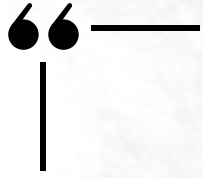


Constitutional Bench Update

**Central Board of Dawoodi Bohra
Community & Anr. v. State of
Maharashtra & Anr.**

**Constitutional Validity of Prevention
of Excommunication Act, 1949**





Bench

**Justices S.K. Kaul, Sanjiv Khanna,
Abhay S. Oka, Vikram Nath,
J.K. Maheshwari**

**Case Filed on
February 28, 1986**

**Last Date of Hearing
October 11, 2022**

**Status
Judgment Reserved**



Background

The Bombay Prevention of Excommunication Act, 1949 (the 'Act') was enacted on November 1, 1949, which prevented religious denominations from ousting a member of the community.

The excommunication of any community member was made invalid, “notwithstanding anything contained in law, custom, usage” for the time being in force.

After the act was enacted, one of the members of the Dawoodi Bohra community filed a suit in 1949, saying certain Orders passed by their leader were illegal because of the Act.

Other cases also came before various Courts and a petition was filed before the Supreme Court by leader Sardar Syedna Taher Saifuddin Saheb, challenging constitutionality of the act.

“

In *Sardar Syedna Taher Saifuddin Saheb v. State of Bombay* (MANU/SC/0072/1962) , a five-Judge Bench of Supreme Court ruled that the ‘Act’ was ultra vires to the Constitution as it violated Article 26(b) of the Constitution and was not saved by Article 25(2).

February 26, 1986: Petition was filed by religious head of Dawoodi Bohra Community seeking re-consideration, and over-ruling, of decision of Supreme Court in *Sardar Syedna Taher Saifuddin Saheb's* case.

March 18, 1994: A two-Judge Bench of Supreme Court directed the matter to be listed before a seven-Judge Bench for hearing.

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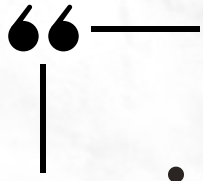
Whereupon, vide Judgment dated December 17, 2004, Supreme Court in case of Central Board of Dawoodi Bohra Community and Ors. v. State of Maharashtra and Ors. (MANU/SC/1069/2004), held that since at no point of time CJI directed matter to be placed for hearing before a Constitution Bench or a seven-Judge bench, the matter should be placed for hearing before a Constitution Bench of five Judges.

Meanwhile, Maharashtra Protection of People from Social Boycott (Prevention, Prohibition and Redressal) Act, 2016 by virtue of Section 20 repealed the Bombay Prevention of Excommunication Act, 1949.

October 11, 2022: The case was heard and the Bench reserved the judgment.

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Issues under Consideration



- Whether Bombay Prevention of Ex-communication Act, 1949 violates Article 26(b) of the Constitution of the India?



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