

## Excommunication within Dawoodi Bohras

### Why in news?

A Supreme Court bench has decided to examine whether the practice of ex-communication in the Dawoodi Bohras community can continue as a protected practice.

### Who are Dawoodi Bohras?

- The Dawoodi Bohras are members of the Muslim community's **Shia** sect.
- The Dawoodi Bohra community have inherited a distinguished heritage and rich historical legacy which traces to the **Fatimi imams**.
- Their leader is known as the **Al-Dai-Al-Mutlaq**, who first operated from Yemen and then, for the last 450 years, from India.
- The current and the 53rd leader is His Holiness Dr Syedna Mufaddal Saifuddin.
- The main language of the community is **Lisan al-Dawat**, a dialect of Gujarati with inclusions from Arabic and Urdu.
- The leader of the community has the right to excommunicate its members.
- Excommunication includes the action of
  - not being allowed to access a mosque belonging to the community
  - not being allowed to a burial dedicated to the community
- **The Bombay Prevention of Excommunication Act, 1949** was enacted to stop the practice of excommunication prevalent in certain communities.
- This is because, excommunication is said to deprive the legitimate rights and privileges of its members.

*Fatimi imams are direct descendants of the Prophet Mohammed through Imam Ali bin Abi Talib, son in law of the Prophet, and Fatima, daughter of the Prophet.*

### How about the legal validity of excommunication?

- **Legal challenge-** The 51st leader of the community challenged the constitutional validity of the act in 1962 stating it violated fundamental rights guaranteed in the Constitution under
  - **Article 25** - Freedom of conscience and free profession, practice and propagation of religion
  - **Article 26** - Freedom to manage religious affairs
- It was submitted that the power of excommunication was part of the management of community affairs in matters of religion.
- It was also submitted before the SC that the power to excommunicate is not absolute or arbitrary.

- The expulsion from the community can be effected only at a meeting of the Jamat
- The person concerned will be even given due warning and an opportunity of mending.
- The practice was also claimed to be essential.
- **Contentions-** Respondents to the petition said that Quran does not permit excommunication and that it went against the spirit of Islam.
- They also contended that the right to regulate religious communities does not include the right to excommunicate.
- **SC's view-** The SC held in 1962 held that the Dai's position is an essential part of the community.
- The power to excommunicate is to enforce discipline and preserve the denomination and not to punish.
- The judgment came on a challenge to the Bombay Prevention of Excommunication Act of 1949.

### What is the plea now?

- **The 2016 Act-** The Maharashtra Protection of People from Social Boycott (Prevention, Prohibition and Redressal) Act, 2016 prohibits social boycott of a person or a group of persons describing it as "inhuman".
- The act defines 16 types of social boycott- including preventing members of a community from having access to facilities including community halls, and burial grounds, among others.
- It is termed as a violation of fundamental rights punishable with imprisonment for upto 3 years.
- **SC's consideration-** The Supreme Court has said that it would consider whether the practice protected by the 1962 constitutional bench order can continue.

### References

1. <https://indianexpress.com/article/explained/case-excommunication-dawoodi-bohras-explained-8168141/>
2. <https://theprint.in/india/sc-to-examine-practice-of-excommunication-in-dawoodi-bohra-community/1135988/>
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