

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****CWP No.8637 of 2026****Decided on: 27<sup>th</sup> May, 2026**-----  
Munish Malhotra.....**Petitioner****Versus**

State of H.P. and others

.....**Respondents**  
-----**Coram****Ms. Justice Jyotsna Rewal Dua****Whether approved for reporting?<sup>1</sup>**For the Petitioner: Mr. Sudhir Thakur, Senior Advocate  
with Mr. Somesh Sharma, Advocate.For the Respondents: Mr. Anup Rattan, Advocate General  
with Mr. Rajat Choudhry, Assistant  
Advocate General, for respondents No.1  
to 5.-----  
**Jyotsna Rewal Dua, Judge**

Petitioner seeks to quash the Scheduled Caste certificate issued in favour of respondent No.6. Learned Senior Counsel for the petitioner submits that respondent No.6 though by birth belongs to Scheduled Caste category, however, she solemnized marriage with one Sh. Khalid Mirza according to muslim customs and ever since, she is professing Islam religion, therefore, in view of Clause 3 of the Constitution (Scheduled Caste Order, 1950), respondent No.6 is not eligible for issuance of Certificate of

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<sup>1</sup> Whether reporters of print and electronic media may be allowed to see the order? Yes



belonging to Scheduled Caste category. Hence, the said certificate issued to her on 15.05.2025 (Annexure P-1) requires to be quashed. Reliance was also placed upon **Chinthada Anand Versus State of Andhra Pradesh and others<sup>2</sup>**, in particular para 55 thereof, which reads as under:-

*“55) Upon a cumulative reading of the aforesaid discussion and in the light of the Constitution (Scheduled Castes) Order, 1950 and Constitution (Scheduled Tribes) Order, 1950, the following principles emerge for determining the entitlement of a person to be recognised as a member of a Scheduled Caste or Scheduled Tribe:*

- a) The claimant must demonstrably belong to a caste or tribe which is specifically notified and recognised under Clause 2 of the Constitution (Scheduled Castes) Order, 1950 and Constitution (Scheduled Tribes) Order, 1950, and such status must be established by clear, cogent, and unimpeachable evidence.*
- b) No person who professes a religion other than Hindu, Sikh or Buddhist shall be deemed to be a member of a Scheduled Caste. This bar under Clause 3 of the Constitution (Scheduled Castes) Order, 1950 is categorical and absolute. Conversion to any religion not specified in Clause 3 results in immediate and complete loss of Scheduled Caste status from the moment of conversion regardless of birth.*
- c) No statutory benefit, protection, reservation, or entitlement under the Constitution or under any enactment of Parliament or State Legislature that is predicated upon the membership of a Scheduled Caste can be claimed by or extended to any person who, by operation of Clause 3 of the Constitution (Scheduled Castes) Order, 1950, is not deemed to be a member of a Scheduled Caste. This bar is absolute and admits no exception.*
- d) A person cannot simultaneously profess and practice a religion other than the ones specified in Clause 3 of Constitution (Scheduled Castes) Order, 1950 and claim*

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<sup>2</sup> Criminal Appeal No.1580 of 2026, decided on 24.03.2026



*membership of a Scheduled Caste at the same time. A person who professes and practices such religion for personal, social and spiritual purposes cannot in law, assert membership of a Scheduled Caste for the purpose of securing statutory benefits. The two positions are mutually exclusive and contrary to the Constitutional scheme.*

- e) *In cases where a person claims to have reconverted from a religion not specified in Clause 3 of the Constitution (Scheduled Castes) Order, 1950 back to Hindu, Sikh or Buddhist religion, the following three conditions must be cumulatively and conclusively established:*
- i. *There must be a clear proof that the person originally belonged to a caste notified under the Constitution (Scheduled Castes) Order, 1950.*
  - ii. *There must be credible and unimpeachable evidence of bona fide reconversion to the original religion, accompanied by complete and unequivocal renunciation of the religion to which conversion had taken place, total dissociation therefrom, and actual adoption and observance of the customs, usages, practices, rituals, and religious obligations of the original caste.*
  - iii. *There must be satisfactory and credible evidence establishing acceptance and assimilation by the members of the original caste and the concerned community. Mere self-proclamation is insufficient i.e., the community must recognize and accept the person as one of their own.*

*All the above three conditions are mandatory and cumulative. The burden of proving reconversion lies entirely on the claimant, to be proven through unimpeachable evidence. Failure to establish even one condition renders the claim unsustainable.*

- f) *Where a person ceases to be a member of a Scheduled Caste by virtue of Clause 3 of the Constitution (Scheduled Castes) Order, 1950, the loss of such status carries with it the automatic and immediate termination of all eligibility for statutory benefits, protections, reservations, preferences and entitlements that are predicated upon or flow from such membership.*
- g) *With respect to Scheduled Tribes, this Court clarifies that unlike the Constitution (Scheduled Castes) Order, 1950, the Constitution (Scheduled Tribes) Order, 1950*



*does not prescribe religion-based exclusion. The determination of Scheduled Tribe status, therefore, cannot rest on conversion alone, but must turn on whether the claimant continues to possess and is recognised for the essential attributes of tribal identity, including customary practices, social organisation, community life, and acceptance by the concerned tribal community. Where conversion or subsequent conduct results in a complete severance from the tribal way of life and loss of community recognition, the foundational basis for Scheduled Tribes status will stand eroded. Conversely, where such attributes demonstrably subsist or are genuinely re-established and accepted by the tribal community, the claim cannot be rejected mechanically. The assessment in such cases is necessarily fact-specific and is left to the competent authority to decide in accordance with Constitutional principles.”*

**2.** Petitioner has not yet availed the remedy available to him in law for questioning the Scheduled Caste certificate issued in favour of respondent No.6 before the competent authority. It is yet to be ascertained by the competent fact-finding authority as to whether respondent No.6 is professing Islam religion according to muslim customs and traditions after her marriage as alleged in the writ petition. The exercise is to be carried out in accordance with law. In case the petitioner still feels aggrieved against the order passed by the competent authority, it is for him to seek appropriate remedy thereafter as may be permissible in law.



With above observations, the writ petition to stand disposed of. Pending miscellaneous application(s), if any, also stand disposed of.

May 27, 2026  
*Mukesh*

Jyotsna Rewal Dua  
Judge