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Case Analysis of Mrs. Valasamma Paul vs. Cochin University & Ors.

SANYA PAHOJA¹

CITATION AIR 1996 SC 1101, (1996), 3 SCC 545

BENCH: K Ramaswamy (J), B Hansaria (J)

COURT OF LAW: Supreme Court

I. BACKGROUND

There were two vacant posts for Lecturers in Cochin University which were notified for recruitment. One post was reserved for Latin Catholics(backward class). The appellant, a Syrian Catholic, having married a Latin Catholic, applied for selection as a reserved candidate. The University selected her accordingly. Her appointment was challenged by another candidate via a Writ Petition, praying to appoint the petitioner in appellant's place to the said post. The writ petition was approved and it was held that the appointment should be made strictly in accordance with Rules 14 to 17 of the Kerala State Subordinate Service Rules. This decision was challenged by the appellant in front of a Decision Bench and the appellant cited the judgment of Dr. Kaniamma Alex v. PSC which had been upheld in PSC v. Dr. Kanjama Alex. The Division Bench was unsure of Dr. Kanjamma Alex case's decision and referred the matter to Full Bench of Kerala High Court who opined that Article 15(4) and 16(4)² were meant for advancement of socially and educationally backward classes. To include candidates as members of backward communities because of marriage would be a mockery of Constitution and would defeat the purpose for which the special provisions had been enacted. It held that the appellant being a Syrian Catholic by birth could not claim the status of backward caste by her marriage to a Latin Catholic and was not entitled to reservation u/Art 15(4) and 16(4)³. A Special Leave Petition u/Art 136⁴ was filed in SC against the decision of the Full Bench.

II. ARGUMENTS

By the Appellant:

¹ Author is a student at Vivekananda Institute of Professional Studies, New Delhi, India.

² The Constitution of India, 1950.

³ Ibid.

⁴ Ibid.

1. The counsel for the appellant argued that though appellant is a Syrian Catholic by birth, birth by itself is not a determinative factor for claiming protective discrimination given to the backward classes. The social and environmental disabilities are also relevant. She voluntarily married a Latin Catholic and has been received and recognized by the community as their member. Thus, she has also been subjected to the social and environmental disabilities suffered by her husband as well as other members of the community and cannot be discriminated by denying equality provided u/Art 16(4)⁵.
2. The Judgments Principal, Guntur Medical College, Guntur v. Y. Mohan Rao⁶ and N.E. Horo v. Jahan Ara Jai Pal Singh⁷ were cited in support of the argument.

By the Respondent:

1. The counsel for the respondent argued that the reservation u/Art 15(4) and 16(4)⁸ are meant to counter disadvantages that are inflicted on backward class citizens of the country because of their social backwardness, such as, Scheduled Castes and Scheduled Tribes. People of particular caste which aren't represented properly are entitled to reservation's benefit. Marriage, adoption or procedure such as, making false social status certificates doesn't make a person eligible to avail reservation of any kind. Mere acceptance by such backward community isn't enough for Art 15(4) and 16(4)⁹. The appellant had a privileged start as she was born into a caste and cannot claim the benefit of reservation unless she can establish she suffered all the same disadvantages as being born as a member of the backward caste.
2. In Mohan Rao's matter, his parents belonged to SC and later accepted Christianity. They had been subjected to the social and educational backwardness due to being a marginalized group. On reconversion, Mohan Rao became a member of SC and, therefore, his admission as a reserved candidate was declared valid by SC. Therefore, same reasoning can't be applied to facts of this case. The Hero case was held to be irrelevant to the purpose of the case.

III. ISSUES

Whether a lady marrying a SC, ST or OBC citizen has a natural right to claim reservation

⁵ Ibid.

⁶ 1976 AIR 1904

⁷ 1972 SCR (3) 361.

⁸ The Constitution of India, 1950.

⁹ Ibid.

u/Art 15(4) or 16(4)?

Law Applicable

1. Article 15(4) of Constitution of India, 1950.
2. Article 16(4) of Constitution of India, 1950.

IV. ANALYSIS

The court upheld the decision of the full bench and decided that the appellant could not be appointed to the reserved post of lecturer under Article 15(4) and 16 (4)¹⁰. The appellant being a Syrian Catholic by birth had the privilege of being born into a forward class. Under Canon Law , wife becomes a part of her marital home and has equal status as her husband and therefore, a member of caste to which she has moved. So while appellant is now a member of a backward class, she was not hindered by same disadvantages or inequalities as rest of them. In *Soosai v. UOI*¹¹, the court opined that non-recognition of SC Christians as Dalits wasn't in violation of Art 14¹² as due to conversion they weren't subjected to similar atrocities. It was held that the purpose of reservation for backward class is to remove the disadvantages and handicaps faced by the backward classes. Due to history of untouchability in the country, the discrimination faced by these classes led to their social and educational backwardness and exclusion from the mainstream society. The Constitution makers were aware that political democracy is a myth unless there is social and economic democracy. The early Greek philosophers of natural law had observed that law served the interest of those in power and people were always struggling to build a better life for themselves and so there should be an ineradicable principle to ensure peace and order for in society. Art 15(4) and 16(4)¹³ are intended to secure adequate means of livelihood for the backward classes and protect them from social injustice so they can lead a meaningful life as well. The efforts of framers of Constitution to incorporate principles of natural justice are reflected throughout Indian Constitution. The provisions of fundamental rights, directive principles of state policy, protection against double jeopardy and self-incrimination are a few examples highlighting the spirit of natural law in the Indian legal machinery. Art 15(4)¹⁴ empowers State to make special provisions for advancement of socially and educationally backward classes or for SC and ST. Article 16(4)¹⁵ provides reservation for backward classes which aren't properly

¹⁰ Ibid.

¹¹ 1986 AIR 733

¹² The Constitution of India, 1950.

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid.

represented in State services. This is intended to remove social and economic inequalities so that equal opportunities are available to all. The court noted in this case that the Hindu social structure had created rigid divisions in society based on caste, which is determined by birth. And while no one wishes to be born into a particular caste, it affects individual liberties and opportunities. John Rawls, a political philosopher stated in his theory of revival of natural law that it is necessary to take into account the social and cultural handicaps of an individual for equality of opportunity as existing inequalities in society are a hindrance in achieving freedom, power and goals. His theory of justice is based on two principles –

1. Everyone should have an equal right and opportunity in securing basic liberties and means of livelihood.
2. The existing inequalities in a society should be ordered in a manner that benefits a community as a whole.

Rawls' principles of justice, thus, find their voice in reservation provisions u/Art 15(4) and 16(4) as their objective is to negate the disadvantages that a person suffers by the virtue of being born into a particular social caste. As opined by the Supreme Court in *S.R. Bommai v. UOI*¹⁶, it will not be possible to build a socialist order unless the people have freedom and opportunity to transcend their social, caste and religious barriers. Thus, the right to equality under Article 14¹⁷ requires affirmative action. In *A.S. Sailaja v. Kurnool Medical College*¹⁸, the Andhara Pradesh High Court had observed that the cultural, economic and educational atmosphere has a deep impact on the

minds of children. In this case, the appellant is a Latin Catholic by her marriage to her husband but she did not grow up as one. The Rawls' theory of natural law recognizes the initial distribution of resources in society so that everyone can have an equal start in securing power, opportunities and livelihood. The appellant being born as a Syrian Catholic (forward class) already had an advantage. As held by the court in *Murlidhar Dayandeo Kesekar v. Vishwanath Pandu*¹⁹ and *R. Chandevaram v. State of Karnataka*²⁰: "When a member is transplanted into the Dalits, Tribes and OBCs, he/she must of necessity also undergo have had same the handicaps, and must have been subject to the same disabilities, disadvantages, indignities or sufferings so as to entitle the candidate to avail the facility of reservation. A candidate who had the advantageous start in life being born in forward caste and had march

¹⁶ 1994 AIR 1918.

¹⁷ *Supra* 11.

¹⁸ AIR 1986 AP 209

¹⁹ 1995 SCC, Supl. (2) 549 JT 1995 (3) 563

²⁰ (1995) 6 SCC 309

of advantageous life but is transplanted in backward caste by adoption or marriage or conversion, does not become eligible to the benefit of reservation either under Article 15(4) and 16(4).”

The objective of natural behind reservation is to remove the social imbalances faced by the backward classes due to discrimination. The preferential treatment under Article 15(4) and 16(4)²¹ is for the upliftment of society as whole. However, the court has noted cases involving attempts of transplantation from forward classes to backward classes by adoption or procuring false social status certificates to avail the benefit of reservation. This violates the principles of natural justice and fairness that the legislation aims to establish in society.

V. CONCLUSION

The Apex court’s judgment that a female marrying an SC, ST or OBC citizen does not have a natural right to claim reservation under Article 15(4) or 16(4)²² is in spirit with the natural law principles encompassed in the Constitution. Natural law is an embodiment of values of reason, justice, morality and ethics. These have also been highlighted in the preamble to our Constitution and are the guiding principles in establishing a just and fair society. The Supreme Court has also upheld these values over the course of time in numerous cases such as *Kesavananda Bharti v. State of Kerala*²³, *Minerva Mills v. UOI*²⁴ and *A.K. Kraipak v. UOI*²⁵. Del Vecchio, a scholar of natural law, held that natural law is the principal of legal evolution which guides mankind and law. Thus, the courts and the law-makers observe the rules of natural law to ensure there is no miscarriage of justice. The court in this case observed the importance of inter-caste and inter-religious marriages in maintaining the social fabric of India. They held that recognition by a community is not a necessary element for valid recognition of marriage. On the other hand, they also clarified that mere acceptance by community as a member of the backward class would not entitle a person to reservation u/Art 15(4) and 16(4)²⁶. In *Indira Swahini v. Union of India*²⁷, the court had held that reservation is not made in favor of a caste but a backward class that lacks fair representation in the services of state. Unless, everyone has an equal access to opportunities and facilities, the principles of socialism and secularism outlined in the Constitution cannot be achieved. Even in the case when a person of forward class becomes a member of backward class by adoption, the SC

²¹ The Constitution of India, 1950.

²² *Ibid.*

²³ AIR 1973 SC 1461.

²⁴ AIR 1980 SC 1789.

²⁵ AIR 1970 SC 150.

²⁶ *Supra* 20.

²⁷ AIR 1993 SC 477.

has held that the intentions of the person so adopting should be examined. There should be a genuine intention to return to the old religion and customs. Therefore, the claim to reservation as provided by Article 15(4) and Article 16(4)²⁸ should only be available to person who are born into the backward classes and are faced with the disadvantages handicaps and suffering due to their social and educational backwardness and cannot extend to a lady who has been transplanted into backward class by marriage.

VI. SUGGESTIONS

The Constitution of India, 1950 is rightfully a document of social justice and the judgment given in the present case has also been made accordingly. The jurisprudence behind reservation is that it should be given to those who have been the victim of stringent societal rules since their birth because of which they have missed out upon several lucrative opportunities. When a women marries a man from a backward community, though her community changes as per societal norms, she is not entitled to reservation as she has not been subjected to atrocities which her husband or for that matter people of lower communities had been subjected to. Therefore, the author remarks that the stance made in the present judgment should be maintained

²⁸ The Constitution of India, 1950.