



# Justice Dipak Misra National Moot Court Competition 3(12) of 2022

## MOOT PROPOSITION

This is India of 2040<sup>1</sup>. In the state of Punjab, many verifiable reports shows that there is noticeable rise in the following of Christianity, specially among the Scheduled Castes section of the society. The rise is so evident that there are many electoral constituencies with significant Christian vote now. These reports claim that Christians are now in excess of 10% of the total population of the Punjab. But there is one anomaly. The latest Census data does not confirm with these reports. The Census data still shows that Christians constitute only 2% of the total population of the Punjab. One possible explanation of this anomaly could be that some Dalit converts from Hinduism and Sikhism deliberately conceal their new Christian Identity. One, they stand to lose the reservation benefits and second, to evade targeted persecution by the radical Sikh and Hindu elements in the state. Various organizations of Dalit Hindus and Mazhabi Sikhs have started to raise their voice against this practice. They allege that these Scheduled castes have been allured by the Christian Missionaries in lieu of umpteen financial benefits. On one hand they thrive on the assistance given by these proselytizing groups and on other hand they eat into the seats specifically reserved for Hindu, Sikh and Buddhist Dalits.

But Converted Dalits and Christian Missionaries strenuously deny all these allegations. They argue that driving factor for these conversions has been the age old Varna system or caste system, which has systematically kept them marginalised for generations. Till this date, upper caste Hindus or economically and politically dominant Sikh castes like Jatts do not consider them equal in any walk of life. They claim that data<sup>2</sup> regarding their share in land resources and political representation in Punjab is more than enough to validate their distrust or

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<sup>1</sup> This proposition is a work of fiction, drafted only for purposes of this Competition. It has no relation with the social or political developments in present day Punjab. We do not intend to hurt the sentiments of any religious or caste groups mentioned in this proposition. Please grant us some academic liberty to address a important Socio-Legal issue via this Competition.

**This India of 2040 is pari-materia to India of 2022.**

<sup>2</sup> Data available only till March, 2022 is admissible in Court.

apprehensions. Therefore, they have decided to part their way of life from Hinduism and Sikhism.

Taking Cognizance of these reports, the State of Punjab has amended The Punjab Scheduled Castes and Backward Classes (Reservation in Services) Act, 2006. Clause (3) and (4) have been added in the Section 5 by the virtue of Punjab Scheduled Castes and Backward Classes (Reservation in Services) Amendment Act, 2040.

*(3) Any person, who by choice, begins to practice, profess or propagate any religion other than the ones specified in the paragraph 3 of the Constitution (Scheduled Castes) Order, 1950, shall cease to be identified as member of notified Scheduled Castes. Henceforth, his/her Certificate of Caste Identification shall be deemed to be invalid for any legal purpose.*<sup>3</sup>

*The rules, principles or Identification procedure for determining whether a person falls under the ambit of clause (3) or not are yet to be framed by the government.*<sup>4</sup>

*(4) If any person who falls under the ambit of Clause (3), submits his/her certificate of Caste Identification for appointment in government services or any other legal purposes, shall be legally culpable for submitting fake caste certificate.*

All India Christian Missionaries Association has decided to challenge this amendment in the Punjab and Haryana High court.

Taking cue from Punjab, some other states have also enacted similar amendments in their respective laws. And same has been challenged in their respective state High Courts.

Recognizing the gravity of all these developments, CJI has decided to set up 9 Judge Constitution Bench to analyse various legal issues involved in this matter. With the Consent of the State of Punjab and other states, Govt of India will represent itself and other states from the Respondent side.

**Questions framed by the Supreme Court are<sup>5</sup>...**

- 1. Whether Conversion is a Fundamental Right or not?**
- 2. Whether *paragraph 3 of the Constitution (Scheduled Castes) Order, 1950* violates the basic structure of the Indian Constitution or not?**
- 3. Whether Punjab Scheduled Castes and Backward Classes (Reservation in Services) Amendment Act, 2040 is constitutionally valid or not?**

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<sup>3</sup> Similar Amendment for Backward Classes has also been notified.

<sup>4</sup> Here participants have the option to improvise from the Respondent ( Govt of India ) side and draft the principles, rules or Identification procedure which they can defend or justify during Court proceedings.

<sup>5</sup> No Questions other than these will be entertained in the court. Participants are allowed to add Sub Issues in the given Questions.