

Faith and Freedom: On combating forcible religious conversion

The Hindu

Paper - II
(Indian Polity)

❖ Freedom of religion is protected only when state keeps away from matters of faith, marriage.

The Supreme Court is hearing a purported Public Interest Litigation (PIL) seeking action to curb deceitful religious conversion in the country. Not wanting to be left behind, the Gujarat government is seeking the removal of a stay on a provision in its anti-conversion law that requires prior permission from the District Magistrate for any conversion done “directly or indirectly”.

Gujarat's Anti-conversion Law and Controversy

The Gujarat High Court had correctly stayed Section 5 of the Gujarat Freedom of Religion Act, 2003 (amended in 2021 to include ‘conversion by marriage’), while also staying the operation of other provisions that sought to cover inter-faith marriages as instances of illegal conversion. The High Court had noted that the prior permission requirement would force someone to disclose one’s religious belief or any change of faith, contrary to Supreme Court rulings that say marriage and faith involve an individual’s choice.

In a strange claim, Gujarat argues that the stay on Section 5 is affecting even genuine inter-faith marriages that involve no fraud or coercion, as those who usually solemnise such marriages are unable to do

Provisions in the Indian Constitution relating to the right to religion

Article 25 Freedom of conscience and freedom to profess, practice and propagate religion.

Article 26: Freedom to manage religious affairs.

Article 27: Freedom as to payment of taxes for promotion of any particular religion.

Article 28: Freedom as to attendance at religious instruction or religious worship in certain educational institutions.

Religion is a matter of faith or belief. The Constitution of India acknowledges the fact that how important religion is in the lives of the people of India and therefore, provides the right to freedom of religion under Article 25 to Article 28. In several cases, the Supreme Court has held that secularism is the basic structure of the Constitution, the most important being the Kesavananda Bharati case.

so. This is based on a claim that the prior permission requirement obviates the need to question the genuine nature of the conversion, if any, consequent upon an inter-religious marriage.

No one would buy the claim that the provision enables voluntary conversion. Freedom of religion is protected only when no questions are raised and no suspicion entertained based on the mere fact that an inter-faith marriage has taken place. Common sense would suggest that forcing someone to disclose an intent to change one's faith violates freedom of conscience and the right to privacy. Also, when a separate appeal against the High Court's interim orders

staying the provisions is pending before the Supreme Court, there was no need for the State government's petition seeking to revive the prior permission requirement as part of the ongoing hearing on the PIL against religious conversions.

Supreme Court's Opinion In These Cases

On the larger issue, the observations of a Supreme Court Bench headed by Justice M.R. Shah to the effect that religious conversion through "allurement" or charity work is a serious problem indicate an eagerness to goad the Government into coming up with anti-conversion measures on a national scale. It is questionable whether courts should entertain exaggerated allegations of rampant fraudulent conversions across the country, instead of leaving it to States to identify the extent of the problem, if any, and adopt steps to protect religious freedom and communal harmony.

Secularism

The term 'secularism' originated in late medieval Europe. In 1948, during the Constituent Assembly debate, a demand was made by KT Shah to include the word 'secular' in the Preamble of the Constitution. The word 'secular' was added to the Preamble by the 42nd Amendment Act in 1976. In *SR Bommai vs Union of India*, a 9 judge bench ruled that secularism is a basic feature of the Constitution of India.

Religion

The German philosopher Immanuel Kant defined religion as "religion is the recognition of all our duties as divine commands". The Constitution does not define the terms 'religion' and 'matters of religion'. Therefore, it has been left to the Supreme Court to determine its judicial meaning.

Expected Question

Que. Consider the following statements-

1. Article 25 of the Indian Constitution guarantees freedom of conscience and the right to freely profess, practice and propagate religion.
2. Article 29 of the Indian Constitution gives freedom with regard to payment of taxes for the promotion of any particular religion.

Which of the above statements is/are true? Committed To Excellence

- (a) 1 only (b) 2 only
(c) Neither 1 nor 2 (d) Both 1 and 2

Answer : A

Mains Expected Question & Format

Que.: State the provisions related to freedom of religion under the Indian Constitution and throw light on its importance.

Answer Format :

❖ **Introduction (40-50 words)**

State the provisions related to freedom of religion.

❖ **Main Body (140-150 words)**

State the importance of freedom of religion under the Indian Constitution.

❖ **Conclusion (40-50 words)**

draw a balanced conclusion.

Note: - The question of the main examination given for practice is designed keeping in mind the upcoming UPSC mains examination. Therefore, to get an answer to this question, you can take the help of this source as well as other sources related to this topic.