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# ORTHODOXY ON TRIAL.

BY

Rao Sahib N. NATESA IYER, B.A., B.L.,

*Government Pleader, Ramnad at Madura.*

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# ORTHODOXY ON TRIAL.

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(BY RAO SAHIB N. NATESA IYER, B. A., B. L.,  
Government Pleader, Ramnad at Madura)

## In the Supreme Court of Federated India, Mount Kailas.

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Extraordinary Suit No. 1 of 1933.  
Interlocutory Application 1 of 1933.  
The first day of April, 1933.

*Present:*-Lord Nandi.

Lord Tharkshya.

Lord Hamsa.

Pandit Avurdh and others. Plaintiffs as representing the Harijans in India and all over the world, by Advocates Mr. Ijajar, Miss Alimru, and Miss Arim.

*versus*

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|--|---------------|
| 1. The Trustees of all the Devas-<br>thanams in India. | } Defendants. |
| 2. The Hindus all over the World.                      |               |
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Mr. Ijajar: This is an application for a temporary injunction.

It arises out of an action for a permanent injunction. The action is a representative action on behalf of all the Harijans in and outside India. The Plaintiffs belong to the various provinces in India. The first defendant represents the Trustees of all the Hindu Public temples in India. The second defendant represents the Sanatanist Hindus all over the World. The defendants deny the right of the Harijans to enter the temples and worship

the images there. The Plaintiffs desire to restrain them from doing so.

Alimru Devi: The action has become sensational. Boisterous meetings are being held and endless resolutions are being passed. Fasts commence dramatically, feed the imagination and disappear. Warriors, brave and true, have entered the amphitheatre. A furious paper battle is raging in the name of Gods and Demi Gods and Humanity and Divinity. It looks as if Hell has emptied itself into the groaning towns. Soviet Russia threatens to dawn in the hitherto peaceful Hindu Horizon.

Mr. I: As if this is not enough, Sanatanist tracts indulge in scurrilous attacks and try the patience of even angels and disturb public tranquility.

Alimru Devi: Even the Dailies of standing, English and Indian, are no exception to this. They are making this action more sensational.

Lord Nandi: Is not the matter sub-judice? Why should we not commit them for contempt. We can ignore these half-penny tracts. Are the Dailies offering fair criticism or are they taking sides?

Alimru Devi: The Dailies have become a necessary evil. People hanker after them more greedily than even tea and coffee, than even cinemas and talkies. Not a day passes without breaking heads in meetings and abducting girls and beating the picketing volunteers.

Mr. I: This is an *ex parte* motion. The defendants have not yet entered appearance. Will not your Lordships take up the consideration of this minor matter at some later stage, if necessary?

Alimru Devi: I want to be frank, more especially because the matter is being argued *ex parte*. Some of the Dailies have settled views. Arresting headlines and prominent places are being

assigned to views favouring the plaintiffs. Opposite views are being consigned to invisible corners.

(Mr. I. casts an angry glance at Alimru Devi.)

Lord Hamsa : From which Court does this matter come up before us.

Mr. I : I have started this as an original proceeding under the Extraordinary Jurisdiction of this Tribunal under the transitory provisions sanctioned by the Joint Parliamentary Committee as an experimental measure pending the grant of the New Constitution.

Lord Tharkshya: I hear you have just returned from England, Miss Arim. Do you know the life of this Tribunal.

Miss Arim: My Lord, the ways of the British Parliament are more mysterious than the ways of God. The Ministers do not seem to know their own mind. They are being pulled this way and that way. A weather cock is more steady. They unblushingly turn down to-day what.....

Lord T: Hush. Hush. Mr. Ijajar Proceed.

Mr. I: The object of the action is the uplift of six crores of unfortunate Harijans forming the pick and flower of Hindus and restoration to them of a right which ought never to have been taken away from them.

Lord N: Who are these Harijans. What is the right taken away from them, when and by whom. Stop. I now remember to have come across the word Harijans in the grand epic of Valmiki. Recently I had occasion to study "Archana Navaneetha" an ancient Vaishnava 'Agama'. The term "Haribhaktha" occurs there. It is perhaps different from Harabhaktha. Have your Harijans anything to do with these?

Alimru Devi: I shall narrate the history briefly. One fine evening, there was a stormy meeting in the Yerrawada gaol.

Among those present were the first plaintiff herein, a few professors from Benares etc., and my revered leader. Heaps of books were there. My revered leader brought forward a brave proposition that the imagination of the people must be captured by coining a new term like "Satanic Government" "Himalayan blunder" etc. The books were ransacked. The Agama mentioned by Your Lordship yielded the term. It was resolved to baptize with that name this most ancient people in the world who came out of the union of the Brahmana female with a Sudra male and who used to be successively called Chandalas, Svapakas, Pulkasas, Parias, Pallas, Panchamas, Adi Dravidas, Adi Andhras, Adi Karnatakas, Adi Maharashtras, Untouchables, Unseeables, etc.

Mr. I. (turning abruptly to Alimru Devi): Please stop talking nonsense. You are hopelessly giving away our case. (Turning to their Lordships) I pray Your Lordships will bear with me for a moment and permit me to correct an obvious slip. The terms "Chandala," "Svapaka," "Pulkasa" etc., are Vedic and Smriti names. The people denoted by these terms have vanished once for all; the same forces which operated to bring them into being, have carried them back to where they came from, perhaps into the bowels of the Earth. The Panchamas have nothing in common with these Chandalas etc. It has however to be confessed that it is not humanly possible to state at this distance of time, whence these Panchamas came into India and when and how they have come to be what they are, astonishingly similar in almost every respect to the Vedic and Smritic Chandala—similar in costume, living, calling, manners, customs and worship. Alimru is a new recruit to the profession and is not even three months old. What she evidently meant to state was that the defendants are illogically and perversely taking up an unthinkably absurd position in opposition to all known facts and natural phenomena. How can the microscopic offspring of such rare unions—much rarer in those days than now—be the progenitors of these six crores of Harijanas. The horror in which these unions ought to

have been held—without reason no doubt—and in which they are being held even now, in spite of living instances in very high circles, and the ineffacable stigma and stain necessarily attaching to the offspring and the families with which they may be even remotely connected—would have surely operated to wipe out the concerned individuals and families and have as a matter of fact annihilated them like the American Red Indians.

Lord H: What is the position taken by the Panchamas themselves regarding their ancestry. We don't view with favour these changes in names at the whim and caprice of individuals. It is perhaps desirable to change the caste title. We merely make the suggestion and leave it there.

Mr. I: The Harijans have no opinion in this matter or for the matter of that in any matter. They are colorless. Their mind is as invisible and unknowable as their body is unseeable and untouchable. They have no eyes, no ears, no heart, no mind, nothing at all which they can call their own except such as the defendants would condescend to give them. They stand completely suppressed by the defendants. Centuries of organized oppression and suppression have deadened all their sense of self-respect and annihilated the faculty of thinking. They are more mute than the anthropoid apes and the term Harijan which is wide enough to embrace the ape has been selected after mature deliberation. It is the Congressites, Arya Samajists, Brahmo Samajists, Swami Maryadists, Anti-untouchability Leagues etc., who are fighting the battle for the Harijans. These bodies of otherwise mutually conflicting creeds have made common cause and unreservedly placed themselves under the banner and command of that selfless little man of Sabarmathi now gracing the Yerawada gaol, the unostentatious protector of the poor and oppressed, the silent saviour of the innocent and the unrelenting destroyer of the wicked, the lamb among lambs and lion among lions the husband of thousand wives and the wife of thousand husbands whose one

and only aim is the establishment of equality everywhere in the human kingdom, animal kingdom, and lower kingdoms—Mahatma Gandhi.

Lord T: You are very eloquent. Go on, what you state appears incredible.

Mr. J: Facts are oftentimes stranger than fiction.

Lord H: How and when did Mr. Gandhi become a Mahatma. What is it which makes one a Mahatma. In the 'Ramayana' I find Ravana and Indrajit described as Mahatmas.

Alimru Devi: In 1915 as stated by Mahatma himself he was a plain Mr. Gandhi. During the days of Mr. Tilak who became a Lokamanya and of Mr. C. R. Das who became a Desabhandhu he continued to be Mr. Gandhi. Somehow he became a Mahatma later. Mr. Gandhi himself the noble soul, disclaims the title. Why should we grudge it to him. If Ravana and Indrajit are Mahatmas, Mr. Gandhi is afortiori one.

Lord T: The defendants would perhaps say that it is, unceasing activities undaunted by repeated failures, that go to make up the claim to Mahatmaship. They may cite the failure in the South African movement, the Khilafat movement, the Hindu Muslim Unity, the Das-Gandhi conflict, the Poorna swarajya movement, the Salt movement and Dandi march, Palmyra cutting movement, Foreign cloth picketing movement, the Civil Disobedience movement etc. The number is large enough.

Lord Hamsa: What do the Panchamas aver in the plaint?

Mr. I: They are not parties to this action.

Lord Nandi: What do you mean? How can the suit go on without them? This looks like a gross abuse of process. How can our order bind the Panchamas?

Mr. I: They are terribly afraid of the defendants and sternly refuse to figure as plaintiffs.

Alimru Devi : By a strange irony of fate, a situation has arisen the psychology of which is becoming more and more perplexing and incomprehensible. The rank and file of the Harijans are proclaiming from the house tops that their entry into the Hindu public temples will spell ruin and disaster to them, that they are thoroughly satisfied with their own temples and gods and that they are deriving from them greater and higher, temporal and spiritual benefits than what the defendants are deriving or can hope to derive from their ostentatious and vociferous worship in the public temples. The leaders of the Harijans, a noble band of about half a dozen, behave likewise. They spurn the offer of the plaintiffs to lift them up spiritually and cry for food and clothing and lodging instead. What is worse, all the Harijans of the village as a body wish to be left alone with their masters, the defendants. The tragedy of the situation mocks reproof. They ask "what has the Congress done to us these 40 years and more." They say "our Mirasdars give us sites for houses and building materials. They give us and our wives and children clothes twice a year. They give us money for our marriages and Tali also. Births and deaths in our families bring us moneys from them. We are left uninterrupted in the worship of our gods. We are contented with our lot. We are really happy. We value happiness more than riches. Riches after all are but means for happiness. You are creating fresh wants and multiplying them and want more and more moneys and more and more luxuries with the result that with all your electric trains, motor cars and aeroplanes, cinemas, talkies, dancing halls and haircutting saloons you are not a hundredth as happy as we are." They charge us with having extorted a crore and more of moneys during the historic tour of Mahatma and done nothing for them. What can we do, my lords. Every pie of what is still left with us after confiscation by the Government and misappropriation by our staff, is required for the daily and hourly journeys of our leaders from the Himalayas to the Cape Comorin and for



feeding the hungry mouths of our huge battalions from the Chavady to the Metropolis. We are compelled to continue them in our service for fear of desertion in spite of a phenomenal dearth of work other than removal of untouchability and temple entry propaganda. The Harijans naturally look upon us with suspicion and hesitate to figure as plaintiffs.

Mr. I: (with a face as long as a fiddle and a withering demoniacal smile) Your Lordship will now hear from me the real inwardness of the situation which Alimru Devi has confessedly not been able to understand. This attitude of Harijans is a mere make-believe. The abject subjection in which they are held by the defendants, is primarily responsible for this paradox. Your Lordships have not yet heard the worst. The Harijans are declaring i.e. they have been cajoled or cudgelled into declaring, that they are being used by this greatest of men (dead or alive) as mere tools for his self-glorification, as mere planks in the political platform, as mere deadweights for bringing down the political scale-pan against the treacherous Muslims and the movement itself is the result of a suddenly manufactured tenderness for them so long neglected and forgotten.

Alimru Devi: Why my Lord, I have myself heard the Harijans taunt this selfless man "Vanity! thy name is Gandhi". Worse, far worse than all these is another impeachment which is bordering on heresy. The defendants charge that this movement has been set on foot with a set purpose, which characteristically unerring forethought and precision. The idea behind is stated to be this. If Harijans gain entry into temples, non-Harijans will desert the temple. When non-Harijans desert the temple, the Harijans also will follow suit. The enormous properties of the temples including lands, jewels, monies etc., will be released from the trust and be at the full disposal of the new Swaraj Government which will require

them very badly. They expect that the Hindu temples would become no better than the Java temples in ruins.

Lord Hamsa: This really takes away one's breath and reads like a novel.

Mr. I: My Lords, Miss Arim has told the bare truth. Can this charge have any basis, and to make it against Mr. Gandhi of all men. My heart comes out of the eye. (Here Mr. I. sheds copious tears.) This is the return for all the sacrifice which this loin-cloth man has been making for the last two decades unmindful of the results as enjoined by the Gita. One class of people charges his activities as political bluff. Another class charges him as a vain tyrannical man devoured by a burning ambition to be revered and adored as a world-teacher and founder of a new cult, greater and nobler than any that has preceded it. A third class say that Mr. Gandhi is anxious, before he dies, that he should leave a name behind for one signal achievement at least in the midst of terrible failures. Another class of people say that he earnestly desires to shuffle off his mortal coil before he completely loses the name and fame which is abandoning him inch by inch.

Lord Nandi: (turning to his colleagues on either side) Mr. I. argues in tears. Is it proper?

Lord T.: Mr. I., We begin to doubt the propriety of your action. Can you use your tears as argument? Will it not be unprofessional?

Mr. I: (wiping his tears) My Lords, the highest tribunal of the American Republic has held that the use of the lachrymal glands, when the occasion requires it, is not only proper but that the none-user of them will be unprofessional. Besides, I am not addressing a jury.

Lord T. We are both judges and juries here. Mr. I, never mind that. You are wandering farther and farther away from

the question on hand. Address us on the points before us. Can you sustain this action in the absence of the Panchamas ?

Mr. I: The new constitution proposes to do away with all these technicalities. Anybody can bring any action for any purpose. In fact it will penalise the hair-splittings and subtleties of these lawyers, these abettors of all that is wicked and irrational, these pests of human society who are ever ready to prostitute their brain for any cause, if, only by so doing, they can make silver and gold travel to their pockets.

Lord T: Please, don't get heated. This tirade is quite uncalled for and out of taste.

Mr. I: I withdraw them. These people have been foiling me at every step. The recollection of it has thrown me off my balance. We are putting forth our best efforts to bring Harijans on record. We are entreating them, we are remonstrating with them, we are threatening them. We hope to cure this defect before long if necessary by passing a validating Act in the Assembly. Even here they are checkmating us, beyond all endurance. In the Madras Council, sanction has been most unreasonably withheld for a purely permissive Bill. In another place, sanction for Bills though given, is on account of the limitations and conditions with which it has been hedged makes the sanction as bad as not given.

Lord Hamsa: What a fall! Mr. I. How shifting are the sands of treacherous politics. A body which only yesterday preached the boycott of Legislatures, courts, Local bodies, and colleges, and wrecked whole families, to-day unblushingly proposes to appeal to the same legislature on bended knees for passing a validating Act in connection with a pending suit. A fine foretaste of the future Swaraj! Does this body rate the legislatures so low as to think that they, the legislatures, will forget their sense of duty and allow themselves to be treated as a lump of clay, ready to be kneaded into any shape and form at its bid-

ding? Does this body consider that the gracious Sovereign who has accepted the paramount trusteeship of the Devasthanams and the guardianship of the Deities will willingly agree to be a party to a breach of trust and for no better reason than that a political body in the plenitude of its insolence and impertinence demands it?

Mr. I: Different diseases require different treatments, my Lord. I assure your lordship of the sincerity of our purpose. Even the expenses of our world-wide tours, of publishing our activities in the Dailies in red lines, and our securing the goodwill and co-operation of the persons placed on high and our costly and clamouring establishment in every nook and corner, all these are being defrayed by us.

Miss Arim: Yes, your Lordship. Out of the crore and more of rupees wrung out of the impoverished and dying millions of India on the promise of immediate Purna Swaraj. Your Lordship will be surprised to learn that we have refused all remuneration for our work.

Lord Nandi: You are setting at naught all ancient traditions. What may be the motive behind all these noble deeds of self-sacrifice?

Alimru Devi: Now that your Lordships have come out with the direct question, I feel it my duty to give a direct answer, however embarrassing it may be, subject of course to whatever my leader may add by way of explanation. The sponsors of this movement, whether in the Congress camp or in the several groups outside have secret individual springs of action, which starting from different points, find their way to a central station ultimately. Some are impelled by a devouring desire to legalise PRATHILOMA marriages already contracted or yet to be performed. Some are burning with an anxiety to legitimatise the offspring of PRATHILOMA unions. Some are driven to act on account of their inability to extricate themselves, their

sons and relations from a situation into which they have got entangled in a moment of unthinking enthusiasm. Some want to redeem their past failures by engaging themselves in activities which may not evoke government opposition. Some are moving for obtaining a cheap name and fame, which they are otherwise unable to secure. Some are goaded by a love for mischief. Some for want of better work, and some, out of pure fun or frolic. None works from convictions. I can demonstrate the absolute correctness of my statement with reference to everyone of the gentlemen whose name has appeared in print as apostles of the movement.

Mr. I: (turning to Alimru Devi) I must beseech you in the name of God, in the name of your brother of blessed memory, to desist from these suicidal observations.

(Turning to their lordships) Alimru Devi has placed before your Lordship, what the defendants are attempting to paint. What counts in these matters is the common object, and not individual motives. The one and only motive spirit which is pulsating through the very protons and electrons of the bodies of the various individuals who are sponsoring the movement is the desire for universal welfare and the establishment of the equality of man. All men including Harijans are God's children and are equal before Him. Temples are houses of God. To exclude Harijans from temples is to exclude dutiful sons from their father and to deny them their birthright. To segregate those classes of people and their descendants on the ground that they are untouchables is infamous. The central common object is the removal of this crying evil and the restoration to the Harijans of this birthright of theirs.

Lord Hamsa: If you carry your proposition to its logical length, the result will be that God is unjust. Some men are born poor and some rich. Some are intelligent and some dull. Some are beautiful and some ugly. How do you explain this? Again your procedure appears open to many serious objections. How

can the money obtained on the promise of securing Swaraj be used for removing untouchability and exclusion from temple?

Mr. I: A technical objection of this kind is easily repelled by an equally technical reply. Removal of untouchability and securing temple entry are but means for obtaining Swaraj. What can be spent for the end, can be spent for the means. We are therefore at liberty to use the funds for these purposes and other purposes as well such as interdining and intermarriage and destruction of caste, all of which are other means for obtaining Purna Swaraj. One of the leaders of Harijans and a Round-tableer to boot has solemnly declared only ten days ago that caste must go. Another Round-tableer has subsequently made a similar declaration. It is true that Pandit Malaviya holds a different view. It is also true that Pandit Malaviya was once described by us as the very embodiment of orthodoxy, as a representative of the orthodox sections of the community and one that could lay claim to all that was best and noblest in Hinduism. It is also true that Mr. Devidas Gandhi has stated in a public meeting at Trichy that he won't mind if anybody opposes Mahatmaji tooth and nail but nobody can succeed, if he opposes Pandit Malaviyaji in matters affecting religion. But Panditji has now become senile and his utterances have no longer any value. Mahatma Gandhi may also hold slightly different views and perhaps has reasons of his own. When the time comes, he will fall into line, with the rest of us. It is perhaps his desire that the nation should not face an avalanche of reforms all at once. We shall leave him alone for the present and make use of him when necessary. Our souls however will not rest in peace until Hindu India becomes one mass of homogeneous humanity dancing harmoniously to tunes of equality from pipilika (ant) to Brahma without distinction of caste, creed, religion or sex.

Lord T: If the tiger springs 16 feet the cubs must spring 64. If the President of the future Indian republic and his elder

brother, the sage Prime Minister make short jumps on earth for removing untouchability and effecting temple entry their brave commanders and valiant knights-templars must make long jumps in the air for establishing interdining, intermarriage and for destroying caste. It is no wonder that a child disowns its mother.

Mr. I: If your Lordships still entertain any doubt regarding the diversion of the funds, I invite your attention to the doctrine of Cypres. We have taken care to incorporate it in the Gandhian code. It furnishes a crushing answer, to his objection as it has previously done to more formidable objections in connection with Thirupathi Devasthanam Bill and Religious Endowment Bill etc. If the individuals who built the temple or endowed them were to come down on earth to-day, they will be the first to divert them for the purposes for which we are now using them.

Lord T: Your exposition is very interesting. We must not lose sight however of the questions directly before us. We are miles away from the subject on hand. You have not explained to us who these Panchamas are. You have only told us that they are not chandalas. Are they Hindus? To whom do these public Hindu temples belong? What civil rights of the Panchamas have been infringed and when and where and by whom? What is your law relating to the entry into the public temples. I understood you as stating that they have been acquiescing in their exclusion for several centuries past. What is the necessity for this action after such a long time especially at the instance of non-panchamas, when the Panchamas themselves do not appear to be keen about it? What is the need for an ad-interim injunction? You will pardon me if I say that a vigorous discussion on these lines will be more helpful at this stage and frank statements such as those made by your juniors will facilitate the passing of a proper order.

Mr. I: I am fully alive to the importance of not keeping back useful and relevant informations. I shall straight away deal seriatim with the points raised by your Lordships.

Lord Hamsa: Will it not be more desirable to move the legislatures for removing all these disabilities especially in view of the fact that there is a phenomenal rousing of the Hindu conscience which has had no parallel so far in the annals of the sanatanist Hindus. It looks as if a volcano which has long been slumbering has begun to discharge furiously rivers of lava from the bowels of the earth.

Mr. I: We made strenuous attempts in this direction but we have been checkmated by a few non-entities in the Legislative Assembly. The Government is sitting on the fence and will not extend a helping hand. The Muslims are playing the game of hide and seek. We have approached almost every member of the Assembly but to no purpose. Mr. Gandhi feels that if the object is not achieved now, it will never be achieved. "Now or never" is his motto. It looks as if for another six months at any rate the legislatures cannot help us. Our party had the good fortune to gain admission into the President's gallery and to cast imploring glances at the members of the Assembly as they began to harangue there one after another. All the same no good has resulted. It has become necessary therefore to continue the proceedings.

Lord T: It is getting late. We shall adjourn the further hearing to-morrow.

First question: *Who are the Panchamas?*

Mr. I: I feel the same difficulty in answering the question as the *Advaitins* are reported to feel in answering the question "what is *Brahman*?" I can only answer in the language of negative. The Panchamas are different from *Chandalas*, *Pulkasas* and *Swapakas*. That is all I can say. I cannot say who they are. I can only say who they are not. The defendants state that the Panchamas are the offspring of Sudra males on Brahmana females. Their position is that the Brahmana female culprit



becomes 'only a *pathitha* while the children and grandchildren become *chandalas*. This is wholly un-understandable.

Second question : *Are the Panchamas Hindus ?*

Mr. I : My answer is they are Hindus. My reasoning in this. A Hindu is one who is governed by the Hindu Law and belongs to the one or the other of the four castes, known as Brahmana, Kshatriya, Vaisya and Sudra, and includes the offspring of an union not only in the same caste but in and among the four caste<sup>s</sup> whether *anuloma* or *prathiloma*. *Anuloma* union is the union of the male of a higher caste with a woman of a lower caste. *Prathiloma* union is the union of a female of a higher caste with a male of a lower caste. The offsprings in all these cases, by whatever name they may be called, will still belong to one of the four castes and be a Hindu. Manu has declared that there are only four castes and there is no 5th caste. The term Panchama is therefore misleading. Even assuming the defendant's definition to be correct, the Panchamas are Hindus.

Lord Hamsa : How do the defendants meet this theory ?

Mr. I : By indulging in endless disquisitions and dialectics and meaningless quibbles, and with characteristic inherited cleverness, they try to wriggle out of the situation. I perceive neither sense nor logic in the attempt. There are words and words and nothing but words. Their position is twofold.

Lord T : Your position appears to be strong on this point. You can therefore afford to be temperate in language. Vituperative vocabulary is always open to you when arguments fail.

Mr. I : I beg your Lordship's pardon. The strength of my feeling has betrayed me into an avoidable warmth. The defendant's first position is this. The Panchamas may be Hindus so far as secular purposes and strict legal rights are concerned in the same way as Brahmos, Arya Samajists, Jains, Sikhs, etc. For religion and religious worship in the temple the Panchamas are

not Hindus anymore than Brahmos and Arya Samajists. The Gods of the Panchamas are different from the Gods of the non-Panchamas and their modes of worship, the place and time of worship and the materials of worship and the rituals are also different. This is the view recently adumbrated by a septuagenarian senile leader of the defendants and taken up with avidity later on by some of his satellites notably by the Brahmin editor of a Madras journal just resuscitated. It is a mere theory evolved by a lawyer in the exuberance of his imagination and is perhaps due to a lawyer's anxiety to present a case on legal basis. It has received no support from his other colleagues in the field. Some have repelled it as unsustainable and there are a few heads of mutts among them. I venture to think that the theory has no merit. In fairness to the gentleman concerned, I feel free to confess that he appears to have succeeded in making a local Satrap share his view and act upon it to the prejudice of the mute millions of Harijans. The second position is not so easy to repel.

Lord Nandi:—Wait; The theory deserves a better consideration. It cannot be so easily brushed aside. What is there intrinsically illogical or unacceptable in it? Do we not see everyday how these Panchamas worship, what Gods they worship, where they worship and when? Country liquors, meat, carrion, midnight orgies form essential parts of the programme. Do the non-Panchamas worship in this way?

Mr. I: (to his colleagues) I feel I have been wrong in bringing this matter before this tribunal. I miscalculated my strength. I have caught a tartar.

Lord Hamsa: Take the view of Manu. I do not find the term *Jathi* (caste) there in this connection. There appears to be some confusion. Is the term *Varna* synonymous with *Jathi*? I think not. You must be aware that even Mr. Gandhi in his declaration appearing in the *Hindu* of 13th February seems to

recognise a distinction between the two without perhaps realising what it leads to. The conceptions involved in the two terms appear to be different radically. Your construction of the verse does not appear to be correct. In effect the verse states that there are only 4 *Varnas* and that there is no 5th *Varna*. Manu nowhere states that there are only four *jathis* (castes). On the contrary there are ample materials in his books for holding that there may be as many castes as there may be unions among the *Varnas* and among the offsprings, of such unions.

By a process of permutation and combination, the number of castes may become legion. There will be *anulomā* castes and *prathiloma* castes and their status will further vary according as the union rests on wedlock or concubinage or on force. You can talk of one as belonging to *anuloma* caste or *prathiloma* caste but not to *anuloma varna* or *prathiloma varna*. *Anuloma varna* and *prathiloma varna* are contradictions in terms. Any other view will make nonsense of the *Samhita* of Manu and other Smrithi Karthas. We do not want to interrupt you. We only desire to tell you what is passing in our mind, (if you, a shrewd lawyer that you are, have not already perceived it,) so that you may meet it, if you can.

Mr. I: It will be my earnest endeavour to satisfy your Lordships later on, on these points. I shall take up the matter from where I left it. I was saying.....

Lord T: Yes, you were about to advert to the second position of the defendants as one not easy to meet.

Mr. I: Yes, I exprese my sincere thanks for the close attention which is being bestowed even in respect of details.

Lord T: The case is one of first impression. You possess an absolute mastery of the facts. The presentation is marvellously arresting. How can we fail to follow you ?

Lord N: Well, what is the second position? Where from have you gathered the information regarding the defendant's case? I should warn you against the newspaper reports. The charge against them is that they give only garbled and mutilated accounts and whatever is felt unassailable in the defendants' case is either left alone or color-washed.

Mr. I: My sources of information are the newspapers. The leaders of the defendants treat us as worse than Panchamas. They refuse us access to their meetings. It is said that they even go to the length of washing the seats occupied by us with cowdung after we leave their houses. They do not accept our interpretation of the texts and we do not accept theirs. Sanskrit language is so ductile and malleable that it easily lends itself to any kind of interpretation at the hands of one having a fair grounding. One is able to spin out any meaning which one wants to evolve and find authorities for any position.

Lord Hamsa: We shall construe the texts ourselves. Mr. Ijajar, please enunciate the second position.

Mr. I: There are three pitfalls which have to be avoided in this connection. There is first the danger arising from interpolation. Secondly there is the danger from the admitted disappearance of many *Srutis* and *Smritis* which can be expected to afford support to our position and the resulting handicap. The third is the difficulty of determining the comparative merits of conflicting classes of authorities.

Lord T. We shall remember these red flags.

Mr. I: The second position is advanced alternatively on the assumption that Panchamas are Hindus. They say that the Panchamas are not really excluded from worship in the temples.

Lord Hamsa: Stop, we are considering the second point i. e. Are the Panchamas Hindus? What you call the second position of the defendants relates altogether to another point.

Mr. I: (after consideration) Yes, your Lordship. I pass on to the third of the points. *To whom do the temples belong?* This admits of no doubt or difficulty. The temples belong to all the Hindus in common including the Panchamas. Reason and commonsense alike lead to that conclusion. It is very doubtful whether the defendants possess any one of these commodities. Had they possessed it, they would not have sunk to the low position that they are now occupying and the map of the world would have been different. What they state is this. "The personified deity consecrated in the temple is the owner of the temple. No Hindu has any right to enter them any more than he has a right to enter a private house, Museum or Park. In the one case as in the other, leave and licence are essential. The owner has laid down his own conditions for granting the leave and licence for all Hindus for all times to come, in permanent records in the shape of *Srutis, Smrithis, Agamas, Tantras* and etc." They take an alternative position that the temples have been dedicated to the particular section of Hindus who are now using them, and that perhaps in this limited sense, varying rights such as we now see may exist in this sense. The first position is a mere legal fiction and the second position has to fail for want of proof. A further position is advanced that the sects who are now using the temples have acquired by immemorial user and prescription a right to use them in the accustomed mode and to prohibit a different or contrary user.

Lord Nandi: All the three positions appear to be fairly arguable and consonant to common sense.

Mr. I: Law and commonsense do not always go together.

Lord N: Law is but the quintessence of commonsense.

Mr. I: Views may differ on the matter. The customary right pleaded by the defendants is against all reason and cannot be upheld. Acquisition of such a right against a whole class of people and their descendants is unknown to law.

Lord N : We are not so sure about it.

Mr. I: I pass on to the consideration of the fourth question. *What Civil rights of the Panchamas have been infringed, when and by whom?* My position is that Panchamas are entitled to enter the temples, to proceed upto the *Garbhagraha* and to offer worship there. The defendants deny this right and stop us at the 'Gopuram.' We say therefore that we are excluded from the temples. The defendants' position is this. "The facts stated do not amount to exclusion at all, and there is no real cause of action." I shall elaborate this point forthwith. What they state may thus be summarised. "Different places have been assigned to different classes for worship. And each class is entitled to worship the deity from its own place. Gopuram is assigned to Panchama and he can worship therefrom as he is in fact doing. The 'Dwajasthambam' is fixed for the Sudra and he has to worship from there. 'Mahamandapam' and 'Ardhamandapam' are respectively assigned for *Vaishyas*, and *Kshatriyas* and *Brahmanas* and they have to worship from their respective places. No one is therefore excluded from worship at all. The *Sivadwaja* or *Archaka* is alone entitled to enter 'Garbhagraha' and touch the idol and do puja and no other can do so however pure, however spiritually advanced and however learned he may be. This difference in place assigned for worship is based not on any inferiority complex or on any conception that some are high, and some are low but on constitutional or structural differences in the physical bodies. There is something in the arrangement of the molecules, atoms, electrons and protons of these bodies which make the *Adi Saivas* etc. eligible for touching the idol. Similarly there is something in the structure of the bodies of the *Brahmanas*, *Kshatriyas*, *Vaishyas*, *Sudras* and *Panchamas* which make them ineligible for the approach to places other than those respectively allotted to them. The Seers of old have been able to perceive this feature and assign proper places to them. The fact that with our

limited vision, we are unable to find out the difference is no argument against its existence. The severity, rigidity and strictness of the rule is such that the most mighty emperors and exalted royal personages render unquestioning submission to them and even Brahmana ladies and princess of the blood royal are relegated to a place lower than that of the Dwijas." In fairness to the authors of this system, it has to be confessed that the same degree of spiritual benefit, the same quality and quantity is vouchsafed and assured to all alike, be they the learned Vipras at the 'Arthamandapam' or the Chandalas at the far-off 'Gopuram.'

Lord T: The conception appears to be very grand and faultless. Is it carried out in practice ?

Mr. I: Yes, my lord, to the very letter so far as the Hindus are concerned but the Christians, Europeans etc., are freely admitted up to the 'Dwajasthamba.'

Lord Nandi: Do they assign any scientific reason ?

Mr. I: The defendants believe that there is an overflow of something to be dreaded from the body of the Panchama which will drive the deity out of the idol if he is taken inside the 'Gopura.' Similarly if a Brahmin is taken into the 'Garbagraha' the outflow from his body will make the deity depart from the idol. The fluids are all similar in kind. The zone of action alone varies.

Lord N.: Support for this can be had from science also. The patent impurity of the body of a man suffering from a contagious loathsome disease creates around the body an atmosphere uncongenial to pure beings, the sphere and duration of which vary with the intensity and duration of the impurity itself and hence his physical body is excluded from the temple so long as the disease and the impurity last. This position is not controverted. The latent impurity of a man or woman in pollution and

of the woman in menses and confinement produces similar results and hence they are excluded from temples so long as these pollutions last. This is a matter of everyday occurrence and is undeniable. The physical body of the untouchable who has in his flesh and blood and marrow, the accumulated impurity of centuries of impure and unclean life and food creates and must create an impure atmosphere which renders him unfit to enter a temple so long as that physical body subsists. The moment that physical body changes, he becomes eligible for entry. The difficulty of establishing by any known scientific process this difference between the blood and flesh of a pure body and the flesh and blood of an impure body is no argument against the truth of the observed phenomenon. The American scientists are reported to have discovered, so far, 38 different kinds of blood. Diamond and charcoal are both carbon and yet they do not function in the same way. Oxygen and Ozone are chemically the same and they function differently. The physical arrangement of the electrons and Neutrons of the untouchables fed by carrion and unclean food and drink must necessarily differ from the arrangement of the same in the body of the so-called caste-Hindu. The sages and Rishis have been able to see this difference and have declared the zone of impurity in the *Agamas* and *Tantras*. The present inability to discover it in the normal condition is no proof of its absence.

Mr. I: My lords, the question reduces itself ultimately to one of cleanliness and morality. If Harijans are only permitted to enter temples and participate in the worship along with non-Harijans, they will become better men and cleaner in their habits. There will be an action and reaction and interaction.

Lord H: You admit that the unclean and the impure ought to be excluded and that the Panchamas are unclean and impure. The only question that remains is—Can this Impurity of the Panchama, the accumulated Impurity of centuries of unclean life



and food be removed by a mere bath and a clean clothing or does it require a more radically different treatment ?

Mr. I : It can be scientifically demonstrated that the impurity of the food taken by a man will not attach to the body into which it is built. The experts declare that the paddy raised with the aid of the human excreta as manure, reveals no trace of the human excreta in the body into which it has been transformed. In the process of transformation, the body of the man sheds away the impurity of the food in the same way as the body of the plant sheds off the impurity of the manure.

Lord H : Your statement if correct does very little credit to the experts. There are thousands of indigenous country experts who can without much effort discover and declare the impurity in the paddy arising from the impurity of the manure. The impure food leaves a permanent impress upon the body into which it is built. No amount of bath can wash it off. The impurity will last as long as the body lasts. This appears to be the rationale of the purification of Saint Nandanar.

Lord N : I am afraid that you have not made out a case of exclusion. The utmost that can be said is there is something like preferential treatment.

Mr. I : With due deference to your lordship, I must state that, call it by any name you like, deferential treatment or absolute exclusion, there is the infringement of a civil right—a right to equal treatment based upon Panchamas being Hindus and the temples being the property of all Hindus.

Lord N : Suppose we do not agree with you on the first two points.

Mr. I : It is possible that the defendants themselves do not press these matters. I shall pass on to the next branch of the fourth position namely *when and by whom the infringement was made*. I must confess, my lords, that the exclusion dates back to a period long prior to the birth of Christ. The defendants state

that the exclusion, if it is exclusion, is as old as creation. This exclusion, I submit is the result of an unholy combination among the four Varnas and mixed castes, a combination which, strange to say, exists down to this date. We do all that lies in our power to make the non-Brahmins secede from the Brahmanas, in this respect also, as he has done in every other respect but, so far, we have achieved no success. Though the non-Brahmana does not make noise like the Brahmana, it looks as if he has determined to oppose the temple entry movement with his life-blood. It is for this very reason we are attempting to alter the laws and customs through the legislature.

Lord N. : Do you consider that it will be wise on your part to move the legislature? The Whitehall is reluctant to accord support to these Bills. A bee buzzes in the ear that by surrendering their judgment to the Congressites in the matter of the Sarda Act, the Government have blundered and that they will not repeat it, though for placating them, they may go through the farce of granting sanction,

Mr. I : It looks like that your Lordship, but we are giving the members of the legislature the choice between the life of Mr. Gandhi and unanimity among them. The Whitehall must surely be impressed with the result.

Lord N : Is it fair to coerce the defendants in this manner ?

Mr. I : Coercion or no coercion, the result must be achieved. The honour of the nation, the honour of India is at stake. The whole world is laughing at us.

Lord N : When it suits your purpose, you attack the legislature as wholly unrepresentative and unworthy of the trust reposed in them. You point to the Ordinance Act, and the Ottawa Act and now with characteristic inconsistency you appeal to them for help. Are you not really supporting the charge of the defendants that the legislatures as now constituted, are in no

way fit to represent them and do not represent them. Is religion a subject to be decided by the rule of majority.

Mr. I: Removal of untouchability which is according to us in the same position as temple entry is a socio religious question and not purely religious. The analogy does not apply.

Lord T: If any question deserves to be called a religious question, it is this. What is the use of going behind first principles and settled facts ?

Mr. I: If it is a settled fact, we shall unsettle it. Was not partition of Bengal unsettled ?

Lord H: Go on, Mr. I, go to the point.

Mr. I: I pass on to the fifth question viz. *What is the law relating to the temple entry?* The Sruties contain nothing useful. The defendants explain that the sruties are endless (Anantha). Many have become lost to us. The lost Sruties will surely contain the necessary materials. The Brahadaranyopanishad, Chandogyopanishad, some ashtakas, in Yajurveda and about half a dozen later Upanishads no doubt contain the term Chandala, and mention something about *Kap̄ooyacharanah Papayonayah* etc. and declare that by reason of their sinful actions in their last birth they have been born as Chandalas. The Smrities declare that they are virtually untouchables and assign to them a place far away from the dwelling of the Varnas and make it a sin to talk with them, to reside with them or to eat with them. Elaborate expiating ceremonies have been ordained for such sinful acts. The Agamas and the Thanthras elaborate the matter further. Our contention is this. Doctrines of previous birth, Karma and the existence of life after death have not stood the crucible of the scientists. The interpretation placed upon the Smritis and Srutis by them is not accepted by us. The defendants attempt to glorify the Agamas by calling them Iswaraproktham. In reality they are the productions of later day cunning Brahmins.

If, after notice, the other side so requires, we are ready to answer the other points. I request your Lordships to pass an ad-interim order and save the life of Mr. Gandhi.

Lord N: Is this not a sort of appeal which you and your men are making daily. The charge against the validity of the Guruvayoor referendum does not appear to be groundless.

Mr. I: I can mathematically demonstrate the correctness of our position. A renegade doctor, a quandom Congress Sastry, a dethroned Dubash, a senile metropolition lawyer, a number of cranky moffussil lawyers, a few zamindars banking after Government honour, and half a dozen busy bodies and nobodies in the legislatures' have thought fit to spread false and mischievous rumours. I have no doubt your lordships, will pay no heed to them. Our position in this respect and the reply of orthodox Hindus has been summarised by a gentleman attached to the defendants' party. I consider it sufficient to present without any comment the said summary for your Lordships' consideration.

Lord N.: We thank you for the paper.

Mr. I: Will not your Lordships grant an ad-interim order?

Lord N.: We shall issue a notice and make it returnable to a short date.

Mr. I: Quite sufficient, my Lords. Any day before the Simla session will do.

Lord N.: Yes.

[THE END.]

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