Sameer Wankhede Case - SC/ST Reservation and Religion

Why in news?

Maharashtra Minister Nawab Malik has alleged that Sameer Wankhede, Mumbai Zonal Director of the Narcotics Control Bureau (NCB), benefitted from the reservation for Scheduled Castes (SCs) despite being ineligible for it.

What is Sameer Wankhede accused of?

- Dnyandev Kachru Wankhede, father of Sameer Wankhede, belonged to the Scheduled Castes (SCs).
- He converted to Islam before marrying Sameer's mother, Zaheeda Begum.
- Sameer's (born in 1979) birth certificate carries his father's name as Dawood K Wankhede and his name as Sameer Dawood Wankhede.
- Sameer was raised as a Muslim, but was selected in the 2007 Civil Services Examination (CSE) under the SC quota.
- Maharashtra Minister Nawab Malik accuses that Sameer was not entitled to this reservation.

What are the rules of religion in eligibility for the SC quota?

DoPT

- No person who professes a religion different from Hinduism or Sikhism shall be deemed to be a member of the Scheduled Castes.
- There is a 15% quota for SCs in government jobs.
- But Hindu SCs who convert to Islam lose their SC status, and are no longer eligible for the quota.
- A person belonging to an SC or ST will continue to be deemed as such irrespective of his/her marriage to a non-SC/ST.
- A convert or re-convert to Hinduism and Sikhism shall be accepted as a member of SC.
- The rights of a person belonging to a Scheduled Tribe are independent of his/her religious faith.

Constitution (Scheduled Castes) Order

- Under the original Constitution (Scheduled Castes) Order, 1950, only Hindus were classified as SCs.
- The Order was amended to include Sikhs in 1956 and Buddhists in 1990.
- It now lays down that no person professing a religion different from Hinduism or Sikhism or Buddhism can be deemed to be a member of an SC.
- However, no such religion-based bar operates for STs and Other Backward Classes (OBCs).

Is the exclusion of Muslims and Christians discriminatory?

- Petitions have been filed in the Supreme Court seeking the inclusion of Muslims and Christians in the SC category.

- In 2004, the Centre for Public Interest Litigation challenged the legality of the exclusion.
- In 2008, the National Commission on Minorities concluded that there was a case for inclusion of Dalit Christians and Dalit Muslims in the SC category.
- In 2020, the SC agreed to examine a plea by the National Council of Dalit Christians to make reservations religion-neutral. The plea is pending before the court.

How does caste operate in inter-caste marriages?

- In inter-caste marriages, the child carries the caste of the father, and caste certificates are issued on this basis.
- However, courts have taken note of the surroundings in which the child was brought up.

Rameshbhai Dabhai Naika vs State of Gujarat & Ors (2012) - Supreme Court ruling

- In an inter-caste marriage or a marriage between a tribal and a non-tribal, there may be a presumption that the child has the caste of the father.
- This presumption may be stronger in the case where the husband belongs to a forward caste.
- But by no means is the presumption conclusive or irrefutable.
- It is open to the child of such marriage to lead evidence to show that he/she was brought up by the mother who belonged to SC/ST.

What is the DoPT rule with false certificate?

- A Government servant should not be retained in service if it is found that s/he -

    i. was not qualified or eligible in terms of the recruitment rules etc (or)
    ii. had furnished false information or produced a false certificate in order to secure appointment

- In the present case, Sameer Wankhede may face an inquiry, and may even be dismissed if his SC certificate is found to be false.
- However, the matter is currently very politicised, and clarity is required on several questions such as –

    i. whether his father was a Muslim when Sameer was issued his certificate
    ii. whether his father converted to Islam to marry and then re-converted, and if so, when
    iii. whether Sameer changed his religion to Hinduism just to receive an SC certificate

Reference

https://indianexpress.com/article/explained/in-allegations-against-sameer-wankhede-questions-of-religion-conversion-in-eligibility-for-sc-quota-7594301/

SHANKAR IAS PARLIAMENT
Information is Empowering