

State Vs. Hindu Heritage Research Foundation Charitable and Religions Trust

State Vs. Hindu Heritage Research Foundation Charitable and Religions Trust

SooperKanoon Citation : sooperkanoon.com/700188

Court : Delhi

Decided On : Jan-01-1991

Reported in : 48(1992)DLT433

Judge : A.D. Singh, J.

Acts : [Charitable and Religious Trusts Act, 1920](#) - Sections 7

Appeal No. : Civil Appeal No. 4 of 1991

Appellant : State

Respondent : Hindu Heritage Research Foundation Charitable and Religions Trust

Advocate for Pet/Ap. : Krishan Kumar and; Chetan Sharma, Advs

Judgement :

Anil Dev Singh, J.

(1) This is an application under Section 7 of the Charitable and Religious trust Act 1920 (for short, the Act) by the petitioner -who is the Chairman and Author of the Trust known as Hindu Heritage Research Foundation . (Sanatan Dharma Shodha Pratishthan) seeking opinion advice of direction for changing the name of the said Trust to India Heritage Research Foundation,

(2) By a Trust Deed dated January' 19,1989. the petitioner Swami Chidanand Saraswati set up the aforesaid Trust, The objects of the Trust are given in para No. 5 of the Trust Deed, which are as follows:-

'(I)to prepare and publish a multi volume encyclopedia and other publications; (ii) to promote exchange of scholars between India and the rest of the world; (iii) to encourage and promote education all round, for the development of spiritual values and character; (iv) to advance and promote any other object of spiritual and charitable nature; (v) to infuse spirit in the people of India to effectively discharge their fundamental duties assigned under the Constitution of India, specially under Clauses (e),(f), (h) & (j) of Article 51-A and as given below: (a) to promote harmony and the spirit of common brotherhood amongst all the people. (b) to value and preserve the rich heritage of Indian culture. (c) to develop the scientific temper, universal love and the spirit of inquiry and reform. (d) to strive for excellence and service in all spheres of individual and collective activities. (vi) to organise social service . activities that are geared to relieve human sufferings without restriction of caste, creed, religion or nation: (vii) to carry on activities for charitable purposes including relief of the poor, education, medical relief and the advancement of any other object of general public utility and such other activities as may be permitted for charitable purpose under the Income-Tax Act, 1961.'

(3) A reading of the objects show, that the Trust is meant, infer alta to render service to the humanity, preserve the cultural heritage of India, ameliorate suffering of the people foster the bonds of brotherhood amongst them. In the petition it is stated that the Trust was set up for the benefit of entire man-kind without

any distinction of caste, creed, religion and nation. It is further stated that the name of this Trust in Hindi is 'Sanatan Dharma Sanskrit Shodha Pratisthan, which means 'universal dharma' and is not confined to any particular religion. Petition further avers that English rendering of the name of the Trust, which has been mentioned in the Trust Deed, is 'Hindu Heritage Research Foundation'. According to the petitioner, the word 'Hindu' as used in the said Trust Deed is being misunderstood by the General Public to mean, 'Hindu' as a specific religion, which is contrary to the intention of the petitioner. It is further stated in the petition that 'the petitioner as well as the Trustees of the Trust are of the considered view that the name of the charitably Trust may be redefined as India Heritage Research Foundation'. The petition maintains that the Trustees passed a resolution dated January 27, 1991, approving the change of the name of the Trust.

(4) It seems that the petitioner and trustees are not sure as regards their power for effecting the necessary change in the name. The Trustees through the petitioner, therefore, in order to seek clarification and clear the misunderstanding about their own power to change the name, have come up to this Court under Section 7 of 'the Act' for appropriate opinion, advice and direction.

(5) The petition is supported by affidavits of each one of the Trustees. A copy of the aforesaid resolution of the Board of Trustees has also been filed. The relevant portion of the resolution reads as follows:

'THE issue of change of name of the Trust to 'India Heritage Research Foundation' was further discussed. Mr. Kumar stated that since there was no specific power provided in the Trust Deed, it would be appropriate that a petition is filed in the High Court of Delhi, New Delhi under Section 7 of the '[Charitable and Religious Trusts Act, 1920](#), inter alia seeking that the Court may give directions to the effect that the name of the Trust be changed to India Heritage Research Foundation' and that for the purpose of the trustees, Author and the general public at large, the name of Trust would stand substituted and the Trust would be entitled to carry on the said activities with the said name accordingly under the aforesaid deed. It was also suggested that since all the trustees, including the Author, are of the view that the name of the Trust be changed accordingly, affidavits of the other trustees could be filed to the said effect before the Court, if deemed necessary. Mr. Krishna Kumar is authorised to appear on behalf of the Trust as well as the individual trustees to act, appear and sign in the proceedings under the '[Charitable and Religious Trusts Act, 1920](#). He is also authorised to take such steps as may be necessary for the fulfillment of the aforesaid objective. As regards reasons for the change of the name, the Trust had already indicated its views in the earlier meeting held on 5th September, 1990.'

(6) On 12th July, 1991, the petition was posted before the Court. Since this was not an adversary litigation and involved questions of some importance, I appointed Mr. Chetan Sharma, Advocate to assist me in the matter. I have heard both Mr. Krishna Kumar for the petitioner and Mr. Chetan Sharma, Advocate who have argued the matter with ability.

(7) At the outset it may be necessary to deal with the question regarding the meaning and content of the word 'Hindu'. I hasten to say that I shall not attempt to define the term 'Hindu' as it is well-nigh impossible to capture it within the confines of words. It cannot be cribbed or put in a strait-jacket by limited and finite statements. At the most one can give etymological and historical significance of the word and the basic concept associated with it. What ever may be the general understanding actually the word 'Hindu' is associated with the river Sindhu and is the connotation of the latter word.. In the bygone centuries, people living on the banks of Sindhu were called Hindus by Persians, Who did not use sound 's' in their language. They, therefore, called the people living on this side of the Himalayas as Hindus. The other foreigners also followed suit. (see: Bhartiya Sanatana Dharma and Modern Society by Professor K. Sabharatnam).

(8) Dr. Radha Krishnan in his book the 'Hindu View Of Life' has thrown light on the origin of the term Hindu. According to him the term originally had a territorial and not a credal significance. therefore, it implied residence in a well-defined geographical area. Thus from Historical and etymological point of view, a person can have a Hindu root and yet may profess any other religion.

(9) The Supreme Court in *Sastri Yagnapurushadji and Others v. Muldas Bhudardas Vaishya and An other*, : [1966]3SCR242 , dealing with the genesis of the word 'Hindu' observed as follows:

'THE historical and etymological genesis of the word 'Hindu' has given rise to a controversy amongst indologists; but the view generally accepted by scholars appears to be that the word 'Hindu' is derived from the river Sindhu otherwise known as Indus which flows from the Punjab. 'That Part of the great Aryan race', says Monier Williams, 'which immigrated from Central Asia, through " the mountain passes into India, settled first in the districts near the river Sindhu (now called the Indus). The Persians pronounced this word Hindu and named their Aryan brethren Hindus. The Greeks, who probably gained .their first ideas of India from the Persians, dropped the hard aspirate, and called the Hindus 'Indoi'.' The Encyclopedia of Religion and Ethics, Vol. VI. has described 'Hinduism' as the title applied that that form of religion which prevails among the vast majority of the present population of the Indian Empire (p. 686). As Dr. Radhakrishnan has observed: 'The Hindu civilization is so called, since its original founders or earliest followers occupied the territory drained by the Sindhu (the Indus) river system corresponding to the North West Frontier Province and the Punjab: This is recorded in the Rig Veda, the oldest of the Vedas, the Hindu scriptures which give their name to this period Indian History. The people of the Indian side of the Sindhu were called Hindu by the Persian and the later western invaders'. That is the genesis of the word 'Hindu'.

WHEN we think of the Hindu religion, we find it difficult.if not impossible, to define Hindu religion or even adequately describe it. Unlike other religions in the world, the Hindu religion does not claim any one prophet: it does not worship any one God; it does not subscribe to any one dogma; it does not believe in any one philosophic concept; it docs not follow any one set of religious rites or performances: in fact, it does not appear to satisfy the narrow traditional features of any religion or creed. It may broadly be described as a way of life and nothing more.'

(10) The Privy Council in *Bhagwan Koer v. J.C. Bose and Others* I.L.R.31. Cal 11 approved the decision of the Chief Court of Punjab which, inter alia, held that the Hindu religion is marvelously catholic and elastic. Its theology is marked by eclecticism and tolerance and unlimited freedom of private worship.

(11) His Holiness Swami Shivananda in his book *Bliss Divine* has described Hinduism in the following words:

'THE term Hinduism is most elastic. It includes a number of sects and cults, allied, but different in many important points. Hinduism has, within its fold, various schools of Vedanta, Saivism, Saktism, Vaishnavism, etc. It has various cults and creeds. It is more a league of religions than a single religion with a definite creed. It is a fellowship of faiths, it is a federation of philosophies. It accommodates all types of men. It prescribes spiritual food for everybody, according to his qualification and growth.. This is the beauty of this magnanimous religion. This is the glory of Hinduism, Hence there is no conflict among the various cults and creeds. Lord Krishna says in the Gita: 'Howsoever men approach Me, even so do I welcome them, for the path men take from every side is Mine'. All diversities are organized and united in the body of Hinduism.'

(12) In *commissioner of Wealth Tax, Madras v. Late R. Sridharan by LRs.* : [1976]104ITR436(SC) the question which fell for the determination was whether a son begotten from the marriage between a Hindu male and a Christian female of the Austrian descent was a 'Hindu' governed by Hindu Law. While holding that the off spring was a Hindu and governed by Hindu Law, the Court observed as follows:

11.The historical and etymological genesis of the word 'Hindu' has been succinctly explained by Gajendragadkar, C.J. in '*Shastri Yagnapurushadasji v: Muldas Bhundardas Vaishya* Air 1965 Sc 1119. ,

12.INUnabridged edition of Webster's Third New International Dictionary of the English Language, the term 'Hinduism' has been defined as meaning. a complex body of social, cultural and religious beliefs and practices evolved in and largely confined to the Indian subcontinent and marked by a caste system, an outlook tending to view all forms and theories as aspects of one eternal being and truth, a belief in ahimsa,' karma, dharma, samaslara, and moksha,andthe practice of the way: of works, the way of knowledge or the way of devotion as

the means of release from the round of rebirths; the way of life and form of thought of a Hindu.

(13) In Encyclopedia Britannica (15th edition) the term

'HINDUISM' has been defined as meaning. the civilization of Hindus (originally the inhabitants of the land of the Indus River). It properly denotes the Indian civilization of approximately the last 2000 years, which gradually evolved from Vedism, the religion of the ancient Indo-European peoples who settled in India in the last centuries of the 2nd millennium B.C. Because it integrates a large variety of heterogeneous elements, Hinduism constitutes a very complex but largely continuous whole, and since it covers the whole of life, it has religious, social, economic, literary and artistic aspects. As a religion, Hinduism is an utterly diverse conglomerate of doctrines, cults and way of life... In principle, Hinduism incorporates all forms of belief and worship without necessitating the selection or elimination of any. The Hindu is inclined to revere the divine in every manifestation whatever it may be, and is doctrinally tolerant, leaving others including both Hindus and non-Hindus whatever creed, and worship practices suit them best. A Hindu may embrace a non-Hindu religion without ceasing to be a Hindu, and since the Hindu is disposed to think synthetically and to regard other forms of worship, strange Gods, and divergent doctrines as inadequate rather than wrong or objectionable, he tends to believe that the highest divine powers complement each other for the well-being of the world and the mankind. Few religious ideas are considered to be finally irreconcilable. The core of religion does not even depend on the existence or non-existence of God or on whether there i.e. one God or many. Since religious truth said to transcend all verbal definition, it is not conceived in dogmatic terms: Hinduism is, then both a civilisation and conglomerate of religions, with neither a beginning a founder, nor a central authority, hierarchy, or organisation. Every attempt at a specific definition of Hinduism has proved unsatisfactory in one way or another, the more so because the finest Indian scholars of Hinduism, including Hindus themselves, have emphasised different aspects of the whole.

(14) In his celebrated treatise, *Gitarahasya* B.G. Tilak has given the following broad description of Hindu Religion: Acceptance of the Vedas with reverence : 'recognition of the fact that the means or ways of salvation are diverse, 13. At another place in the same judgment the Court observed as follows:

'16. This being the scope and nature of religion, it is not strange that it holds within its fold men of divergent views and traditions who have very little in common except a vague faith in what may be called the fundamentals of the Hindu religion.'

Having regard to the above, it can be safely said that the Hindu thought accommodates all forms of beliefs without requiring elimination, examination or shutting off or keeping out of any of them. Hinduism is fusion of faiths and alliance of philosophies. A Hindu may believe in any so called non-Hindu religions without ceasing to be a Hindu. His perception is that all paths lead to the ultimate reality. One can reach him from every side without being confined to a single side, just as a mountain top can be reached by following different tracks. Lord Krishna in *Srimad Bhagavad Gita* in Chapter 4 Text 11 declares as under:

'*YEYatha mam prapadyante Tatha Tathaiva Bhajamy aham Mama Vartmanuvartante Manusyah partha sarvasah*'

Meaning

1. All of them-as they surrender unto me-1 reward accordingly. Everyone follow my path in all respects. O son of Partha. (Translation as culled out from '*Bhagavad-Gita*' As It is by Swami Prabhu Pada.) 2. Arjuna, how-so-ever men seek me; even so do I approach them for all men follow my path in every way '(Translation as culled out from '*The Bhagavad Gita*' published by Gita Press Gorakhpur). 3. In whatever way men approach me, even so do I reward them; My path do men tread in all ways, O son of Partha. (Translation as culled out from '*The Holy Geeta*' Commentary by Swami Chinmayananda).

(15) The divine, therefore, can be realised by pursuing different approaches, methods and practices. There

can be no rigidity in it. It all depends upon what suits a seeker. In fact, truth is one but learned describe it in different ways, (Sad Ekam Vipra Bahudha Vadanti). To a real Hindu different religions constitute a symphony produced by the various notes struck by each one of them mingling with one and other and rising in harmony to pay obeisance to the one ultimate reality. Different religions are like waves rising from and composed of the same ocean and becoming one with it. therefore, in essence two waves can never be different. A Hindu can believe in Christ, Muhammad, GuruNanak, Mahavir or any other prophet and yet be a Hindu. The best illustration of this is found in the life of Swami Rama Krishna Paramhansa, True to Hindu philosophy, he held the view that there was universal truth present in all religions. Despite being a devout Hindu he saw and experienced the presence of God in variety of manifestations, as the divine Mother, as Sita, as Rama, as Krishna, as Muhammad and as Jesus Christ. He was accordingly ready to adapt himself to the dress, food or prayer patterns of other religious. The work namely, 'Shri Rama Krishna, the Great Master'-a translated version of biography of Shri Rama Krishna, brought out in Bengali under the caption of 'Sri Sri Rama Krishna Leela Prasanga' by Swami Saradananda Ji Maharaj records the spiritual experience of Shri Rama Krishna while he practiced Islam in the following words:

'AT the time of practicing Islam, the Master at first had the vision of effulgent, impressive personage with a long beard, afterwards he had the knowledge of the all pervading Brahman with attributes and merged finally in the attribute less Brahman the absolute.'

(16) The aforesaid work also describes how Shri Rama Krishna was once overpowered by great faith and reverence for Christianity which led to the vision of Jesus Christ. The biographer narrates the revelation as follows:

'ATlast, when the third day was about to close, the Master saw, while walking under the Panchavati, that a marvellous god- man of very fair complexion was coming towards him, looking steadfastly at him. As soon as the Master saw that person, he knew that he was a foreigner. He saw that his long eyes had produced a wonderful beauty in his face, and the tip of his nose, though a little flat, did not at all impair that beauty. The Master was charmed to see the extraordinary divine expression of that handsome face, and wondered who he was. Very soon the person approached him and from the bottom of the Master's pure heart came out with a ringing sound, the words, Jesus! Jesus the Christ, the great Yogi, the loving Son of God, one with the Father, who gave his heart's blood and put up with endless torture in order to deliver men from sorrow and misery!' Jesus, the god-man, then embraced the Master and disappeared into his body and the Master entered into ecstasy, lost normal consciousness and remained identified for some time with the Omnipresent Brahman with attributes. Having attained the vision of Jesus thus, the Master became free from the slightest doubt about Christ's having been an incarnation of God.'

(17) The life of Sri Rama Krishna Paramhans was not shackled to one philosophic concept, or one set of religious rites or performances. He truly depicted Hindu way of life. Hinduism does not confine itself to the traditional features of any religion or creed. Broadly speaking it may be described as a way of life. It is manifestation of unity in diversity. In it there is a place for every elevated thought which takes a person on the divine path. It cannot and it does not stop at a particular view. In verse 9 of Chapter Vii of Holy Geeta, Lord Krishna declares that God is sweet fragrance in earth and brilliance in fire, the life in all beings and human beings. A true follower of Gita, therefore, sees Lord manifesting himself in everything. According to Hindu philosophy God is in everything. It preaches universal brotherhood. All the beings of the world constitute one family-God's family (Vasudev Kutumbakam). This thought prevails in Srimad Bhagavad Gita in abundance. In this regard, following verses of Bhagavad Gita can be quoted with advantage: Chapter Vi Text 30 Yo Mam Pas'yati Sarvatra Sarvam ca mayi pas'yati Tasyaham na Pranas'yami sa came na pranasyati Meaning

1.He who sees me present in all beings, and all beings existing within me, never loses sight of me, and I never lose sight of him. (Translation as culled out from 'Bhagavad-Gita' published by Gita Press Gorakhpur). 2. He who sees me everywhere, and sees everything in me, he never gets separated from me, nor do I get separated from him. (Translation as culled out from 'The Holy Geeta' by Swami Chinmayananda) 3. For one

who sees Me everywhere and sees everything in Me, I am never lost, nor is he ever lost to me. (Translation as culled out from 'Bhagavad-Gita')

As It is by Swami PrabhuPada). Chapter Vii Text 6 Etad yonini bhutani sarvanity Upadharaya Aham Krtsnasya Jagatah Prabhhavah pralyas tatha Meaning

1.Arjun, Know that all beings have evolved from two fold prakrIT is and that I am the source of the entire creation, and into me again it disappears. (Translation as culled out from 'The Bhagavad Gita' published by Gita Press Gorakhpur). 2. Of all that is material and all that is spiritual in the world, know for certain that I am both its origin and dissolution. (Translation as culled out from 'Bhagavad-Gita As It Is' by Prabhu Pada).

Chapter Vii Text 10 Bijam mam sarva-bhutanam Viddhi partha Sanatanam Buddhir buddhimatam asmi tejas tejasvinam aham Meaning

1.Arjuna, know me the eternal seed of all beings. I am the intelligence of the intelligent; the glory of the glorious am 1. (Translation as culled out from 'The Bhagavad Gita' published by Gita press Gorakhpur). 2. 0 Son of Partha, know that I am the original seed of all existence, the intelligence of the intelligent, and the prowess of all powerful men. (Translation as culled out from 'Bhagavad-Gita As It Is' by Prabhu Pada).

Chapter Ix Text 29 Samo 'ham Sarva-bhutesu na me dvesyo' sti na priyah ye bhajanti tu mam bhaktya mayi te tesu capy aham. Meaning I am equally present in all beings; there is none hateful or dear to me. They, however, who devoutly worship me abide in me, and I too stand revealed in them. (Translation as culled out from 'The Bhagavad Gita' published by Gita Press Gorakhpur). Chapter X Text 8 Aham Sarvasya Prabhavo mattah sarvam pravartate iti matva bhajante mam budha bhava-samanvitah Meaning

1.I am source of all creation and everything in the world moves because of me; knowing this the wise, full of devotion, constantly worship me. (Translation as culled out from 'The Bhagavad Gita' published by Gita Press Gorakhpur). 2. I am the source of all spiritual and material worlds, everything emanates from me. The 'wise' who know this perfectly engage in my devotional service and worship me with all their hearts. (Translation as culled from 'Bhag-avad-Gita As It Is 'by Prabhu Pada). 3. I am the source of all; from me everything evolves; understanding thus, the 'wise' endowed with 'loving consciousness' worship me. (Translation as culled out from The Holy Geeta by Swami Chinmay-anananda.)

Chapter X Text 20 aham atma gudakesa sarva-bhutasaya-sthitah aham adis ca madhyam ca bhutanam anta eva ca Meaning

1.Arjuna, I am the universal self seated in the heart of all beings; so I alone am the beginning and middle and also the end of all beings. (Translation as culled out from 'The Bhagavad Gita' published by Gita Press Gorakhpur). 2. I am the self, 0 Gudakesa, seated in the heart of all creatures. I am the beginning, the middle and end of all beings. (Translation as culled out from 'Bhagavad-Gita As It Is' by Prabhu Pada).

(18) A follower of the above philosophy sees God in every being and, therefore, cannot think of perpetrating pain or suffering on the fellow human beings. The term 'Ahimsa' means to him non infliction of injury on others in words, thoughts and deeds. A true Hindu cannot destroy life and wage wars in the name of the religion. In order to qualify to be a 'Hindu' in real sense of the term one has to be possessed of highest knowledge, non-violent disposition, truth, compassion and obedience to the call of duty for the sake of duty, and a sensitive heart which feels the pain and suffering of fellow beings irrespective of the religion to which they owe allegiance. To be a Hindu is to act in harmony with nature and to be one with all his creation.

(19) This being the philosophy associated with the word Hindu, there cannot be any scope for so called misunderstanding in the public mind. Working with the present name can be no handicap to serve the humanity. Removal of any misunderstanding in this regard would, in my opinion, tend to be doing greatest service to the nation, as it would be in the national interest and would weld the people of the country into one solid block, irrespective of their caste, creed colour and religion.

(20) Since the trustees feel that the change of name will promote the. object of the trust and will be more conducive to its functioning and activities, I think there is no legal impediment in allowing the trustees to change the name of the trust. Any action which promotes the objects of the trust and does not militate against its purpose should be deemed to have been authorised under the Trust Deed. Such a power is implicit in the trust deed. Accordingly I hold that the trustees are possessed of the power to change the name of the trust. The name 'India Heritage Research Foundation' is an equally laudable nomenclature for the trust in question as 'India' has been a cradle for nurturing many religions and cultures. They have grown in it. They have bloomed in it. It has always provided a fertile land and favorable climate for their growth. The philosophy associated with the land has been aptly described in the following often used verse of the Vedas 'let noble thoughts come from all sides'.

(21) In view of the above discussion; I am of the opinion that the trustee of the aforesaid Trust are empowered to change the name of the Trust to 'India Heritage Research Foundation' and there is no legal impediment in their way. The Resolution of the Trust in this regard is valid which can be given effect to immediately.

(22) With these observations this petition stands disposed of.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com