

Non-Reportable

IN THE SUPREME COURT OF INDIA
INHERENT/ CIVIL ORIGINAL JURISDICTION

REVIEW PETITION (CIVIL) No. 3358 OF 2018
IN
WRIT PETITION (CIVIL) No. 373 OF 2006

KANTARU RAJEEVARU

..... Petitioner

Versus

INDIAN YOUNG LAWYERS ASSOCIATION
THR. ITS GENERAL SECRETARY MS. BHAKTI
PASRIJA AND ORS.

... Respondents

WITH

SLP(C) No. 18889/2012, W.P.(C) No. 286/2017, R.P.(C) No. 3359/2018 in W.P. (C) No. 373/2006, Diary No. 37946-2018, R.P.(C) No. 3469/2018 in W.P.(C) No. 373/2006, Diary No. 38135-2018, Diary No. 38136-2018, R.P.(C) No. 3449/2018 in W.P.(C) No. 373/2006, W.P.(C) No. 1285/2018, R.P.(C) No. 3470/2018 in W.P.(C) No. 373/2006, R.P.(C) No. 3380/2018 in W.P.(C) No. 373/2006, R.P.(C) No. 3379/2018 in W.P.(C) No. 373/2006, R.P.(C) No. 3444/2018 in W.P.(C) No. 373/2006, R.P.(C) No. 3462/2018 in W.P.(C) No. 373/2006, Diary No. 38764-2018, Diary No. 38769-2018, Diary No. 38907- 2018, R.P.(C) No. 3377/2018 in W.P.(C) No. 373/2006, Diary No. 39023- 2018,Diary No. 39135-2018,Diary No. 39248-2018, Diary No. 39258-2018, Diary No. 39317-2018, W.P.(C) No. 1323/2018, W.P.(C) No. 1305/2018, Diary No. 39642-2018, R.P.(C) No. 3381/2018 in W.P.(C) No. 373/2006, Diary No. 40056-2018, Diary No. 40191-2018, Diary No. 40405-2018, Diary No. 40570-2018, Diary No. 40681-2018, Diary No. 40713-2018, Diary No. 40840-2018, Diary No. 40885-2018,

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ORDER

S.A.BOBDE, CJI

1. Indian Young Lawyers Association filed Writ Petition (Civil) No. 373 of 2006 challenging the validity of Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965 (for short, “the 1965 Rules”). A further direction to the respondents therein to permit female devotees between the ages of 10 to 50 years to enter the Sabarimala temple without any restrictions was sought in the Writ Petition. By an order dated 30th October 2017, a three Judge bench of this Court referred the matter to a

larger bench for resolution of the questions raised in the Writ Petition. The Writ Petition was placed before a Constitution Bench consisting of five Judges. By a majority of 4:1, this Court allowed the Writ Petition on 28.09.2018. It was held by this Court that the devotees of Lord Ayyappa do not constitute a separate religious denomination and therefore cannot claim the benefit of Article 26 of the Constitution of India. This Court also concluded that exclusion of women between the ages of 10 to 50 years from entry into the temple is violative of Article 25 of the Constitution of India. Further, Rule 3 (b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965 was declared as violative of Article 25 (1) to the Constitution of India and *ultra vires* Section 3 of Kerala Hindu Places of Public Worship (Authorisation of Entry) Act, 1965.

2. Several review petitions were filed which were listed along with fresh Writ Petitions in open Court and heard together. Ranjan Gogoi CJ, and A.M. Khanwilkar and Indu Malhotra, JJ were of the opinion that the scope of the freedom of religion guaranteed under Articles 25 and 26 of the Constitution needs an authoritative pronouncement by a larger bench of not less than seven Judges. The contours of

judicial review in matters pertaining to essential religious practices was another issue which was identified to be adjudicated upon by a larger bench. According to them, the determination of the questions of law referred to a larger bench would have a bearing on pending writ petitions relating to entry of Muslim women in durgahs/mosques, the entry of Parsi women married to non-Parsis into the holy fire place of Agyari and the challenge to the practice of female genital mutilation in Dawoodi Bohra Community. In such view, certain questions of law were referred to a larger bench. According to the reference, the conflict of opinion between the judgments in ***Commissioner Hindu Religious Endowments, Madras vs. Shri Lakshmindra Thritha Swaminar of Sri Shirur Mutt¹***, and ***Durgah Committee, Ajmer vs. Syed Hussain Ali & Ors.²*** pertaining to the role of the Court in matters which are essential religious practices had to be resolved.

3. The following issues were framed for consideration to be decided by a larger bench:

(i) Regarding the interplay between the freedom of religion under Articles 25 and 26 of the

1 [1954] SCR 1005

2 [1962] 1 SCR 383

Constitution and other provisions in Part III, particularly Article 14.

(ii) What is the sweep of expression 'public order, morality and health' occurring in Article 25(1) of the Constitution.

(iii) The expression 'morality' or 'constitutional morality' has not been defined in the Constitution. Is it over arching morality in reference to preamble or limited to religious beliefs or faith. There is need to delineate the contours of that expression, lest it becomes subjective.

(iv) The extent to which the Court can enquire into the issue of a particular practice is an integral part of the religion or religious practice of a particular religious denomination or should that be left exclusively to be determined by the head of the section of the religious group.

(v) What is the meaning of the expression 'sections of Hindus' appearing in Article 25(2)(b) of the Constitution.

(vi) Whether the "essential religious practices" of a religious denomination, or even a section thereof are afforded constitutional protection under Article 26.

(vii) What would be the permissible extent of judicial recognition to PILs in matters calling into question religious practices of a denomination or a section thereof at the instance of persons who do not belong to such religious denomination?

The review petitions were adjourned till the determination of the questions by a larger bench.

4. R.F. Nariman and D.Y. Chandrachud JJ did not agree with the majority opinion, and rendered their separate dissenting opinion. The Review Petitions were dismissed by them as no ground for review was made out. The fresh Writ Petitions filed under Article 32 of the Constitution were also dismissed as not maintainable.

5. This bench of nine Judges was constituted by the Chief Justice of India to answer the reference. At the threshold, upon the objection raised by the parties taking exception to the reference, an issue as to whether this Court can refer questions of law to a larger bench in a review petition was framed. Their request to hear the issue regarding the maintainability of the reference as a preliminary question was acceded to. We have heard the learned counsel for both sides on the maintainability of the reference.

6. By an order dated 10.02.2020, we answered the preliminary point by holding that questions of law can be referred to a larger bench in a review petition. Reasons

were to follow later. On the same day we had also re-framed the issues referred to this Bench as follows :

- 1. What is the scope and ambit of right to freedom of religion under Article 25 of the Constitution of India?*
- 2. What is the inter-play between the rights of persons under Article 25 of the Constitution of India and rights of religious denomination under Article 26 of the Constitution of India?*
- 3. Whether the rights of a religious denomination under Article 26 of the Constitution of India are subject to other provisions of Part III of the Constitution of India apart from public order, morality and health?*
- 4. What is the scope and extent of the word 'morality' under Articles 25 and 26 of the Constitution of India and whether it is meant to include Constitutional morality?*
- 5. What is the scope and extent of judicial review with regard to a religious practice as referred to in Article 25 of the Constitution of India?*
- 6. What is the meaning of expression "Sections of Hindus" occurring in Article 25 (2) (b) of the Constitution of India?*
- 7. Whether a person not belonging to a religious denomination or religious group can question a practice of that religious denomination or religious group by filing a PIL?*

7. By this order, we are giving reasons to support the order dated 10.02.2020 by which we held that this Court can refer questions of law to a larger bench in a review petition.

8. It was argued on behalf of those objecting to the reference that the review petitions are not maintainable in view of the limitations in Order XLVII of the Supreme Court Rules, 2013. As the review petitions are liable to be dismissed, the reference is bad. Assuming that reference to a larger bench can be made in a review petition, it is permissible only after the review is granted and not during the pendency of a review petition. It was contended that hypothetical questions should not be answered by this Court. Another submission was to the effect that abstract questions of law without facts cannot be the subject matter of reference. The reference is vitiated as no reasons were recorded justifying the prima facie view that there is a conflict of opinion in the judgments in ***Shirur Mutt case (supra)*** and the ***Durgah Committee case (supra)***. Another submission was made that only appeals can be

referred to a larger bench in accordance with the proviso to Article 145 (3) of the Constitution of India.

9. On the other hand, learned counsel supporting the reference submitted that there are no limits to the jurisdiction of this Court which is a superior Court of record. This Court can determine its own jurisdiction for exercise of its inherent powers. This Court can make any order which is necessary to do complete justice under Article 142 of the Constitution of India. The power of this Court cannot be fettered by Order XLVII of the Supreme Court Rules. In any event, according to the learned counsel, there is no bar in the Supreme Court Rules preventing this Court from making a reference in a review petition. It was submitted that the review petitions emanate from a judgment in a Writ Petition, filed in the form of a Public Interest Litigation, to which the rules of procedure do not strictly apply. It was urged that seminal questions of utmost importance arise for consideration which require authoritative pronouncement of a larger bench. Therefore, the reference has to be answered to meet the ends of justice.

10. Though the preliminary point for adjudication is the reference of questions of law to a larger bench in a review

petition, submissions were made by both sides regarding the maintainability of the review petitions. Presumably, this was done because no reference can be made in review petitions which were not maintainable. Admittedly, the review petitions are kept pending awaiting the pronouncement on the questions of law which were referred to this Bench. Therefore, we refrain from expressing any view on the merits of the review petitions. However, it is necessary for us to decide the maintainability of the review petitions in view of the submissions made by the parties.

11. Article 137 of the Constitution of India empowers the Supreme Court to review any judgment pronounced or order made by it subject to the provisions of any law made by the Parliament or any rules made under Article 145. No law has been made by the Parliament as contemplated in Article 137. Article 145 of the Constitution of India gives power to the Supreme Court to make rules for regulating the practice and procedures in the Court. Article 145 (1) (e) pertains to the rules relating to the conditions subject to which any judgment or order pronounced by the Court may be reviewed and the procedure for such review including the time within which applications to the Court for such review

are to be entertained. The Supreme Court Rules which were made in 1966 were repealed by the Supreme Court Rules 2013, which are in force. Order XLVII Rule 1 of the Supreme Court Rules, 2013 reads as follows:

“The Court may review its judgment or order, but no application for review will be entertained in a civil proceeding except on the ground mentioned in Order XLVII, rule 1 of the Code, and in a criminal proceeding except on the ground of an error apparent on the face of the record. The application for review shall be accompanied by a certificate of the Advocate on Record certifying that it is the first application for review and is based on the grounds admissible under the Rules.”

12. It is clear from a plain reading of Order XLVII, Rule 1 that there are no restrictions on the power of this Court to review its judgment or order. The exceptions to the general power of review relate to review of civil proceedings which can be entertained only on grounds mentioned in Order XLVII, Rule 1 of the Code of Civil Procedure, 1908 and to review of criminal proceedings which can be entertained only on the ground of an error apparent on the face of record. It is clear that there is no fetter in the exercise of the jurisdiction of this Court in review petitions of judgments

or orders arising out of proceedings other than civil and criminal proceedings.

13. Part II of the Supreme Court Rules deals with Civil Appeals, Criminal Appeals and Special Leave Petitions under Article 136 of the Constitution. Order XXI refers to Special Leave Petitions (Civil) and Order XXII covers Special Leave Petitions (Criminal) proceedings. Petitions filed under Article 32 of the Constitution are dealt with under Order XXXII in Part III of the Supreme Court Rules. Sub-Rule 12 of Order XXXVIII refers to Public Interest Litigation. Admittedly, Writ Petition (Civil) No. 373 of 2006 was filed in public interest. The review petitions arise out of the judgment in the said Writ Petition.

14. Civil proceedings and criminal proceedings dealt with in Part II of the Rules are different from Writ Petitions covered by Part III of the Supreme Court Rules. The exceptions carved out in Order XLVII, Rule 1 of the Supreme Court Rules pertain only to civil and criminal proceedings. Writ Petitions filed under Article 32 of the Constitution of India do not fall within the purview of civil and criminal proceedings. Therefore, the limitations in Order XLVII, Rule 1 do not apply to review petitions filed against judgments or

orders passed in Writ Petitions filed under Article 32 of the Constitution of India.

15. When a statute is carefully punctuated and there is doubt about its meaning, weight should undoubtedly be given to the punctuation. (**See:- Crawford: Interpretation of Law (Statutory Construction)**). However, punctuation may have its uses in some cases, but it cannot certainly be regarded as a controlling element and cannot be allowed to control the plain meaning³. Clause 13(3)(v) of the C.P. and Berar Letting of Premises and Rent Control Order, 1949 fell for interpretation of this Court in **Dr. M.K. Salpekar v. Sunil Kumar Shamsunder Chaudhari & Ors**⁴. Clause 13 (3) (v) reads:

“that the tenant has secured alternative accommodation, or has left the area for a continuous period of four months and does not reasonably need the house.”

This Court was of the opinion that the punctuation mark ‘comma’ which appears in the sub-clause after “alternate accommodation” and before the rest of the sentence indicates that the last part of the sub-clause

³ Aswini Kumar Ghose and another vs. Arabinda Bose and another. 1953 (4) SCR 1
⁴ (1988) 4 SCC 21

namely 'and does not reasonably need the house' governs only the second part of the sub-clause. Yet another case where punctuation was relied upon for construing a statutory provision is **Mohd. Shabir v. State of Maharashtra**⁵. Section 27 of the Drugs and Cosmetics Act, 1940 reads as under:

"Whoever himself or by any other person on his behalf manufactures for sale, sells, stocks or exhibits for sale or distributes-

(a) any drug-

(i) deemed to be misbranded under clause (a), clause (b), clause (e), clause (d), clause (f) or clause (g) of section 17 or adulterated under section 17B; or

(ii) without a valid licence as required under clause (c) of section 18."

shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to ten years and shall also be liable to fine;

Provided that the Court may, for any special reasons to be recorded in writing, impose a sentence of imprisonment of less than one year".

16. It was held that the words used in Section 27 namely, "manufacture for sale", "sells" have a comma after each clause but there is no comma after the clause "stocks or exhibits for sale". The absence of any comma after the

⁵ (1979) 1 SCC 568

words 'stocks' clearly indicates that the clause "stocks or exhibits for sale" is an indivisible whole.

17. Construction of Order XLVII, Rule 1 of the Supreme Court Rules should be made by giving due weight to the punctuation mark 'comma' after the words "the Court may review its judgment or order". The intention of the rule making authority is clear that the above mentioned part is disjunctive from the rest of the rule. Moreover, the words "but no application for review will be entertained in a civil proceeding except on ground mentioned in Order XLVII, Rule 1 of the Code and in a criminal proceeding except on the ground of an error apparent on the face of record" are exceptions to the opening words of Order XLVII Rule 1, namely, "the Court may review its judgment or order". Therefore, there is no limitation for the exercise of power by this Court in review petitions filed against judgments and orders in proceedings other than civil proceeding or criminal proceedings.

18. Submissions were made regarding the maintainability of the review petitions for not satisfying the requirement of Order XLVII Rule 1 CPC. This argument is on the basis that the review petitions were filed against a judgment in a civil

proceeding. Several judgments were cited in support of this contention. As we have held that the review petitions have arisen from a judgment in a Writ Petition filed under Article 32 of the Constitution of India to which the provisions of Order XLVII, Rule 1 of CPC are not applicable, it is not necessary to refer to those judgments.

19. The alternate submission was that a reference can be made only after the grant of review and not in a pending review petition. Support for the proposition was sought from a judgment of this Court in **Behram Pesikaka v. State of Bombay**⁶. It is true that reference in the said case was made after grant of review. But that does not mean that reference cannot be made in a pending review petition.

20. The provision in the Supreme Court Rules, 2013 pertaining to reference to a larger bench is Order VI rule 2 which reads as:-

“Where in the course of the hearing of any case, appeal or other proceedings the bench considers that the matter should be dealt with by a Larger Bench, it shall refer the matter to the Chief Justice,

6 (1955) 1 SCR 613

who shall thereupon constitute such a bench for the hearing of it.”

21. Reference to a larger bench can be made in any cause or appeal as well as in any ‘other proceeding’. The term ‘proceeding’ is a very comprehensive term and generally speaking, means a prescribed course of action for enforcing a legal right. It is a term giving the widest freedom to a Court of law so that it may do justice to the parties in the case⁷. There cannot be any doubt that the pending review petition falls within the purview of the expression “other proceeding”. The reference has been made in the course of pending review petitions.

22. In addition, there is no fetter on the exercise of discretion of this Court in referring questions of law to a larger bench in review petitions. Being a superior Court of record, it is for this Court to consider whether any matter falls within its jurisdiction or not. Unlike a Court of limited jurisdiction, the superior Court of record is entitled to determine for itself questions about its own jurisdiction⁸.

⁷ Babu Lal vs. Hazari Lal Kishori Lal [1982] 1 SCC 525

⁸ Powers, Privileges and Immunities of State Legislatures,

In re (Keshav Singh case), (1965) 1 SCR 413.

See also Naresh Mirajkar v. State of Maharashtra, (1966) 3 SCR 744

23. No matter is beyond the jurisdiction of a superior Court of record unless it is expressly shown to be so, under the provisions of the Constitution. In the absence of any express provision in the Constitution, this Court being a superior Court of record has jurisdiction in every matter and if there is any doubt, the Court has power to determine its jurisdiction⁹. It is useful to reproduce from Halsbury's Laws of England, 4th Edition Vol. 10, para 713, relied upon in the aforementioned judgments, which states as follows:-

"Prima facie, no matter is deemed to be beyond the jurisdiction of a superior Court unless it is expressly shown to be so, while nothing is within the jurisdiction of an inferior Court unless it is expressly shown on the face of the proceedings that the particular matter is within the cognizance of the particular Court."

Undoubtedly there is no bar on the exercise of jurisdiction for referring questions of law in a pending review petition. Therefore, the reference cannot be said to be vitiated for lack of jurisdiction. This Court has acted well within its power in making the reference.

⁹ Delhi Judicial Service Association v. State of Gujarat (1991) 4 SCC 406

24. Furthermore, the reference can be supported by advertng to Article 142 of the Constitution of India which enables this Court to make any order as is necessary for doing complete justice in any cause or matter pending before it. The expression 'cause' or 'matter' would include any proceeding pending in Court and it would cover almost every kind of proceeding pending in this Court including civil or criminal proceedings¹⁰. As such, the expression 'cause or matter' surely covers review petitions without any doubt. Therefore, it is well within the province of this Court to refer questions of law in pending review petitions.

25. Order LV Rule 6 makes it crystal clear that the inherent power of this Court to make such orders as may be necessary for the ends of justice shall not be limited by the Rules. In **S. Nagaraj v. State of Karnataka**¹¹, it was observed that even when there was no statutory provision and no rules were framed by the highest Court indicating the circumstances in which it could rectify its orders, the Courts culled out such power to avoid abuse of process or miscarriage of justice. It was further held that this Court is not precluded from recalling or reviewing its own order if it

¹⁰ Monica Kumar (Dr.) v. State of U.P. [2008] 8 SCC 781
¹¹ 1993 Supp. (4) SCC 595

is satisfied that it is necessary to do so for the sake of justice. The logical extension to the above is that reference of questions of law can be made in any pending proceeding before this Court, including the instant review proceedings, to meet the ends of justice.

26. By placing reliance on a judgment of this Court in **Central Bank of India v. Workmen**¹², it was submitted that this Court should not give speculative opinions or answer hypothetical questions. The reference of questions of law pertaining to the scope of Articles 25 and 26 of the Constitution of India are of utmost importance requiring an authoritative pronouncement by a larger bench, especially in light of the view of the reference Bench that there is a conflict between the Court's judgments in **Shirur Mutt (supra)** and **Durgah Committee (supra)**. An objection similar to the one in this case was taken in **Indra Sawhney vs. Union of India**¹³, which was rejected on the ground that the reference in that case was made to finally settle the legal position relating to reservations. Therefore, the reference in this case cannot be said to be suffering from any jurisdictional error.

12 (1960) 1 SCR 200

13 [1992] Supp (3) SCC 217

27. Regarding the contention that pure questions of law cannot be referred to a larger bench, it was argued that it is not possible for the Court to decide the reference without any facts of a particular case before it. We do not agree. It is not necessary to refer to facts to decide pure questions of law, especially those pertaining to the interpretation of the provisions of the Constitution. In fact, reference of pure questions of law have been answered by this Court earlier. One such instance was when this Court was convinced that a larger bench has to discern the true scope and interpretation of Article 30 (1) of the Constitution of India. An eleven Judge Bench was constituted for the purpose and eleven questions of law were framed and answered in **T.M.A. Pai Foundation v. State of Karnataka**¹⁴. Yet another case where there was a reference of pure questions of law for the larger bench needs mention. Finding a conflict between the judgments of this Court in **M. P. Sharma and Others v. Satish Chandra**¹⁵ and **Kharak Singh v. State of Uttar Pradesh**,¹⁶ a three Judge Bench of this Court referred the matter to a larger bench of five

14 (2002) 8 SCC 481

15 1954 SCR 1077

16 1964 SCR (1) 332

Judge Constitution Bench, which referred the issue relating to the existence of the fundamental right to privacy in Article 21 of the Constitution of India to a nine Judge Bench. The question whether there is a constitutionally protected right to privacy was decided by a nine Judge Bench of this Court in **Justice K.S. Puttaswamy (Retd.) and Anr. v. Union of India and Ors.**¹⁷ without reference to any facts. As stated above, determination of the scope of Articles 25 and 26 is of paramount importance. To adjudicate the reference, there is no requirement to refer to any disputed facts by this Court.

28. The point that remains to be considered is the submission pertaining to the proviso to Article 145 (3). Article 145 of the Constitution of India empowers this Court to make Rules for regulating the practice and procedure of the Court. Article 145 (3) provides that the minimum number of Judges to decide any case involving substantial questions of law as to the interpretation of the Constitution or for the purpose of hearing a reference under Article 143 shall be five. The proviso to Article 145 (3) is as follows:

“Provided that, where the Court hearing an appeal under any of the provisions of this Chapter other than article 132

17 (2017) 10 SCC 1

consists of less than five Judges and in the course of the hearing of the appeal the Court is satisfied that the appeal involves a substantial question of law as to the interpretation of this Constitution the determination of which is necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion."

29. The contention is that reference to a larger bench in accordance with the proviso to Article 145(3) can be made only in Appeals and not in any other proceedings. However, the proviso deals with a situation when reference has to be made by a bench of less than five Judges. The present reference is made by a bench of five Judges and, therefore, the proviso to Article 145 (3) is not applicable.

30. For the aforementioned reasons, the instant review petitions and the reference arising from the review petitions are maintainable.

..... **CJI.**
(S. A. BOBDE)

.....**J.**
(R. BANUMATHI)

.....**J.**
(ASHOK BHUSHAN)

.....**J.**
(L. NAGESWARA RAO)

.....**J.**
(MOHAN M. SHANTANAGOUDAR)

.....**J.**
(S. ABDUL NAZEER)

.....**J.**
(R. SUBHASH REDDY)

.....**J.**
(B.R. GAVAI)

New Delhi,
May 11, 2020.

.....**J.**
(SURYA KANT)

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ORDER

We have heard the parties at length. For reasons to follow, we hold that this Court can refer questions of law to a larger bench in a Review Petition.

.....CJl.
[S.A. BOBDE]

.....J].
[R. BANUMATHI]

.....J].
[ASHOK BHUSHAN]

.....J].
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... Respondents

WITH

SLP(C) No. 18889/2012, W.P.(C) No. 286/2017, R.P.(C) No. 3359/2018 in W.P.(C) No. 373/2006, Diary No. 37946-2018, R.P.(C) No. 3469/2018 in W.P.(C) No. 373/2006, Diary No. 38135-2018, Diary No. 38136-2018, R.P.(C) No. 3449/2018 in W.P.(C) No. 373/2006, W.P.(C) No. 1285/2018, R.P.(C) No. 3470/2018 in W.P.(C) No. 373/2006, R.P.(C) No. 3380/2018 in W.P.(C) No. 373/2006, R.P.(C) No. 3379/2018 in W.P.(C) No. 373/2006, R.P.(C) No. 3444/2018 in W.P.(C) No. 373/2006, R.P.(C) No. 3462/2018 in W.P.(C) No. 373/2006, Diary No. 38764-2018, Diary No. 38769-2018, Diary No. 38907-2018, R.P.(C) No. 3377/2018 in W.P.(C) No. 373/2006, Diary No. 39023-2018, Diary No. 39135-2018, Diary No. 39248-2018, Diary No. 39258-2018, Diary No. 39317-2018, W.P.(C) No. 1323/2018, W.P.(C) No. 1305/2018, Diary No. 39642-2018, R.P.(C) No. 3381/2018 in W.P.(C) No. 373/2006, Diary No. 40056-2018, Diary No. 40191-2018, Diary No. 40405-2018, Diary No. 40570-2018, Diary No. 40681-2018, Diary No. 40713-2018, Diary No. 40840-2018, Diary No. 40885-2018, Diary No. 40887-2018, Diary No. 40888-2018, Diary No. 40898-2018, R.P.(C) No. 3457/2018 in W.P.(C) No. 373/2006, Diary No. 40910-2018, Diary No. 40924-2018, Diary No. 40929-2018, Diary No. 41005-2018, Diary No. 41091-2018, W.P.(C) No. 1339/2018, Diary No. 41264-2018, R.P.(C) No. 3473/2018 in W.P.(C) No. 373/2006, Diary No. 41395-2018, Diary No. 41586-2018, R.P.(C) No. 3480/2018 in W.P.(C) No. 373/2006, Diary No. 41896-2018, Diary No. 42085-2018, Diary No. 42264-2018, Diary No. 42337-2018, MA 3113/2018 in W.P.(C) No. 373/2006, Diary No. 44021-2018, Diary No. 44991-2018, Diary No. 46720-2018, Diary No. 47720-

2018, Diary No. 2252-2019, R.P.(C) No. 345/2019 in W.P.(C) No. 373/2006, Diary No. 2998-2019, W.P.(C) No. 472/2019

ORDER

The following issues are framed for consideration by this Court: -

1. What is the scope and ambit of right to freedom of religion under Article 25 of the Constitution of India?
2. What is the inter-play between the rights of persons under Article 25 of the Constitution of India and rights of religious denomination under Article 26 of the Constitution of India?
3. Whether the rights of a religious denomination under Article 26 of the Constitution of India are subject to other provisions of Part III of the Constitution of India apart from public order, morality and health?
4. What is the scope and extent of the word 'morality' under Articles 25 and 26 of the Constitution of India and whether it is meant to include Constitutional morality?
5. What is the scope and extent of judicial review with regard to a religious practice as referred to in Article 25 of the Constitution of India?
6. What is the meaning of expression "Sections of Hindus" occurring in Article 25 (2) (b) of the Constitution of India?
7. Whether a person not belonging to a religious denomination or religious group can question a practice of that religious denomination or religious group by filing a PIL?

.....CJI
[S.A. BOBDE]

.....J.
[R. BANUMATHI]

.....J.
[ASHOK BHUSHAN]

.....J.
[L. NAGESWARA RAO]

.....J.
[MOHAN M. SHANTANAGOUDAR]

.....J.
[S. ABDUL NAZEER]

.....J.
[R. SUBHASH REDDY]

.....J.
[B.R. GAVAI]

.....J.
[SURYA KANT]

NEW DELHI
FEBRUARY 10, 2020