

ITEM NO.17

COURT NO.5

SECTION IV-C

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 22733/2022

(Arising out of impugned final judgment and order dated 14-11-2022 in WP No. 12238/2021 passed by the High Court Of M.P. Principal Seat At Jabalpur)

THE STATE OF MADHYA PRADESH & ORS.

Petitioner(s)

VERSUS

SAMUEL DANIEL

Respondent(s)

(IA No.193242/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 03-01-2023 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.R. SHAH
HON'BLE MR. JUSTICE C.T. RAVIKUMAR

For Petitioner(s) Mr. Tushar Mehta, SG
Mr. K.M. Nataraj, ASG
Mr. Saurabh Mishra, AAG
Mr. Bharat Singh, AAG
Mr. D.S. Parmar, AAG
Mr. Sunny Choudhary, AOR
Mr. Abhimanyu Singh, Adv.
Ms. Indira Bhakar, Adv.
Mr. Sandeep Sharma, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

Shri Tushar Mehta, learned Solicitor General of India, has taken us through the provisions of Section 10 of the Madhya Pradesh Freedom of Religion Act, 2021 [Madhya Pradesh Act No. 5 of 2021], which reads as under:

"10. (1) Any person who desires to convert shall submit a declaration to that effect 60 days prior to such conversion in prescribed Form to the District Magistrate stating that he desires to convert on his own free will and without any force coercion, undue influence or allurement.

(2) Any religious priest and/or any person who intends to organize conversion shall give 60 days prior notice to the District Magistrate of the district where such conversion is proposed to be organized in such Form as may be prescribed.

(3) The District Magistrate on receiving the information under sub-section (1) and (2) shall give acknowledgement of such prior notice in such manner as may be prescribed.

(4) Whoever contravenes the provision of sub-section (2) shall be punished with imprisonment for a term which shall not be less than three years, but may extend to five years and shall also be liable to fine which shall not be less than Rupees Fifty Thousand.

(5) No Court shall take cognizance of the offence committed under this section without prior sanction of the concerned District Magistrate."

He has also taken us through the earlier legislation, namely, the M.P. Dharma Swatantrya Adhiniyam 1968 [Act No. 27 of 1968], more particularly, Section 5 of the said Act, which reads as under:-

"5. Intimation to be given to District Magistrate with respect to conversion.-

(1) Whoever converts any person from one religious faith to another either by performing himself the ceremony necessary for such conversion as a religious priest or by taking part directly or indirectly in such ceremony shall, within such period after the ceremony as may be prescribed, send an intimation to the District Magistrate of the district in which the ceremony has taken place of the fact of such conversion in such form as may be prescribed.

(2) if any person fails with sufficient cause of comply with the provisions contained in sub-section (1), he shall be punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both."

It is submitted that the *vires* and constitutional validity of Section 5 of the Act 1968 was the subject-matter of challenge before this Court and the Constitution Bench of this Court in the reported decision in the case of Rev. Stainislaus vs. State of Madhya Pradesh and Others, (1977) 1 SCC 677 had upheld the constitutionality/*vires* of the earlier legislation, more particularly, Section 5 of the 1968 Act.

It is submitted that, as such, Section 5 of the 1968 Act is *pari materia* and/or similar to that of Section 10(2) of the Act 2021.

It is further submitted by Shri Mehta, learned Solicitor General, that so far as Section 10(1) of the 2021 Act is concerned, any person who desires to convert to another religion is required to submit a declaration to that effect 60 days prior to such conversion in the prescribed form to the District Magistrate stating that he desires to convert on his/her own free will and without any force, coercion, undue influence or allurement. It is submitted that for the contravention of the provision of sub-section (1), no penal consequences is provided under the Act of 2021 and that as per Section 10(4) of the 2021 Act, the penal consequences are provided only with respect to contravention of the provision of sub-section (2) of section 10 of the Act 2021. It is submitted that therefore in view of the decision of the Constitution Bench of this Court in the case of *Rev. Stainislaus (supra)*, upholding the *vires* of Section 5 of the 1968 Act which is *pari materia* to Section 10(2) of the 2021 Act, the High Court has seriously erred in staying Section 10 of the Act 2021. It is

submitted that therefore looking to the larger public interest for which the Act 2021 has been enacted to safeguard against the unlawful and illegal conversions by coercion, undue influence or allurement, it is prayed to consider the issue involved and the order of stay granted by the High Court staying Section 10 of the 2021 Act.

Considering the aforesaid aspects and as the issue involved is of greater public importance, issue notice on the Special Leave Petition as well as on prayer for interim relief, returnable on 07.02.2023.

Dasti, in addition, is permitted.

The original writ petitioner be served within a period of one week from today.

Counter, if any, be filed on or before the next date of hearing.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(NISHA TRIPATHI)
ASSISTANT REGISTRAR