

4. Excommunication In Parsi Community- Polity

1. Background

Context of the Case

The Supreme Court of India is set to revive a constitutional question pending since 2012 regarding whether a Parsi woman loses her religious identity and community rights upon marrying outside the faith. This follows a 2024 petition by Dina Budhraj, who was barred from entering a Zoroastrian fire temple (Agiary) for her grandmother's funeral. Despite marrying a Hindu man under the Special Marriage Act, 1954, and not converting, she was informed that her marriage alone excluded her under the Nagpur Parsi Panchayat Rules.

Key Definitions

Excommunication - The formal exclusion or expulsion of an individual from a religious community, resulting in the loss of rights to participate in religious rituals, social life, and access to places of worship.

Parsi Panchayat - Community trusts that regulate the religious, social, and administrative affairs of the Parsi community.

Agiary - A Zoroastrian fire temple where the "sacred fire" is kept and worshipped.

Zoroastrianism - One of the world's oldest monotheistic religions, founded by Prophet Zoroaster in ancient Persia.

2. The Parsi Community in India

Origin and Migration

Roots - Followers of Zoroastrianism who migrated from Persia (modern-day Iran) to India around the 8th century to escape religious persecution following the Islamic conquest.

Settlement - They initially settled in Sanjan, Gujarat, before spreading to other parts of India.

Demographics and Status

Population - One of India's smallest religious minorities, numbering approximately **60,000** as per the 2011 Census.

Geography - Highly urbanized, with major concentrations in Mumbai and Gujarat.

Challenges - The community faces a shrinking population due to low fertility rates, an aging demographic, and migration.

Cultural and Economic Contributions

Core Principles - "Good Thoughts, Good Words, Good Deeds" (*Humata, Hukhta, Hvarshta*).

Personalities - Iconic figures like Jamsetji Tata (Industrialist) and Dadabhai Naoroji (Freedom Fighter).

Social Impact - Known for high literacy rates, entrepreneurship, and extensive philanthropic institutions.

3. Legal and Constitutional Issues

The core of the dispute lies in the conflict between a community's right to manage its affairs and an individual's fundamental rights.

Constitutional Provisions Involved

Article 14 (Right to Equality) - The rule is challenged for being discriminatory. While Parsi men retain their identity and temple access after marrying non-Parsis, women are excluded. This creates a gender-based classification argued to be arbitrary.

Article 21 (Right to Life and Liberty) - The right to choose a life partner is a facet of human dignity. Penalizing this choice by stripping away religious identity is seen as a violation of personal autonomy.

Article 25 (Freedom of Religion) - Guarantees the right to practice one's religion. The case questions if a Trust can declare someone has "renounced" their faith without a formal conversion.

Special Marriage Act, 1954 - This civil law allows interfaith marriage without conversion. The Panchayat rules contradict this by linking marriage directly to the loss of religious status.

Key Points of Contention

Gender-Based Discrimination - The rules reinforce patriarchal norms by treating men and women differently under identical circumstances.

Identity vs. Religion – A distinction is drawn between ‘Parsi’ (an ethnic/racial identity by birth) and ‘Zoroastrian’ (the religious faith). Advocates argue that one’s ethnic identity cannot be extinguished by a marriage certificate.

Regulatory Limits – The extent to which community trusts can dictate membership rules that override the fundamental rights of citizens

4. Comparison – Gender Rights in Inter-Faith Marriage

Feature	Parsi Men (Inter-faith Marriage)	Parsi Women (Inter-faith Marriage)
Community Status	Generally retained.	Often excluded/excommunicated by local Panchayats.
Temple Access	Permitted to enter Agiaries.	Frequently denied entry (as seen in the 2024 case).
Children's Identity	Children are accepted into the community.	Children are often denied religious identity and access.
Judicial View	Status quo maintained.	Subject of ongoing constitutional challenge.

5. Judicial Perspective and Way Forward

Past Rulings

Jamshed Kanga Case (2011) – The Bombay High Court noted that the concept of excommunication has no inherent place in Zoroastrianism.

General Trend – While courts usually avoid interfering in religious "essential practices," they intervene when practices violate the Basic Structure of the Constitution or fundamental rights.

The Path Ahead

Constitutional Morality – Applying the principle used in the *Sabarimala Case* to strike down exclusionary practices that harm individual dignity.

Defining Autonomy – Clarifying the limits of Article 26 (Freedom to manage religious affairs) to ensure it does not infringe upon Article 14 and 15.

Internal Reform – Encouraging inclusive practices already adopted by progressive Parsi Panchayats in Delhi and Kolkata.

Legal Alignment – Ensuring community customs align with modern statutory frameworks like the Special Marriage Act.

Source – <https://indianexpress.com/article/explained/explained-law/parsi-women-excommunicate-marriage-conversion-sc-10602789/>