as Racchabanda/ Traditional meeting place in the villages to resolve the disputes in the village by the landlords, bus stops. Or Scheduled Castes Origin people allowed to sit but at down level

Scheduled Castes Origin people have to sit separately at some distance from other castes' people.

Scheduled Castes Origin people have to stand at these places with folded hands.

Scheduled Castes Origin people are not allowed to walk with sandals in the vicinity of dominant castes.

Not allowed to use an umbrella in dominant caste localities.

Not allowed to ride cycles, rickshaws, in certain cases not allowed going even on bullock carts.

If non- Scheduled Castes Origin people encounter Scheduled Castes Origin people women in the way, Scheduled Castes Origin people women are supposed to walk at a distance.

Scheduled Castes Origin people women should wear their saree above the knees and cover their head whenever they find non-Scheduled Castes Origin people walking in the way.

Scheduled Castes Origin people women are not allowed to wear blouses.

Scheduled Castes Origin people women are not allowed to wear gold jewellery.

Forced drum beating for funerals and festivals/jataras

Forced to do grave digging and Cremation.

Harbingers of death news.

Chappal Making.

Removal of carcass.

Animal Sacrifice.

Scheduled Castes Origin people are supposed to sweep the whole village at the time of festivals and jataras.

Manual Scavenging.

Standing up in respect to dominant castes and standing with folding hands.

Denial of laundry service.

Dalits themselves take their clothes to dhobi Ghat (place of washing clothes) and wet their clothes at the lower level of the stream and wait till the dhobi washes.

Even laundry shop owners deny ironing clothes of Scheduled Castes Origin people.

They render service but they do not take grain as paid by the other non- Scheduled Castes Origin people communities.

Scheduled Castes Origin people are denied to provide hair cutting services.

In some cases, if a family member is providing hair cutting services to Scheduled Castes Origin people the same person is not supposed to provide to non- Scheduled Castes Origin people.

Hair cutting saloons, a recent phenomenon in villages. If Scheduled Castes Origin people allowed into the shops but they use separate instruments.

Scheduled Castes Origin people are allowed into shops but are denied the service at home as they do to dominant castes.

The person who serves dominant castes is not allowed to serve to the Scheduled Castes Origin people but another person from the same family can provide service to the Scheduled Castes Origin people.

In certain cases, they render service to Scheduled Castes Origin people in Scheduled Castes Origin people locality, but they purify themselves immediately after coming back to their house.

The tailor does not touch while taking measurements, take measurements from distance.

Darning services are not extended to Scheduled Castes Origin people as they do for non- Scheduled Castes Origin people.

When Scheduled Castes Origin people goes to a tailor, he/she should take the measurements at home.

Prohibited to touch pot while purchasing and they take whatever the potter gives.

Denial of Carpenter Services.

Prohibited enter into the shops.

Allowed but should not touch anything.

Should stand in separate line not touching non- Scheduled Castes Origin people.

Not allowing to touch items and have to show with a small stick while purchasing.

Scheduled Castes Origin people can sell in the weekly market, but they should only sell dry fish and fish.

Keeping money or items Scheduled Castes Origin people bought on floor.

Scheduled Castes Origin people should stand outside the shop and exchange takes place by throwing money and item.

Keeping separate tray for Scheduled Castes Origin people by which exchange takes place.

In Public Distribution System Depots, Scheduled Castes Origin people should stand outside the shop and exchange takes place by throwing money and item.

Should stand carefully without touching the belongings of non- Scheduled Castes Origin people

At any queue Separate timings for SC-STs

Dealer does not touch Scheduled Castes Origin people while giving provisions.

Discrimination at Working in the fields – Standing outside the field until non- Scheduled Castes Origin people finishes ritual performance at the beginning of the agricultural activity.

Entering into the fields only after non- Scheduled Castes Origin people.

Not allowed to take water from wells and pots.

Scheduled Castes Origin people have to bring drinking water to the working place.

Need to keep their lunch boxes separately.

Need to sit separately while taking lunch.

Should not touch the vessels if the non- Scheduled Castes Origin people employer provides lunch.

Lease rates and conditions differ for Scheduled Castes Origin people tenants and dominant castes.

Discrimination in Payment of wages – No Physical contact, keeping money on the floor, throwing into hands.

When Scheduled Castes Origin people invite non- Scheduled Castes Origin people for some celebrations, they just come but don't eat the food prepared by the Scheduled Castes Origin people but hire a man from their community and makes him cook separately for them.

Non- Scheduled Castes Origin people never attend the functions or any kind of celebrations in the Scheduled Castes Origin people families, but their quota of food should be ordered directly from

the shop without getting into physical contact with Scheduled Castes Origin people.

Food for Scheduled Castes Origin people is served in leaves but for non-Scheduled Castes Origin people in plates.

Buying Stamps and other things in the post office, Discrimination in delivering of letters by the postman and Late delivery of letters- Delivering letters through other Scheduled Castes Origin people without visiting SC ST villages.

Discrimination in Health services (Private and Public) - Denial of entry into health centres.

Separate line for Scheduled Castes Origin people in health centres.

Avoiding physical touch in check-ups and prescribing medicines.

Health workers do not visit SC ST villages.

Asking Scheduled Castes Origin people to come to the main village for treatment.

Denial of selling products - Sale of milk by SC-STs.

Discrimination in Public Transport Services - Scheduled Castes Origin people have to enter into buses after the dominant Castes.

Scheduled Castes Origin people have to sit on backside seats in the buses.

Scheduled Castes Origin people are not allowed to sit beside the dominant castes' people.

Scheduled Castes Origin people have to offer seats to dominant caste people even though entered late.

Electoral and Political Discrimination Denial of entry into polling booths.

Segregation of seats in the village council.

Preventing exercise of the franchise.

Forced to vote for their candidates.

Separate queues at polling booths.

Permitted to Vote only after getting direction from dominant castes.

Scheduled Castes Origin people sarpanch will not be given Panchaayat records.

Ward members, sarpanch of the Scheduled Castes Origin to stand in front of non- Scheduled Castes Origin people ward members.

Scheduled Castes Origin people should not hoist party flags of their choice.

Religious and Cultural Discrimination - Denial of entry into temples.

Denial of sitting before temples.

Confined to drum beating during festival and jataras (traditional festivals to please deities), and act as harbingers of information pertaining to religious get-togethers.

Religious processions of upper caste deities will not enter Scheduled Castes Origin people localities.

Scheduled Castes Origin people's God/ deities processions should not enter non-Scheduled Castes Origin people localities.

Scheduled Castes Origin people denied offering/ performing pooja and breaking of coconut.

Brahmins deny performing marriage rituals, naming ceremonies, death rituals, housewarming, etc.,

Scheduled Castes Origin people men will not be entertained by non-Scheduled Castes Origin - jogins [In Hinduism, a devadasi/ Sanskrit: servant of deva or devi (god)) is a girl "married" to a deity and dedicated to worship and service of the deity or a temple for the rest of her life it resulted as prostitution].

Scheduled Castes Origin jogins cannot bargain for services and cannot deny services to any upper castes.

Scheduled Castes Origin cannot bury their dead in the village burial ground.

Scheduled Castes Origin are not to take marriage processions in the vicinity of dominant castes. In some case, Scheduled Castes Origin are allowed but should not beat drums.

In certain villages, Scheduled Castes Origin are allowed but bride and groom should be on foot in dominant castes' vicinity.

Untouchability in Marriages of the Scheduled Castes Origin - Blessings - compulsion Collection of Nuptial Knot (Mangalsuthra or Thaali).

Funeral Procession: Scheduled Castes Origin are not supposed to take funeral procession through the dominant caste dwelling areas.

Sitting arrangements in the Women's self-help group meetings- Segregation of seating arrangements in SHG meetings.

Prohibit to organize meetings in SC ST Villages

Separate groups, upper caste members will not join Scheduled Castes Origin groups- Scheduled Castes Origin not allowed to join upper caste groups

Discrimination in Irrigation facilities to SC STs - Prohibit to irrigate lands before other castes, need to take permission from other caste

Separate seating arrangements in Government tailoring centre.

Traditional childbirth experts/ daya [Traditional childbirth experts] allowed entry into the house but will not be allowed to take bath after labour service while non-Dalit daya can take bath.

Scheduled Castes Origin daya is supposed to sit outside with curtains around and help in delivery

Non- Scheduled Castes Origin daya-if she serves labour service to the Scheduled Castes Origin, she will not take bath and not take the saree they offer.

Non- Scheduled Castes Origin daya will not bathe the baby of the Scheduled Castes Origin people.

The Christians of Scheduled Castes Origin people are affected victimised by the above said traditional practice of untouchability imposed on them by the dominant caste Hindus and the dominant caste Christians, also these people are affected by the traditional practice of untouchability practice which are there in the Scheduled Castes and Scheduled Tribes (Prevention) of Atrocities Act, 1989 amended in the year 2018 and the Protection of Civil Rights Act, 1955 otherwise called as Untouchability Offences Act, 1955 irrespective of the Christian religious affiliation. Some of the dominant/ upper caste Hindus and the dominant/ upper caste Christians are perpetrating and victimising the Christians of Scheduled Castes Origin because of their caste mind set, traditional practice of discrimination, offering of descent menial jobs and son on. When the Hindus of Scheduled Castes Origin people could be discriminated by the dominant caste Christians, when the affected Hindu Scheduled Castes person could legal remedy under SC/ ST Prevention of Atrocities Act, 1989 (Amended) against the Christian upper Caste person, where is the role of Christianity does not recognise caste discrimination, by telling that since the dominant caste Christians belongs to Christianity, since his religion does not recognise caste discrimination, he could not escape from the action of the SC/ ST Prevention of Atrocities Act. In the same way, the dominant/ upper Caste Christian would treat the Christians of Scheduled

Castes Origin as untouchable. If a Christians of Scheduled Castes Origin person is humiliated by a dominant Caste Hindu, the Christians of Scheduled Castes Origin victim also should get the legal remedy under the SC/ ST Prevention of Atrocities Act, 1989 (Amended one) to punish the Hindu dominant/ upper Caste perpetrator, so the extension of the provision to Christians of Scheduled Castes Origin under the SC/ ST Prevention of Atrocities Act, 1989 (Amended one) is needed. So, the social exclusion is different from any religious perception. By considering the above said need by announcing the ban of the Constitution Scheduled Castes Order 1950, paragraph 3 as unconstitutional, this Honourable Court is requested to deliver justice to the victimised Christians of Scheduled Castes Origin people.

YY. Because the Christians of Scheduled Castes Origin Children are getting water baptism (holy water sprinkling process) in the Catholic and the Protestant Churches from birth up to approximately below seven years without having proper knowledge as Children. Christians of Scheduled Castes Origin Children's names and the Christian religious identity are forcefully written by the Parent and the Priests & the Pastors of the Church. In this circumstance, if the Children might be living in the Indian Hindu way of life up to become major and after becoming major stage (because Hinduism is the way of life, it is not religion as per this Honourable Court's decision). Against the compulsory unknown baptism, the Children could take a decision and could lead a Hindu/ Indian cultural way of life, as per the recent ruling of

the Mumbai High Court, religious declaration is not a compulsory process. So, the Christians of Scheduled Castes Origin Children who do not believe in the infant/ compulsory water baptism could lead the Hindu way of Indian culture oriented life and get the Scheduled Castes status as its own.

ZZ. Because as per the Indian Christians Marriage Act, 1872

PART I

The persons by whom marriages may be solemnized:

4. Marriages to be solemnized according to Act.—Every marriage between persons, one or both of whom is 2 [or are] a Christian or Christians, shall be solemnized in accordance with the provisions of the next following section; and any such marriage solemnized otherwise than in accordance with such provisions shall be void.

Here, as per the above said Indian Christians Marriage Act, as an illustration one Christians of Scheduled Castes Origin partner could marry a non- Christian/ Hindu of Scheduled Castes Origin, since another partner who is from Hindu of Scheduled Castes Origin could lead the Indian/ Hindu way of life and claim the Scheduled Castes status to her or him though she or he has married a Christians of Scheduled Castes Origin partner. In the same way one partner who is from the Hindu of Scheduled Castes could claim the Scheduled Castes status to his or her son or daughter who is born to Christian Scheduled Castes Origin Father or Mother. In this way, one of the partner of the couple could be a Hindu Scheduled Castes person, he or she could be a Scheduled

Castes person continuously and avail the Scheduled Castes status and his/ her son and daughter could avail the Scheduled Castes status continuously. One of the Christians of Scheduled Castes Origin partner could also avail the Scheduled Castes status because he or she has married the Scheduled Caste person who profess Hindu religion. Here religious restriction to Christian Scheduled Castes person for the consideration of Scheduled Castes is nullified in the case where a Christians of Scheduled Castes Origin could marry a Non- Christians/ Hindus of Scheduled Castes Origin as per the Indian Christian Marriage Act, 1872.

INTERIM PRAYER:

1. Stay the religious ban of the paragraph 3 of the Constitution Scheduled Castes Order, 1950 and extend the Scheduled Castes status to Christians of Scheduled Castes Origin of India.
2. Delink religion for the consideration of Scheduled Castes status and make Scheduled Castes net as religion neutral.
3. Allow and extend the Scheduled Castes status to Christians of Scheduled Castes Origin for availing the Indian constitutional provisions under Articles 16, 46, 330, 332, 335, 338, 341, 366- 24 and for availing the legal remedy/ protection under Scheduled Castes and Scheduled Tribes (Prevention) of Atrocities Act, 1989 amended in the year 1918.

PRAYER:

1. Paragraph (3) of the Constitution (Scheduled Castes) Order, 1950 issued in exercise of Article 341(1) of the Constitution of India, which says that "Notwithstanding anything contained in paragraph 2, no person who professes a religion different from Hinduism, Sikhism and Buddhism shall be deemed to be a member of a Scheduled Caste" is unconstitutional and void, being violative of Articles 14, 15, 16 and 25 of the Constitution of India.

2. A Scheduled Caste professing a religion different from Hinduism, Sikhism and Buddhism cannot be deprived of the benefit of Paragraph 3 of the Constitution (Scheduled Castes) Order, 1950, in violation of Articles 14, 15, 16 and 25 of the Constitution of India.

3. The non-inclusion of "Christians" in Paragraph (3) of the Constitution (Scheduled Castes) Order, 1950, along with Hinduism, Sikhism and Buddhism, is discriminatory and violative of Articles 14, 15, 16 and 25 of the Constitution of India.

4. Delink religion for the consideration of Scheduled Castes status and make Scheduled Castes net as religion neutral.

5. Allow and extend the Scheduled Castes status to Christians of Scheduled Castes Origin for availing the Indian constitutional provisions under Articles 16, 46, 330, 332, 335, 338, 341, 366-24/ for availing special privilege in education, getting Scholarships, employment opportunity, welfare measures, affirmative actions, right to contest in the reserve constituencies from Panchayat, Legislative Assemblies up to Indian Parliament

and for availing the legal remedy/ protection under Scheduled Castes and Scheduled Tribes (Prevention) of Atrocities Act, 1989 amended in the year 2018.

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