
(1958) 10 BOM CK 0023
In the Bombay High Court
Case No : First Appeal No. 107 of 1952

The State of Bombay

APPELLANT

Vs

Shastri Yagna Purushadasji

RESPONDENT

Date of Decision : 03-10-1958

Acts Referred:

Constitution of India, 1950 — Article 25, 26

Citation : (1959) 61 BOMLR 700

Hon'ble Judges : Patel, J;Gokhale, J

Bench : Division Bench

Final Decision : Allowed

Judgement

Gokhale, J.—[His Lordship after stating the facts of the case, proceeded.] It was not contested before the trial Court after remand that the temples in suit were public religious institutions. The only question that was agitated was whether the temples could be regarded as Hindu temples and it was submitted on behalf of plaintiffs that they were not, as these temples were meant exclusively for the followers of the Swaminarayan creed who, according to plaintiffs, did not profess the Hindu religion. The learned trial Judge held, in view of the definite finding of his predecessor before remand that the congregation of Satsang constituted a section of the Hindu community, that it was not open to the plaintiffs to contend before him that the followers of the Swaminarayan sect were not a section of the Hindu community. As regards the nature of the temples, after considering exhaustively the evidence on the record, the trial Court recorded a finding that the Swaminarayan temple at Ahmedabad and the temples subordinate thereto were Hindu religious institutions within the meaning of Article 25(2)(b) of the Constitution.

2. This finding is supported by the learned Government Pleader and is challenged strenuously by Mr. M.V. Desai, learned Counsel appearing on behalf of respondent-plaintiffs. According to Mr. Desai, members belonging to the Swaminarayan Sampradaya do not profess the Hindu religion and, therefore,

their temples are not Hindu temples. It is not disputed before us that the declaration and injunction granted by the trial Court would not stand in case the temples belonging to the Swaminarayan sect come within the ambit of the provisions of the Bombay Hindu Places of Public Worship (Entry Authorization) Act (XXXI of 1956), which will hereafter be also referred to as Act XXXI of 1956. Now, the Bombay Harijan Temple Entry Act, 1947, has been repealed by this Act. Sections 2 and 3 of Act XXXI of 1956 run as follows :-

2. In this Act, unless the context otherwise requires,-

(a) "place of public worship" means a place, whether a temple or by any other name called, to whomsoever belonging which is dedicated to, or for the benefit of, or is used generally by, Hindus, Jains, Sikhs or Buddhists or any section or class thereof, for the performance of any religious service or for offering prayers therein; and includes all lands and subsidiary shrines appurtenant or attached to any such place, and also any sacred tanks, wells, springs and water courses the waters of which are worshipped, or are used for bathing or for worship;

(b) "section" or "class" of Hindus includes any division, sub-division, caste, sub-caste, sect or denomination whatsoever of Hindus.

3. Notwithstanding any custom, usage or law for the time being in force, or the decree or order of a court, or anything contained in any instrument, to the contrary, every place of public worship which is open to Hindus generally, or to any section or class thereof, shall be open to all sections and classes of Hindus; and no Hindu of whatsoever section or class, shall in any manner be prevented, obstructed or discouraged from entering such place of public worship, or from worshipping or offering prayers thereat, or performing any religious service therein, in the like manner and to like extent as any other Hindu of whatsoever section or class may so enter, worship, pray or perform.

Mr. Desai's submission is that u/s 2, Clause (a), the reference to Hindus, Jains, Sikhs and Buddhists is a reference to persons belonging to these religious faiths. He says that Satsangis belonging to Swaminarayan Temple may be members of the Hindu community and therefore Hindus for cultural and social purposes, but they are not persons professing Hindu religion and, therefore, according to Mr. Desai, Satsangis do not form a section, class or sect or denomination of Hindu religion. If that be so, Mr. Desai argues, Section 3 of Act XXXI of 1956 will not apply and there is no question of throwing open the suit temples to all classes and sections of Hindus. On this basis Mr. Desai contends that it is not really necessary for him to challenge the vires of this Act because, says Mr. Desai, he cannot attribute to the Legislature an intention to include the Swaminarayan sect as a sect professing Hindu religion. In this connection, reference was made to the explanation to Section 3 of the Untouchability (Offences) Act, 1955, which was enacted by Parliament and came into force on May 8, 1955. Sections 3 and 4 of that Act deal with the subject of punishment for enforcing religious and social disabilities on the ground of "untouchability" and the Explanation to Section 3

says:

For the purposes of this section and Section 4 persons professing the Buddhist, Sikh or Jaina religion or persons professing the Hindu religion in any of its forms or developments including Virashaivas, Lingayats, Adivasis, followers of Brahmo, Prarthana, Arya Samaj and the Swaminarayan Sampraday shall be deemed to be Hindus.

As I have already stated, before the remand it was Mr. Desai's contention that Section 3 of this Act would not apply because defendant No. 1 and others were sought to be prevented from entering these temples not on the ground of untouchability but on the ground that they were non-Satsangis. That was why an issue was sent down to the trial Court as to the nature of the suit temples, the matter in dispute being confined to the question whether the injunction could be allowed to stand in view of the provisions of Sections 2 and 3 of Act XXXI of 1956.

3. Mr. Desai contends that though these temples are religious institutions they are not Hindu religious institutions and he has, therefore, drawn our attention to certain definitions of "religion" as well as of an "institution". According to Mr. Desai, "religion" is a state of life bound by monastic vows; or action or conduct indicating a belief in, reverence for and desire to please a divine ruling power; or the exercise or practice of rites or observances implying this. Religion, according to Mr. Desai, would be also recognition on the part of man of some higher unseen power as having control of his destiny and as being entitled to obedience, reverence and worship and the general mental and moral attitude resulting from this belief, with reference to its effect upon the individual or the community; personal or general acceptance of this feeling as a standard of spiritual and practical life. These, definitions seem to have been taken from the Shorter Oxford English Dictionary. Mr. Desai has also relied on the definition of "religion" as given in "Webster's Dictionary, viz. "the outward act or form by which men indicate their recognition of the existence of a God or the Gods having power over their destiny, to whom obedience, service and honour are due." This Dictionary defines "institution" as "an establishment or organised society or corporation, an establishment, especially one of a public character or one affecting a community; a foundation". "We have referred to these definitions in some detail because Mr. Desai repeatedly emphasised that they were germane to the consideration of the question involved in this appeal and the same was of great importance and affected seriously the members of the Satsangi sect. "We may say that in our judgment all these definitions do not essentially differ from the definition of religion in its accepted sense, viz., a system of divine faith and worship; and in order that Mr. Desai should succeed in his contention it will be necessary for him to show that persons belonging to the Swaminarayan sect follow a system of divine faith and worship essentially distinct from Hindu religion. Mr. Desai has not disputed that Swaminarayan was born a Hindu of Hindu parents, but Mr. Desai says that the religion which he founded is a distinct

religion, firstly, because Swaminarayan considered himself as the Supreme God, secondly, he established temples for his own worship, thirdly, he propagated the ideal that worship of any other god was a betrayal of his faith and treason to him, and lastly, he appointed Acharyas and prescribed a form of "diksha" (Initiation) in order that his disciples may attain salvation through him. This, in short, is the whole argument of Mr. Desai on this point.

4. [His Lordship after referring to passages from Vachanamrit, Shikshapatri and Satsangijwan, scriptures of the Swaminarayan sect, proceeded.]

5. In the plaint itself, reference is made to Swaminarayan Sampradaya as a Sampradaya, congregation, and at numerous places as a sect. All the plaintiffs have described themselves as Hindus. Defendant No. 1 is also described as a Hindu and so also defendant No. 2, the present Acharya, and defendant No. 3, the Mahant. Defendant No. 2, who occupies the highest place in the hierarchy of the Sampradaya of the northern diocese has not chosen to give his evidence in the suit as also defendant No. 3, who is the Mahant of the temple at Ahmedabad. They have contented themselves by filing purshis (exh. 101) stating that they do not object to the plaintiffs' suit. Though this was a representative suit, none belonging to the southern diocese joined in the suit. Two Satsangis, as we have already stated, were added as defendants Nos. 5 and 6 and they filed a purshis on their own behalf, which is exh. 280, and in that purshis they made a statement disagreeing with the contention of the plaintiffs that the Satsangi or Swaminarayan Sampradaya was different from Hindu religion but they asserted that it was a section (vibhag) of Hindu religion. They did not, however, either give evidence themselves nor did they examine any witnesses. Our attention was also invited to two judgments, namely, exh. 81, the judgment of Mr. Knight, District Judge, in Suit No. 22 of 1902 dated June 23, 1905, which refers to the founder of the sect as belonging to Vallabhacharya sect of the Vaishnavas, and the judgment of N. J. Wadia J. in First Appeal No. 430 of 1927 decided on October 10, 1904, (exh. 80) where Swaminarayan is referred to as belonging to the Vallabhacharya sect of Vaishnavites. Mr. Desai says that these descriptions have no value in evidence because the point was not at issue in these prior suits. That is no doubt true, but at the same time it cannot be forgotten that till now no claim was ever made on behalf of the Swaminarayan sect that it constituted a religion different from Hinduism. In the Gazetteer of the Bombay Presidency, Vol. IX, to which reference has already been made above, at pp. 536-537 the Swaminarayan sect has been described as containing amongst its followers, Brahmans, Bhavsars, Charans, Darjis, Ghanchis, Golas, Kanbis, Kathis, Kolis, Luhars, Malis, Rajputs, Salats, Sathvaras, Sonis and Suthars and is described as the most modern of Vaishnav sects. See also Mr. Bhattacharya's Hindu Castes and Sects, pp. 472-475.

6. It is well known that a census has been held in India every ten years since 1872, and in censuses prior to 1951 religion and community loomed fairly large in the treatment of census data, the primary sorting of the slips being done on

the basis of religion. It is only in 1951 that information was extracted in respect of four main religions of Indian origin, namely, Hindu, Sikh, Jain and Buddha, and four main religions of non-Indian origin, namely, Zoroastrian, Muslim, Christian and Jew, and those persons who professed other religions were tabulated as "others". See Census of India, 1951, Vol. IV, Bombay, Saurashtra and Kutch, Part I. In the General Report of the Census of the Bombay Presidency, 1872, Part II, census figures based on religion are given both with regard to Indian areas of the Bombay Presidency as well as in the area of Native States. As regards Indian areas, the report reveals that out of every 100 Hindus by religion, no less than 62.19 belonged to "mixed" class, while 26.83 were Saivas and 10.98 were Vaishnavas and in the Vaishnav class the following sects are mentioned: Madhvacharis, Ramanuj, Swaminarayan, Valla-bhacharis, Kabir Panthis, Brijmargis, Purnamis, and it appears that Swaminarayan sect comprised 0.56 in the total of 10.98 per cent. In the figures with regard to Native States also Swaminarayans are shown as a Hindu sect. The total number of persons belonging to this sect in 1872 in the Indian area were 72,629 and in the Native States 2,17,080. The census returns are based on slips filled in by individuals and from information collected by the census personnel and it is clear that nearly three lacs of followers of Swaminarayan raised no objection to their being described as belonging to a sect professing the Hindu religion.

7. Exhibit 257 is a book on Swami Sahajanand written by Shri Manilal L. Bhalja, a pleader who instructed plaintiffs' pleader in the trial Court and was instructing Mr. M.V. Desai throughout in this appeal. At page 69 of that book it is stated:

Just as Gauranga Prabhu Chaitanya and Ramanand had accepted various non-Hindus in their Vaishnava religion, so Sahajanand had accepted Parsis and Muslims in his Vaishnava religion.

At page 107 the effect of Swaminarayan's teachings is stated as follows:

Women obtained their rightful place in the society and the Sampradaya and they made progress in religion and knowledge. Non-Hindus were brought within Hindu religion and Sudras adopted the practices of Brahmins and pure Bhagwat Dharma -was thus illuminated.... Sahajanand was a teacher of Bhagwat religion.

In the preface to the book called "Sri Swami Narayana" by Bhai Manilal C. Parekh, reference is made to the late Mr. Justice Ranade's description of Swaminarayan as "the last of the Hindu Reformers" and it is stated

One should qualify, however, this description by adding to it the words "of the old type". This is undoubtedly what Ranade meant, for he has paid his tribute again and again in unmistakable terms to such men as Ram Mohan, Keshub, Dayananda, etc., as Reformers of Hinduism, and Ranade himself was one of them. But the difference between all these and Swami Narayana lies in the fact that while they were influenced in one way or another by whatever light came from the Western World, he was wholly untouched by any alien influence and was as purely Hindu in his mental and spiritual constitution as any in the long roll

of Teachers and Reformers of the past. This constitutes his uniqueness among the reformers of our times, for in him we see Hinduism in its purest and most indigenous form.

Mr. M.V. Desai at one stage questioned the authority of this book, but when his attention was drawn to the fact that exh, 257 written by Shri Bhalja itself refers to "Sri Swami Narayana" written by Bhai Manilal C. Parekh as one of the source books, Mr. Desai was good enough to make available to us a copy of Mr. Parekh's book on "Sri Swami Narayana" which contains at the end a complete translation of the Shikshapatri. Mr. Justice Marten, as he then was, in his judgment in Appeal No. 62 of 1919 decided on November 9, 1922, part of which is reported in Shripatprasad Beharilalji Acharyashri Vs. Lakshmidas Dungarbhai Barot, , has referred to Mr. Monier Williams' writing in the journals of the Royal Asiatic Society, Vol. 14, at page 311, where the essence of Swaminarayan's teachings was described as "devotion to Shri Krishna-as the Supreme Being-with observance of duty, chastity and purity of life." In his account of the religions of the Indian people entitled "Religious Thought and Life in India", Mr. Monier Williams has devoted a few passages to the sect founded by Swaminarayan and has stated his conclusion about that sect, after studying its system and having discussions with Pandits of the Sampradaya, as follows:-

Without doubt the tendency of their doctrines is towards purity of life, which is supposed to be effected by suppression of the passions (udasa), and complete devotion to the Supreme Being in his names of Narayana, Vishnu and Krishna. In an honest desire to purify the Vaishnava faith this sect has done and is doing much good; but there can be no question that its doctrines, like its gods, its idols, and its sectarian marks, are part and parcel of genuine Vaishnavism.

The passages from the scriptures of the Sampradaya to which reference has already been made seem to confirm the view that the teaching of Swaminarayan Sampradaya was an attempt at purifying Vaishnavism and was not intended to constitute a separate religion from Hinduism.

8. [His Lordship after dealing with the oral evidence in the case, proceeded.]

9. This oral evidence does not, in our opinion, establish that Swaminarayan Sampradaya is a distinct religion from Hinduism. It is well known that Hinduism is a religion not only based on the Vedas but other scriptures as well. Every tradition which has sought to purify Hinduism has been absorbed by it with the result that Hindu religion cannot be described as a definite dogmatic creed, but in its essence is very elastic in its scope. The evidence discloses that Swaminarayan was born of Hindu parents and (started his career as a devotee of Krishna and that admittedly an overwhelming majority of Satsangis have been drawn from the ranks of Hindus, i.e., persons professing Hindu religion. Satsangis are known as belonging to the Swaminarayan as also to the Udhav Sampradaya and Udhav was a well known devotee of Shri Krishna. The essence of the teachings of Shikshapatri is based on Hindu religion. Shikshapatri

mentions Shri Krishna as Ishta Dev (tutelary deity) of the Sampradaya and other Hindu Gods, like Vishnu, Shiva, Ganapati, Parvati and Surya, are mentioned as fit to be worshipped. The four castes of Hinduism, namely, Brahmins, Kshatriyas, Vaishyas and Sudras, are recognised and eight religious books are mentioned as scriptures of the Swaminarayan faith. The main temple of Nar Narayan at Ahmedabad contains below the dome Hindu idols. Hindu non-Satsangis, except Harijans, have freely visited and worshipped the idols in this temple without any let or hindrance whatsoever. The learned trial Judge, before remand, has remarked that not even a single man came forward to say that he disclosed that he was a non-Satsangi and after that he was allowed to visit the suit temple as a place of religious worship. To some extent this is true; but, as we have already seen, witness Trikamlal Patel was asked whether the right of entry in the suit temple had been asserted by any non-Satsangi non-Harijan Hindu, to which his reply was that such a right was being enjoyed daily and it had never been denied, and our attention has not been invited to any evidence to the contrary. Considerable stress was laid on the fact that persons belonging to other religions, that is to say, Muslims and Parsis, have been initiated as Satsangis and have been admitted to the Swaminarayan fold and it is contended that a Sampradaya which admits persons professing other religions cannot be regarded as Hindu religion. But this contention fails to take into account the fact that these persons of other religions who have been initiated as Satsangis have thereby admittedly not ceased to belong to their own religion. If that be so, it cannot be argued that the overwhelming majority of Hindus who have joined the Swaminarayan Sampradaya have alone forsaken Hindu religion, as is sought to be made out before us.

10. The learned Government Pleader has relied on two Privy Council decisions in support of his contention that the Swaminarayan faith is not distinct from Hinduism. In 7 CWN 895 (Privy Council), their Lordships of the Privy Council had to consider whether the term "Hindu" in Section 331 of the Indian Succession Act, 1865, and Section 2 of the Probate and Administration Act, 1881, included, on its true construction, a Sikh. The argument before them was that the testator as a Sikh was not included in the term "Hindu" as used in the Act of 1881 and, secondly, that assuming Sikhs to be Hindus within the meaning of the Act, the testator had before his death ceased to be a Sikh and become a member of the Brahmo Samaj, and so was not a Hindu. On the first point, their Lordships agreed with the view of the Chief Court of the Punjab that a Sikh was included in the term "Hindu" as used in the Probate and Administration Act. Then they dealt with the second argument as to whether the testator, having become a member of the Brahmo Samaj had ceased to be either a Sikh or a Hindu. The Chief Court examined the literature bearing upon the Brahmo Samaj and it came to the conclusion that a Sikh or Hindu by becoming a Brahmo did not necessarily cease to belong¹ to the community in which he was born and on evidence the Chief Court found that the testator never became a professed Brahmo at all; and both these conclusions were accepted by the Privy Council. It also dealt with another

objection that in matters of diet and ceremonial observance the testator had departed so far from the standard of orthodoxy binding upon him as a Hindu or a Sikh as to exclude him from the term "Hindu" in the Probate and Administration Act and their Lordships agreed with the Chief Court in thinking that such lapses from orthodox practice, assuming them to be established, could not have the effect of excluding from the category of "Hindu" in the Act one who was born within it, and who never become otherwise separated from the religious communion in which he was born. The other case on which reliance is placed by the learned Government Pleader is *Ma Yait v. Maung Chit Maung* (1921) L.R. 48 IndAp 553. In that case the question was whether persons belonging to the community of Kalais in Burma, who were descendants from Hindus who married Burmese women, as a community were "Hindus" within the meaning of Section 13 of the Burma Laws Act, 1898, or Section 331 of the Indian Succession Act, 1865. In their judgment, their Lordships of the Privy Council referred to the decision of Sankaran Nair J. in *Muthusami Mudaliar v. Masilamani* ILR (1910) 33 Mad. 342, in which Sankaran Nair J. referred to the evolution of sects amongst Hindus and considered certain criteria according to which new castes or classes which have been evolved among the descendants of Hindus are to be considered as having retained Hindu religion. According to the learned Judge's view, the formation of new castes was a process which was constantly taking place. Usage modified old principles and it governed the sects which adopted such usage. Contact with other religions such as Buddhism, Mahomedanism and Christianity evolved sects which discarded many characteristics of orthodox Hinduism, and adopted ideas and rites which were popularly supposed to appertain to other systems. Their Lordships of the Privy Council were of the view, however, that in such cases the test to be applied was whether continuity with the original religion had been retained or broken. In the case of an individual, the question does not become very difficult because considerable latitude of action is extended to him before he is deemed to have deprived himself of the religion which gave him his law until he does anything which amounts to a clear renunciation of that religion. In the instance of a community, the question must always be whether there has been continuity of character, or variations from the regular practices of those who are Hindus, which, though considerable, ought not necessarily to be taken as involving a break in the continuity of relationship. But there is a limit to such processes and the continuity may be so broken that the new sect goes outside the original pale. Dealing with the case before them, viz., the community of Kalais, their Lordships observed as follows (p. 563) :

...The Hindu law which the Courts administer rests on the Shastras, which claim divine sanction and are followed by Brahmins generally. There may have been introduced usages which constitute a departure from the principles of the Shastras so great that the community which has adopted them must be taken to have lost the character of being one in which Hindu religion governs. In the case of a sect at a distance from Hindu centres, where the surroundings are Burman and Buddhist and the mode of life is different from that of the Hindu communities

in India proper, popularly known as such, it is easier to determine it as being outside Hinduism than it is in the case of an isolated individual who has merely lapsed into unorthodox practices. It is obvious that few influences can be more potent in producing new communities of this separate kind than the combined operation of migration, intermarriage and new occupations. When these influences have operated for sufficiently long a different community, with its peculiar religion and usages, may well result and be so outside Hinduism in the proper meaning of the word.

The learned Government Pleader also invited our attention to the case of *Nalinaksha Majhi v. Rajanikania Das Mohanta* ILR(1931) 58 Cal. 1392. There it was held that under the Bengal School of the Hindu law of inheritance, a Vaishnava of whatever class was entitled to inherit from an ancestor who professed the orthodox Hindu creed and that a person of Vaishnava faith does not renounce the Hindu religion and continues to be a Hindu and professes Hindu religion in his own way, and though he may have seceded from orthodox Hinduism, as Lutherans did from the orthodox Catholic Church, he does not go out of the pale of Hinduism. In our opinion, it cannot be said that the Swaminarayan Sampradaya has taken the overwhelming majority of its Hindu Satsangis outside the pale of Hinduism or that the teachings and principles of the Sampradaya constitute such a departure from Hindu religion that it could be said that the connection between the two has snapped.

11. Mr. Desai conceded that in case we hold that the Swaminarayan Sampradaya is not a different religion from Hinduism, the conclusion cannot be resisted that the Nar Narayan temple at Ahmedabad and the temples subordinate thereto would be Hindu religious institutions and also places of public worship"" within the meaning of Section 2 of the Bombay Hindu Places of Public Worship (Entry Authorization) Act (XXXI of 1956). Even assuming that these temples are mainly used by Satsangis and are for their benefit only, the fact that an overwhelming majority of the Satsangis are Hindus by religion and use these places for the purpose of religious service and for offering prayers therein should make these temples places of public worship within the Act; and, if that be so, u/s 3 of this Act notwithstanding any custom, usage or law for the time being in force, they would be open to Hindus generally including Harijans and no Hindu of whatever section or class can in any manner be prevented, obstructed or discouraged from entering these places of public worship or from worshipping or offering prayers therein.

12. That leads me to the alternative argument of Mr. Desai who says that in that case Act XXXI of 1956 would be in conflict with Article 25 of the Constitution of India. He relied strongly on Article 25(1) of the Constitution which provides that:

Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

and Mr. Desai contended that the Satsangis or members belonging to the Swaminarayan Sampradaya have got the right to profess, practise and propagate their faith, and that right would be interfered with if non-Satsangi Hindus including the Harijans are allowed entry into the suit temples. He says that these temples contain idols of Swaminarayan and his parents which are unknown to Hindus and for these idols non-Satsangi Hindus cannot be expected to have any reverence, and he contends that in case non-Satsangi Hindus are allowed to worship in these temples, that would come in the way of Satsangis freely professing, practising and propagating their Sampradaya. We are not prepared to accept this argument. Religious freedom contemplated under Article 25(1) of the Constitution is subject to the provisions of Article 25(2) as also Article 26. Under Article 25(2)(b), the State is empowered to make any law providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus. Religious freedom as envisaged in the Constitution is not unrestricted and unlimited religious freedom. For instance, it will be competent to the Legislature to pass a law dealing with the administration of property belonging to any religious denomination or any section thereof and that would not infringe the right of that denomination to manage its own affairs in matters of religion as contemplated in Article 26(6) of the Constitution. See *Ratilal Panachand Gandhi Vs. State of Bombay*, . In *Sri Venkataramana Devaru and Others Vs. The State of Mysore and Others*, , the Supreme Court was dealing with the challenge made to the Madras Temple Entry Authorization Act and it held that Article 25(2)(b) of the Constitution applied in terms to all religious institutions of a public character without any qualification or reserve. Public institutions would mean not merely temples dedicated to the public as a whole but also those founded for the benefit of sections thereof and denominational temples would be comprised therein. According to their Lordships of the Supreme Court, the language of this article being plain and unambiguous, it was not open to the Courts to read into it limitations which are not there, based on a priori reasoning as to the probable intention of the Legislature which would be gathered only from the words actually used in the statute. In that case their Lordships laid down the following propositions:-(1) Clause (1) of Article 25 of the Constitution declares the right of all persons to freedom of conscience and the right to freely profess, practise and propagate religion. Under Clause (1) itself that right was subject to the other provisions in the Fundamental Rights Chapter and one of the provisions to which the right declared under Article 25(1) was subject was Article 25(2). A law, therefore, which fell within Article 25(2)(b) would control the right conferred by Article 25(1) and the limitation in Article 25(1) does not apply to that law. (2) The true nature of the right conferred by Article 25(2)(b) as that the State Legislature would be able to confer by legislation on all classes and sections of Hindus the right to enter into a public temple and such a right would be available whether it is sought to be exercised against an individual under Article 25(1) or against a denomination under Article 26(b). (3) Article 25(1) deals with right of individuals, but Article 25(2) was much wider in its contents and has- reference to the rights of communities and

controls both Article 25(1) and Article 26(b). Nobody has disputed the right of the Temple Committee in this ease to manage its own affairs in matters of religion and it is not Mr. Desai's contention that the Bombay Hindu Places of Public Worship (Entry Authorization) Act in any manner infringes Article 26(b) of the Constitution. His only contention is that it infringes the "eight of Satsangis freely to profess, practise and propagate their faith under Article 25(b). That contention, in our opinion, cannot be accepted because the right under Article 25(1) is subject to the power of the State, under Article 25(2)(b), to make any law providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus. The alternative argument of Mr. Desai, therefore, that the Bombay Hindu Places of Public Worship (Entry Authorization) Act (XXXI of 1956) is ultra vires the provisions of Article 25(1) of the Constitution must also fail.

13. These were the only contentions raised before us by Mr. Desai against the finding recorded by the trial Judge after remand and in support of the declaration and injunction granted by the trial Court before remand, and those contentions cannot be accepted as valid.

14. The result is that this appeal will be allowed, the decree of the trial Court will be set aside and the plaintiffs' suit will be dismissed with costs throughout.

Patel, J.

15. I agree with my learned brother that the plaintiffs' suit be dismissed with costs throughout.