

# Opinion: 'Fraud' — Why SC Order On Religious Conversion To Claim Quota Benefits Is A Big Win For Constitution

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In a recent judgment, the Supreme Court of India ruled that religious conversion undertaken solely for gaining employment or availing of reservation benefits constitutes a fraud on the Constitution, and is against the principles of reservation policy. The bench, consisting of Justice Pankaj Mithal and Justice R. Mahadevan, in their judgment, upheld the decision of the Madras High Court wherein it denied the Scheduled Caste certificate to a woman who claimed to be Hindu to avail of reservation benefits in employment after having converted to Christianity. The appellant, C. Selvarani, was born to a Hindu father belonging to the Valluvan caste and a Christian Mother. She was baptised after birth and continued to practise Christianity but claimed to be a Hindu to avail of reservation benefits while applying for a job based on her father's caste.

This judgment reinforces the secular and social justice commitments enshrined in the Indian Constitution. In this light, it is necessary to understand the implications of this judgment, the constitutional provisions on religious freedom and reservation, and the role of affirmative action in achieving equality.

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**Equality, Justice, Freedom For All**

Under the Indian Constitution, the endeavour is to establish a secular polity founded on social justice. The Preamble reflects the nation's commitment to equality, justice, and freedom for all. However, cases of misuse of religious conversion for reservation benefits have raised concerns about constitutional fraud and the integrity of affirmative action policies. The Supreme Court has ruled against bigamy through conversion in its decisions in the cases *Sarla Mudgal v Union of India* (1995) and *Lily Thomas v Union of India* (2000), wherein Hindu men converted to Islam to engage in bigamy without dissolving the first Hindu marriage.

The recent Supreme Court judgment underscores the importance of treating all religions and their adherents equally, as mandated by the Constitution, without discrimination or exploitation of the reservation system.

As per our constitutional framework on religious freedom, Articles 25 to 28 of the Indian Constitution guarantee the freedom of religion to all individuals residing in the country, not limited to any particular faith. Article 25 assures freedom of conscience and the right to profess, practise, and propagate religion; the freedom of conscience grants individuals the liberty to follow or not follow any religion, reflecting personal moral choices, whereas the freedom to propagate provides limited liberty to spread one's religion through the exposition of tenets, ideas, or convictions. Such freedom emphasises an inclusive secular framework where individuals have autonomy over their religious beliefs.

Regarding the social justice aspect under our Constitution, the Preamble declares India's resolve to secure social, economic, and political justice for its citizens. Additionally, Articles 14-18 embody the right to equality, including provisions for reservation policies aimed at uplifting the Scheduled Castes (SCs), Scheduled Tribes (STs), and Other Backward Classes (OBCs). Article 15 provides for affirmative action in education for SCs, STs, and socially and educationally backward classes, and Article 16 ensures reservation in public employment for SCs, STs, and OBCs.

It needs to be understood that India's reservation policies aim to ensure equal opportunities for historically marginalised communities by addressing systemic discrimination. These principles extend to access to jobs, employment conditions, promotions, training, career development, and performance assessment. The key aspects covered under these policies include initial appointments, promotions, salary issues, retirement benefits, and job security.

Historically, some landmark judgments have been made by the Supreme Court, and amendments have been made by the Parliament to implement the reservation policy. In the *Indra Sawhney Case* (1992), the Supreme Court upheld the 27% quota for backward classes but introduced key limitations, including the 50% reservation cap. The judgment also introduced the concept of 'creamy layer', which states that reservation for backward classes should exclude the economically advantaged within these groups.

In 2019, the 103rd constitutional amendment was passed, introducing a 10% reservation for economically weaker sections (EWS) in the unreserved category, adding clauses to Articles 15 and 16. Notably, this reservation exceeds the 50% cap established in the Indra Sawhney judgment.

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### **A Critical Reminder**

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The Supreme Court, in its judgment in the instant case, observed that India is a secular country that allows every citizen to practise and profess a religion of their choice as guaranteed under Article 25 of the Constitution. It is noted that one should convert to a different religion when he/she is genuinely inspired by its principles, tenets, and spiritual thoughts, and not to derive the benefits of reservation. When one converts to a different religion, but does not have any actual belief in it, the same cannot be permitted, as it defeats the social ethos of the policy of reservation. As the appellant claims to be a Hindu and seeks a Scheduled Caste community certificate solely for the purpose of employment, such a dual claim made by her is untenable, and she cannot continue to identify herself as a Hindu after baptism. Therefore, the conferment of Scheduled Caste status to the appellant would go against the very object of reservation, and amount to fraud on the Constitution.

The Supreme Court's ruling reaffirms the constitutional principle that religious conversion undertaken without genuine belief to gain reservation benefits constitutes a violation of the law. This judgment reflects a commitment to preserving the integrity of affirmative action policies while upholding the secular and egalitarian values of the Constitution. While affirmative action policies remain vital for empowering marginalised communities, their misuse undermines the foundational principles of the Constitution. Significantly, this judgment serves as a critical reminder to uphold the ethical and legal integrity of these policies, ensuring that they achieve their intended purpose of fostering justice and equality for all without discrimination.

*Abhinav Mehrotra is an Assistant Professor and Amit Upadhyay an Associate Professor at Jindal Global Law School, O.P. Jindal Global University, Sonapat, India.*

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