S. RAJAGOPAL

v.

C. M. ARMUGAM & ORS.

May 3, 1968

[J. C. SHAH AND V. BHARGAVA, JJ.]

Constitution (Scheduled Castes) Order 1950—Scheduled Caste Hindu becoming a Christian—Reconverted to Hinduism—Does not become a member of his previous caste unless accepted by caste.

The appellant filed his nomination papers at the 1967 General Election from a constituency reserved for members of the Scheduled Castes mentioned in the Constitution (Scheduled Castes) Order 1950. At the election he defeated respondent No. 1 who thereupon filed an election petition under s. 81 of the Representation of the People Act 1951. The contention in the petition was that the appellant was not a Hindu but a Christian and therefore not qualified to be a candidate from a constituency reserved for Scheduled Castes. The High Court held on the facts that the appellant had become a Christian in 1949 and his later re-conversion to Hinduism remained unproved. In appeal to this Court,

HELD : (i) On the facts the High Court rightly came to the conclusion that the appellant was converted to Christianity in 1949. On his conversion the appellant lost the caste to which he originally belonged because the Christian religion does not recognise caste. [264 F-G]

(ii) The evidence produced by the appellant established that at least by 1967 when the General Election took place he was again 'professing' the Hindu Religion so that he was not disqualified under para 3 of the Constitution (Scheduled Castes) Order 1950. The word 'Profess' in that para means an open declaration or practice by a person of the religion in question. [263 F-G]

Punjab Rao v. *D. P. Meshram & Ors.* [1965] 1 S.C.R. 849, 859, applied.

Karwade v. *Shambhakar*, I.L.R. 1959 Bom. 229, referred to.

(ii) However mere reconversion to Hinduism does not enable a person to revert to his previous caste. Even if it be assumed that a reconvert can resume membership of his previous caste, a point on which opinion is not expressed, this can happen only if the caste as supreme judge of its interests accepts him again as a full member. In the present case the appellant had not given evidence to satisfy this requirement, and therefore his election from a Scheduled Caste constituency could not be upheld. [268 D-E, 269 D-E]

G. Michael v. *Mr. S. Venkateswaran, Additional Secretary to Government Public (Elections) Department, Madras*, A.I.R. 1952 Mad. 474, *B. Shyamsunder* v. *Shankar Deo Vedalankar & Ors.*, A.I.R. 1960 Mys. 27, *Chatturbhuj Vithaldas Jasani* v. *Moreshwar Parashram & Ors.*, [1954] S.C.R. 817, *Administrator-General of Madras* v. *Anandachari & Ors.*, I.L.R. 9 Mad. 466, *Gurusami Nadar* v. *Irulappa Konar (died) and Ors.*, 67 M.L.J. Rep. 389, *Mrs. Agnes Dorothy Vermani* v. *Mr. Bryant David Vermani*, A.I.R. 1943 Vol. 30 Lah. 51 and *Goona Durgaprasada Rao alias Pedda Babu and Anr.* v. *Goona Sudarsanaswami and 28 Ors.*, I.L.R. 1940 Mad. 653, applied.

A [General question whether membership of a caste can be acquired by conversion or reconversion to Hinduism left open.] [267 F-G]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1553 of 1967.

Appeal from the judgment and order dated August 30, 1967 of the Mysore High Court in Election Petition No. 4 of 1967.

B

A. K. Sen, S. S. Javali and *M. Veerappa,* for the appellant.

Sarjoo Prasad, S. Balakrishnan and *S. S. Khanduja,* for respondent No. 1.

The Judgment of the Court was delivered by

C **Bhargava, J.** The appellant, S. Rajagopal, the first respondent C. M. Armugam, and the other three respondents all filed nominations for election to the Legislative Assembly of the State of Mysore in the last General Elections held in 1967. The nomination papers were scrutinised on 21st January, 1967, when respondent No. 1 (hereinafter referred to as "the respondent") D raised an objection against the nomination of the appellant on the ground that the nominations were in respect of a seat reserved for a member of a Scheduled Caste, and the appellant was not an Adi Dravida Hindu, but an Indian Christian, so that he was disqualified to stand as a candidate for this reserved seat. The Returning Officer rejected the objection and accepted the nomination paper of the appellant. Respondents Nos. 2 to 4 withdrew E their candidature, so that, when actual election took place, the two contesting candidates were the appellant and the respondent. The Constituency concerned was Kolar Gold Fields and polling in that constituency took place on 15th February, 1967. The appellant was declared as the successful candidate on the ground that he received a larger number of votes than the respondent. F The respondent then filed an election petition under section 81 of the Representation of the People Act, 1951, challenging the validity of the election of the appellant on the same ground that he had taken before the Returning Officer, *viz.*, that the appellant was not qualified to be a candidate to fill the seat reserved for a member of the Scheduled Caste from the Kolar Gold Fields G Constituency. The respondent admitted that the appellant was originally born as an Adi Dravida Hindu, but it was pleaded that he got himself converted as a Christian some time in the year 1949, shortly before he obtained admission in Woorhees High School at Vellore and to the Woorhees Christian Hostel attached to that School. The respondent's case was that, thereafter, the H appellant continued to be a Christian and, consequently, he could not be held to be a member of the Scheduled Caste for his candidature for the reserved seat under the Constitution (Scheduled Castes) Order, 1950. The appellant resisted this plea taken in

the election petition on various grounds, but we are only concerned in this appeal with two of those grounds which formed the subject-matter of issues 1 and 3 framed by the High Court of Mysore at the trial of the election petition. Those issues are as follows :—

> "(1) Does the petitioner prove that on the date of election the respondent No. 1 was an Indian Christian (Protestant) by conversion and not a member of the Scheduled Caste (Adi Dravida), professing Christian Religion and therefore, not qualified to stand for election to the Mysore Legislative Assembly as a candidate for the seat reserved for Scheduled Castes from the Kolar Gold Fields Constituency and his election should be declared void under section 100(1)(a) of the Representation of People Act, 1951 ?
>
> . . . . . .
>
> (3) Even if it is true that respondent No. 1 got himself converted to Christianity, does the respondent prove the facts and the circumstances set out in para 11 of the written statement and do they constitute in fact and in law conversion back to Hindu religion as alleged; and is it enough in law to give him the benefit of the Constitution (Scheduled Castes) Order 1950 ?"

The High Court took the evidence, both documentary and oral, adduced by the parties on these issues and then decided both the issues against the appellant and in favour of the respondent. That Court, therefore, held that the election of the appellant was void, because he was not qualified to be a candidate for the seat reserved for a member of the Scheduled Caste and, consequently, set aside the election of the appellant. The appellant has now come up in appeal against that judgment under section 116A of the Representation of the People Act, 1951.

The Constitution (Scheduled Castes) Order, 1950 was made by the President in exercise of his powers conferred by clause (1) of Article 341 of the Constitution which is as follows :—

> "341. (1) The President may with respect to any State or Union territory, and where it is a State, after consultation with the Governor thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State or Union Territory, as the case may be."

A The relevant provisions of this Order, with which we are concerned, are contained in paragraphs 2 and 3 and item 1(2) of Part VIII of the Schedule to the Order, which are as follows :—

> "2. Subject to the provisions of this Order, the castes, races or tribes or parts of, or groups within, castes, or tribes, specified in Parts I to XIII of the Schedule to this Order shall, in relation to the States to which those Parts respectively relate, be deemed to be Scheduled Castes so far as regards members thereof resident in the localities specified in relation to them in those Parts of that Schedule.
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> 3. Notwithstanding anything contained in paragraph 2, no person who professes a religion different from the Hindu or the Sikh religion shall be deemed to be a member of a Scheduled Caste.
>
> THE SCHEDULE
>
> PART VIII—Mysore
>
> 1. Throughout the State except Coorg, Belgaum, Bijapur, Dharwar, Kanara, South Kanara, Gulbarga, Raichur and Bidar districts and Kollegal taluk of Mysore district :—
>
> 1. . . . .
>
> 2. Adi Dravida.
>
> 3. . . . ."

These provisions make it quite clear that a person, who is an Adi Dravida, is qualified to be a candidate for the seat reserved for a member of the Scheduled Caste from this Kolar Gold Fields Constituency in the State of Mysore, provided he satisfies the additional requirement of paragraph 3 of the Order of not professing a religion different from the Hindu or the Sikh religion at the time when his qualification to be a candidate has to be determined. In the present case, therefore, the validity of the candidature of the appellant depended on the question whether, in January and February, 1967, when he was nominated as a candidate for the reserved seat and was declared elected, he was or was not a member of the Adi Dravida Caste and professing a religion different from the Hindu or the Sikh religion. The case of the respondent, as mentioned above, was that the appellant had become a Christian in 1949 and was still professing the Christian religion at the time of the election in 1967. This plea was met by the appellant by pleading that he never became a convert to Christianity and that, in any case, even if it be held that he had once become a Christian in the year 1949, he was professing the

Hindu religion at the relevant time in the year 1967. These are the pleas that are reflected in issues 1 and 3 reproduced above. A

The High Court, in deciding the first issue in favour of the respondent and against the appellant, relied primarily on the evidence of P.W. 9, I. J. Rajamanikyam, who, in the year 1949, was employed as an Assistant Master in Woorhees High School at Vellore and was the Asstt. Manager of the Woorhees Christian Hostel. P.W. 9 stated that an application, Ext. P. 11, for admission of the appellant as an inmate of the Woorhees Christian Hostel was made by C. A. Joseph who was the Manager of the Hostel. This Hostel was meant for the residence exclusively of persons belonging to the Christian faith. In the application, Ext. P. 11, the appellant was shown as an Indian Christian and not as Adi Dravida or Hindu. At that time, it became necessary to ascertain whether the appellant was in fact a Christian. According to him, C. A. Joseph ascertained all the particulars of the appellant and it was on that basis that he showed the appellant in the application as an Indian Christian. C. A. Joseph, who was the Manager, interviewed the appellant and then asked P.W. 9 to admit him to the Hostel. P.W. 9 further stated that, in that connection, the appellant showed to him his baptismal certificate which indicated that he had been baptized as a Christian at Ponnai Anicut Festival which is held by the Christians in the month of March or April every year. On being cross-examined he indicated that the certificate had been issued by the Presbyter of Yehamur Church situated in North Arcot District, 15 miles from Vellore. He also deposed that, during his stay in the Hostel, the appellant was observing the Christian Religion and was taking kindly towards the religious activities of the hostel, though it appeared that, being a recent convert to Christianity he was not quite conversant with the forms of worship or service. P.W. 9 was himself supervising the religious observances by the inmates of the hostel. This evidence given by P.W. 9 is further corroborated by the document, Ext. P. 12, which is the register of admissions and withdrawals of the Woorhees High School. In that admission register, against item No. 14—Religion of the student pertaining to the appellant the entry is Indian Christian. Thus, the oral evidence given by P.W. 9 showing that the appellant was a Christian when he was admitted to the Woorhees High School and the Woorhees Christian Hostel is corroborated by the entry made in Ext. P.—11 by C. A. Joseph as guardian of the appellant and the entry in the Register of Admissions and Withdrawals of the Woorhees High School Ext. P. 12. On this corroboration, the High Court believed the statement of this witness that the appellant had shown to him his Baptismal Certificate also. The High Court noted the fact that there was no reason at all for this witness to give false evidence against the appellant; B C D E F G H

A and the only suggestion made that he bore a grievance to the appellant, as the appellant refused to make a recommendation for him for a particular appointment, has not been established and has no basis. The High Court also took notice of various other piece of evidence which corroborated the statement given by P.W. 9. Learned counsel for the appellant has not been able to advance
B before us any cogent reason for disagreeing with this assessment of the evidence of this witness by the learned Judge of the High Court who had the benefit of watching this witness when his evidence was actually recorded before him.

The main argument for challenging the evidence of this witness on behalf of the appellant was that the respondent, in adduc-
C ing evidence before the High Court to prove the conversion of the appellant to Christianity, did not summon the Baptismal Register of the Church which would have been the best evidence available for this purpose. This argument was considered and rejected by the High Court and we agree with the view taken by that Court. There was no clear evidence that every Church was
D maintaining a baptismal register. It was only in his cross-examination that it was elicited from P.W. 9 that the baptismal certificate shown to him by the appellant had been issued by the Presbyster of Yehamur Church. The respondent, when he came in the witness-box stated that he had not been informed of this fact earlier by P.W. 9 so that he was not in a position to summon the baptismal register of that Church. No doubt, the appellant
E examined some witnesses of whom particular mention made by made of R.W. 9, Rev. Ashirvadam, who stated that, as a general practice, in all Churches several registers are maintained and one of these registers is the Baptismal Register. Even if this evidence be accepted at its full value, the only conclusion to be drawn from it is that a baptismal register must have been maintained by the
F Presbyter of Yehamur Church; but there is no evidence at all to indicate that in such a register entries were used to be made even of baptisms which took place not in the Church itself, but at a fair like the Ponnai Anicut Festival. It is significant that even the appellant himself, who had a better opportunity of summoning the baptismal register of Yehamur Church than the respon-
G dent, because the fact that the baptismal certificate had been issued by the Presbyter of that Church was disclosed by P.W. 9 only in his cross-examination on 27th July, 1967 during the trial of the election petition and not earlier, did not care to have that register summoned. A request was put forward before us during the hearing of this appeal to direct the production of that register, but we do not think that there is any justification under O. 41
H r. 27 of the Code of Civil Procedure for summoning it at this stage, particularly because, even if that register is brought, a lot of oral evidence would have to be recorded in order to have the register properly proved and to give an opportunity to the party,

against whom inferences follow from it, to meet those inferences. In the circumstances, we have not entertained the request for summoning of that register at this stage. This is all the more so as we find that there is no evidence to show that an entry relating to the baptism of the appellant must necessarily find a place in the register in view of the fact that the appellant was baptized at the Ponnai Anicut Festival and not in the Church. Consequently, the non-summoning of that register by the respondent does not detract from the value to be attached to the statement of P.W. 9.

This evidence finds support from other documentary and oral evidence which has been relied upon by the High Court. P.W. 10, S. A. Thomas, is a P.W.D. Contractor and has stated that, in the time of his father, who was also working as a Contractor, the appellant took service with his father. At that time also, the appellant was employed as a Christian and his service card was prepared showing him as a Christian. Then, there is evidence that, subsequently, the appellant entered Government service and even there in the service cards he was shown as a Christian. Some witnesses have come to prove that the appellant actually attended Church for prayers after his conversion in 1949. Evidence was also given to show that the appellant worked as the organizer of a body known as the Kavinjar Nataka Sabha where his name was shown as Victor Rajagopal, indicating that he had adopted a personal name after conversion as a Christian which is not adopted by Hindus. We do not think that it is necessary for us to discuss that evidence in detail. We are inclined to agree with the High Court that all this oral and documentary evidence provides very strong corroboration of the statement of the principal witness P.W. 9 and establishes the fact that the appellant had been converted to Christianity in 1949 before he joined the Woorhees High School.

We were also taken through the evidence of the respondent's witnesses, some of whom tried to prove that the appellant had never attended any Christian Church. The principal witness, on whose evidence reliance was placed in this behalf, was R.W. 9, the Presbyter of the Maskam Church. It was elicited from him that the appellant was not entered in the register of members of the congregation of the Church; but the cross-examination of the witness shows that it is not necessary that every one attending the Church for prayers must also be a member of the congregation and his name must find a place in that register. The evidence of some other witnesses, who have come to state that they never saw the appellant going for prayers to the Church, can hardly carry any weight, because it is not necessary that they should have been present on those occasions when the appellant actually attended the Church services. The learned Judge of the High Court, who had the benefit of watching the demeanour of all the

witnesses examined before him, did not consider the evidence of these witnesses sufficient to rebut the proof given on behalf of the respondent.

Reference was also made by learned counsel to some documentary evidence before us, but none of those documents establishes that the appellant was not converted to Christianity in 1949. Some of these documents are of the period prior to 1949 and consist of papers relating to schools attended by the appellant in which the appellant is shown as an Adi Dravida Hindu. They are consistent even with the case of the respondent, because the plea put forward was that the appellant was converted to Christianity in 1949 and that he was a Hindu earlier. Particular reliance was placed on a transfer certificate issued by the K.G.F. High School which mentions the date of issue of the Transfer Certificate as 10th June, 1949. In that certificate there is an entry that the appellant was studying free, because he was Adi Dravida Hindu. It was urged that this document would indicate that right up to 10th June, 1949, the appellant was a Hindu. This is not correct. The certificate mentions the actual date of leaving the school as 1st March, 1949, and the capacity in which the appellant was allowed to study free can only refer to the period ending on that date. The case set up by the respondent and accepted by the High Court is that the appellant was converted to Christianity at the Ponnai Anicut Festival which took place in the end of March or beginning of April, 1949, so that this entry showing the appellant as a Hindu up to 1st March, 1949 does not militate against the finding that he was converted to Christianity at that Festival.

The remaining documents relied upon by the appellant relate to much later period and they also cannot, therefore, show that the appellant was not converted to Christianity in the year 1949. The earliest of these documents is of the year 1956. That document is the entry in the birth register in respect of the first child born to the appellant's wife. Then, there are entries relating to birth of other children in 1959 and 1961. In these documents also, however, the caste or the religion of the appellant is not mentioned. The community of the appellant's wife alone is shown as Adi Dravida. In this case, it is not disputed that when the appellant married in 1955, his wife was a Hindu, so that these entries showing her as Adi Dravida cannot prove that the appellant was a Hindu and not a Christian. There are subsequent entries in school records where the appellant showed the caste of his children as Adi Dravida Hindus. These documents are of a very much later period and relate to a time when the appellant had already been elected from a reserved seat as a member of the Scheduled Caste in the election of 1962. It, however, appears that, before this election in 1962, the appellant decided to show

himself as a Hindu, and, consequently, he made applications and got entries altered in his service cards so as to show him as Adi Dravida Hindu instead of a Christian. It was thereafter that he contested the election to the Mysore Legislative Assembly in 1962 from the reserved constituency claiming himself to be a member of a Scheduled Caste. This evidence relating to this period cannot again be held to disprove the conversion of the appellant to Christianity in the year 1949 which has been amply established by the evidence given by the respondent discussed above. At best, it can only show that by this time the appellant started putting himself forward as a Hindu. Consequently, we affirm the finding of the High Court that the appellant was converted to Christianity in the year 1949, so that he lost the capacity of an Adi Dravida in which capacity alone he could have been held to be a member of a Scheduled Caste under the Constitution (Scheduled Castes) Order, 1950.

This brings us to the second question whether the appellant, at the time of election in the year 1967, was professing Hindu religion as alleged by him and whether on that account he could claim that he was a member of a Scheduled Caste, having again become an Adi Dravida Hindu. We are inclined to accept the evidence given on behalf of the appellant that, though he had been converted to Christianity in 1949, he did later on profess the Hindu religion. The circumstances which established this fact are :

(i) that he married a Hindu Adi Dravida woman in the year 1955;

(ii) that against the entries of the children in birth registers of the Municipality, the caste of the mother was shown as Adi Dravida Hindu;

(iii) that his children were brought up as Hindus;

(iv) that, when his children were admitted in school, they were shown as Hindus in the school records;

(v) that in 1961, the appellant made an application for correction of his service cards and had the entry of his religion as Christianity altered, so that he was subsequently shown as Adi Dravida Hindu in those cards;

(vi) that, in 1962, in the general elections, he stood as a candidate from a Reserved Scheduled Caste Constituency; and

(vii) that he again stood as a candidate in this general election of 1967 from the same Reserved Scheduled Caste Constituency.

A We do not consider it necessary to discuss in detail the evidence which has been given on behalf of the appellant to prove all these facts enumerated above. Almost all of them are supported by documentary evidence. The only question that needs consideration is whether these facts establish that, at the time of the general election in 1967, the appellant was professing Hindu B religion. The word "profess" used in paragraph 3 of the Constitution (Scheduled Castes) Order, 1950 came up for interpretation by this Court in *Punjab Rao* v. *D. P. Meshram & Others*(1). After referring to the decision of the Bombay High Court in *Karwade* v. *Shambhakar*(2) and the meaning of the word "profess" given in Webster's New World Dictionary, and Shorter C Oxford Dictionary, the Court held :—

> "It seems to us that the meaning "to declare one's belief in : as to profess Christ" is one which we have to bear in mind while construing the aforesaid order, because it is this which bears upon religious belief and consequently also upon a change in religious belief. D It would thus follow that a declaration of one's belief must necessarily mean a declaration in such a way that it would be known to those whom it may interest. Therefore, if a public declaration is made by a person that he has ceased to belong to his old religion and has accepted another religion he will be taken as professing E the other religion. In the face of such an open declaration it would be idle to enquire further as to whether the conversion to another religion was efficacious. The word "profess" in the Presidential Order appears to have been used in the sense of an open declaration or practice by a person of the Hindu (or the Sikh) religion." F

In our opinion, if this test is applied to the present case, it must be held that at least by the year 1967, when the present election in question took place, the appellant had started professing the Hindu religion. He had openly married a Hindu wife. Even though the marriage was not celebrated according to the G strict Hindu rites prevalent amongst Adi Dravidas, the marriage was not in Christian form and is alleged to have been in some reformed Hindu manner. Thereafter, the appellant in 1961 took the step of having his service cards corrected so as to show him as an Adi Dravida Hindu instead of a Christian. This was followed by his candidature as a member of the Adi Dravida Hindu Caste in the general elections in 1962; and, subsequently, H he gave out the caste of his children as Adi Dravida Hindus. These various steps taken by the appellant clearly amount to a

(1) [1965] 1 S.C.R. 849 at p. 859. (2) I.L.R.1959 Bom. 229.

public declaration of his professing the Hindu faith. The first step of the marriage cannot, of course, by itself be held to be a sufficient public declaration that the appellant believed in Hindu religion; but the subsequent correction of entries in service cards and his publicly standing as a candidate from the reserved Scheduled Caste Constituency representing himself as an Adi Dravida Hindu taken together with the later act of showing his children as Adi Dravida Hindus in the school records must be held to be a complete public declaration by the appellant that he was by this time professing Hindu religion. Finally, in the general elections of 1967 also, the appellant, by contesting the seat reserved for a member of a Scheduled Caste on the basis that he was an Adi Dravida Hindu, again purported to make a public declaration of his faith in Hinduism. In these circumstances, we hold that, at the relevant time in 1967, the appellant was professing Hindu religion, so that paragraph 3 of the Constitution (Scheduled Castes) Order, 1950 did not apply to him.

This, however, does not finally settle the matter in favour of the appellant, because, even if it be held that paragraph 3 of the Constitution (Scheduled Castes) Order, 1950 did not disqualify the appellant, it is necessary for the appellant to show that he satisfied all the requirements of paragraph 2 of that Order. Under paragraph 2, a person to be eligible for a reserved seat must be a member of a caste specified by the President in the Order. The appellant claims that, when he started professing Hindu religion again, he reverted to his original caste of birth, *viz.*, Adi Dravida Hindu. It is the justification of this claim that is contested on behalf of the respondent. It has been urged that, when the appellant became a Christian, he ceased to be a member of the Adi Dravida caste as specified in the Presidential Order and, on again professing the Hindu religion, the appellant cannot claim that he automatically reverted to a membership of that caste.

We agree with the High Court that, when the appellant embraced Christianity in 1949, he lost the membership of the Adi Dravida Hindu caste. The Christian religion does not recognise any caste classifications. All Christians are treated as equals and there is no distinction between one Christian and another of the type that is recognised between members of different castes belonging to Hindu religion. In fact, caste system prevails only amongst Hindus or possibly in some religions closely allied to the Hindu religion like Sikhism. Christianity is prevalent not only in India, but almost all over the world and nowhere does Christianity recognise caste division. The tenets of Christianity militate against persons professing Christian faith being divided or discriminated on the basis of any such classification as the caste system. It must, therefore, be held that, when the appellant got

converted to Christianity in 1949, he ceased to belong to the Adi Dradiva caste.

In this connection, we may take notice of a decision of the Madras High Court in *G. Michael* v. *Mr. S. Venkateswaran, Additional Secretary to Government Public (Elections) Department, Madras*(1), where that Court held :—

> "Christianity and Islam are religions prevalent not only in India but also in other countries in the world. We know that in other countries these religions do not recognise a system of castes as an integral part of their creed or tenets."

Attention of that Court was drawn to the fact that there were several cases in which a member of one of the lower castes, who had been converted to Christianity, had continued not only to consider himself as still being a member of the caste, but had also been considered so by other members of the caste who had not been converted. Dealing with this aspect, the Court held :—

> "This is somewhat analogous to cases in which even after conversion certain families and groups continue to be governed by the law by which they were governed before they became converts. But these are all cases of exception and the general rule is conversion operates as an expulsion from the caste; in other words, a convert ceases to have any caste."

In the present case, therefore, we agree with the finding of the High Court that the appellant, on conversion to Christianity, ceased to belong to the Adi Dravida caste and, consequently, the burden lay on the appellant to establish that, on his reverting to the Hindu religion by professing it again, he also became once again a member of the Adi Dravida Hindu caste.

Reliance was also placed on behalf of the appellant on a decision of the Mysore High Court in *B. Shyamsunder v. Bhaskar Deo Vedalankar and Others*(2) to urge that on charge of religious belief, a person does not automatically cease to be a member of the caste in which he was born. For the same principle, reference was also made to a decision of this Court in *Chatturbhuj Vithaldas Jasani* v. *Moreshwar Parashram and Others*(3). Neither of these two cases, in our opinion, is applicable to the present case, because, in both those cases, though the persons concerned had started professing religious beliefs different from those of orthodox Hindus, they still continued to be Hindus. The Mysore High Court in its decision took notice of this fact by holding :

(1) A.I.R. 1952 Mad. 474. (2) A.I.R. 1960 Mysore 27.
(3) [1954] S.C.R. 817.

> "It is, therefore, plain that Arya Samaj, unlike Christianity or Islam, is not a new religion entirely distinct from Hinduism and that the mere profession of Arya Samajism by a person does not make him cease to be a Hindu and cannot have the effect of excluding him from Hinduism although he was born in it. It is equally clear that such a person never becomes separated from the religious communion in which he was born. The contention urged to the contrary by Mr. Reddy must, therefore, fail."

In the case of *Chitturbhuj Vithaldas Jasani*(1), this Court was dealing with the status of a person who belonged to the Mahar caste, which was one of the Scheduled Castes under the Presidential Order, and the question arose whether, on his conversion to the tenets of the Mahanubhava Panth, he ceased to belong to that Scheduled Caste. It was held that, whatever the views of the founder of this sect may have been about caste, it was evident that there had been no rigid adherence to them among his followers in later years. The Court, therefore, did not determine whether the Mahanubhava tenets encouraged a repudiation of caste only as a desirable ideal or make it a fundamental of the faith, because it was evident that present-day Mahanubhavas admitted to their fold persons who elected to retain their old caste customs. It was on this basis that the Court held that it was easy for the old caste to regard the converts as one of themselves despite the conversion which for all practical purposes was only ideological and involved no change of status. The final conclusion was expressed in the following words :—

> "On this evidence, and after considering the historical material placed before us, we conclude that conversion to this sect imports little beyond an intellectual acceptance of certain ideological tenets and does not alter the convert's caste status, at any rate, so far as the householder section of the Panth is concerned."

Thus, neither of these two cases is similar to the case before us where the appellant was converted to Christianity, a religion which militates against the recognition of division of people on caste basis. Having gone out of the Hindu religion, the appellant could not claim thereafter that he still continued to be a member of the Adi Dravida Hindu caste.

In support of the claim that the appellant reverted to the Adi Dravida Hindu caste when he again started professing the Hindu religion, learned counsel relied on a number of decisions of various High Courts. The cases relied upon can be divided into

(1) [1954] S. C. R. 817.

A two classes. The first set of cases are those where this question was examined for the purpose of determining the rules of succession, the validity of marriages, or the legitimacy of children. Such cases which have been brought to our notice are : *Administrator-General of Madras* v. *Anandachari and Others*(1), *Gurusami Nadar* v. *Irulappa Konar (died) and Others*(2), *Mrs. Agnes*
B *Dorothy Vermani* v. *Mr. Bryant David Vermani*(3), and *Goona Durgaprasada Rao alias Pedda Babu and Another* v. *Goona Sudarsanaswami & 28 Others*(4). In addition, reliance was also placed on the Report of proceedings of the Appellant Side dated 8th November, 1866 printed at page vii of the Appendix in Vol. III of the Madras High Court Reports. The second set of cases consist of recent judgments of the High Courts of Andhra Pradesh
C and Madras in election petitions arising out of the general elections of the year 1967 itself. In order to rely on these judgments, learned counsel produced before us copies of the Gazettes in which those judgments have been published. The cases referred to are : *Kothapalli Narasayya* v. *Jammana Jogi and Pinninti Jammayya* (Election Petition No. 9 of 1967), *K. Narasimha Reddy* v. *G.*
D *Bhupathi and Manik Rao* (Election Petition No. 18 of 1967), *Allam Krishnaiah* v. *Orepalli Venkata Subbaiah* (Election Petition No. 10 of 1967), decided by the High Court of Andhra Pradesh on 28th August, 1967, 28th September, 1967, and 5th September, 1967 respectively, and *K. Paramalai* v. *M. Alangaram and Another* (Election Petition No. 9 of 1967) decided by the
E High Court of Madras on 5th October, 1967.

Almost all these cases laid down the principle that, on reconversion to Hinduism, a person can become a member of the same caste in which he was born and to which he belonged before having been converted to another religion. The main basis of the decisions is that, if the members of the caste accept the reconver-
F sion of a person as a member, it should be held that he does become a member of that caste, even though he may have lost membership of that caste on conversion to another religion. In the present case, we do not consider it necessary to express any opinion on the general question whether, if a person is born in a particular caste and is converted to another religion as a result
G of which he loses the membership of that caste, he can again become a member of that caste on reconversion to Hinduism. That is a question which may have to be decided in any of the appeals that may be brought to this Court from the judgments of the Andhra Pradesh and the Madras High Courts referred to above. So far as the present case is concerned, we consider that, even if it be assumed that a reconvert can resume the membership
H of his previous caste, the facts established in the present case do

(1) I.L.R. 9 Mad. 466.
(2) 67 M.L.J. Reports, 389.
(3) A.I.R. 1943, Vol. 30 Lah. 51.
(4) I.L.R. 1940 Mad. 653.

not show that the appellant succeeded in doing so. All these cases proceed on the basis that, in order to resume membership of his previous caste, the person must be reconverted to the Hindu religion and must also be accepted by the caste in general as a member after reconversion. We do not think it necessary to refer to specific sentences where these principles have been relied upon in these various judgments. It is, in our opinion, enough to take notice of the decision in *Goona Durgaprasada Rao alias Pedda Babu*(1), where these two aspects were emphasised by a Full Bench of the Madras High Court. In that case, the first question that arose was whether a person could become a convert to Hinduism without going through a formal ceremony of purification. It was held that no proof of any particular ceremonial having been observed was required. Varadachariar, J., held that when on the facts it appears that a man did change his religion and was accepted by his co-religionists as having changed his religion, and lived, died and was cremated in that religion, the absence of some formality should not negative what is an actual fact. Considering the question of entry into the caste, Krishnaswami Ayyangar, J., held that, in matters affecting the well-being or composition of a caste, the caste itself is the supreme judge. It was on this principle that a reconvert to Hinduism could become a member of the caste, if the caste itself as the supreme judge accepted him as a full member of it. In the appeal before us, we find that the appellant has not given evidence to satisfy these requirements in order to establish that he did become a member of Adi Dravida Hindu Caste by the time of general elections in 1967.

As we have already held earlier, there was no specific ceremony held for reconversion of the appellant to Hinduism. We have found that he started professing the Hindu religion because of his conduct at various stages. The first step in that conduct was the marriage with an Adi Dravida Hindu woman. Then, there were other steps taken by him, such as correction of his service records, declaration of the religion of his sons as Hindu and his standing as a candidate for elections in 1962 and 1967 as a member of a Scheduled Caste. These have been held by us to amount to a public declaration of his belief in Hinduism. The question is whether, by merely professing the belief in Hinduism, the appellant can also claim that the members of the Adi Dravida Hindu Caste re-admitted him as a member of that caste and started recognising him as such. In various cases, importance has been attached to the fact of marriage in a particular caste. But, in the present case, the marriage was the first step taken by the appellant and, though he was married to an Adi Dravida woman, the marriage was not performed according to the rites

(1) I.L.R. 1940 Mad. 653.

A observed by members of that caste. The marriage not being according to the system prevalent in the caste itself, it cannot be held that that marriage can be proof of admission of the appellant in the caste by the members of the caste in general. No other evidence was given to show that at any subsequent stage any step was taken by members of the caste indicating that the B appellant was being accepted as a member of this caste. It is true that his close relatives, like his father and brother-in-law, treated him again as a member of their own caste, but the mere recognition by a few such relatives cannot be held to be equivalent to a recognition by the members of the caste in general. The candidature from the reserved seat in 1962 cannot also be held to imply any recognition by the members of the Adi Dravida C Hindu caste in general of the appellant as a member of that caste. Consequently, it has to be held that the appellant has failed to establish that he became a member of the Adi Dravida Hindu caste after he started professing the Hindu religion; and this conclusion follows even on the assumption that a convert to Hinduism can acquire the membership of a caste. Ordinarily, the member- D ship of a caste under the Hindu religion is acquired by birth. Whether the membership of a caste can be acquired by conversion to Hinduism or after reconversion to Hinduism is a question on which we have refrained from expressing our opinion, because even on the assumption that it can be acquired, we have arrived at the conclusion that the appellant must fail in this appeal.

E The appeal is, consequently, dismissed with costs.

G.C. *Appeal dismissed.*