

Yes, your lordship

The Supreme Court's decision to revisit its earlier directive in a case involving the conversion of a Hindu woman to Islam, and the marriage of two consenting adults, is enormously welcome. On August 16, the apex court had directed the National Investigation Agency (NIA) to investigate the religious conversion and marriage of Hadiya, a 24-year old woman from Kerala. The SC had then backed the verdict of the Kerala High Court which had invalidated the marriage between Hadiya, who was known as Akhila before she chose to convert to Islam, and Shafi Jehan. But on Tuesday, the Chief Justice of India, Dipak Misra, said the SC will examine if "the high court can annul the marriage by exercising its powers under Article 226 of the Constitution". The apex court also questioned its earlier decision to order the NIA probe.

The Kerala High Court's decision was extremely troubling for the way in which it sought to deny agency and autonomy to Hadiya in her choice to convert and her decision to marry. "Marriage being the most important decision in her life, [it] can also be taken only with the active involvement of her parents... The marriage, which is alleged to have taken place, is a sham and is of no consequence in the eye of law," the Kerala HC had said in May. The court's suggestion that Hadiya's conversion was not an act of free will was similarly problematic: It argued that Hadiya "appears to be under the control of someone else and.. [she] has been indoctrinated and influenced by persons whose identities have not been ascertained," even after a police investigation had ruled out anything untoward in her conversion - and marriage. "It is not normal for a young girl in her early twenties, pursuing a professional course, to abandon her studies and to set out in pursuit of learning an alien faith and religion," the court said. When Jehan - whose marriage to Hadiya was invalidated by the Kerala HC - sought the SC's intervention, the apex court directed the premier anti-terror agency, the NIA, to probe the case. Hadiya, who has been under virtual house arrest after the Kerala HC court's verdict, was not asked to present her account.

The Kerala HC's verdict and the SC's August directive seemed to go against the impressive record of the higher judiciary in India of upholding the rights of the individual over the diktats of the state, community and family. Now, the SC's decision to revisit the case signals a reassuring acknowledgement of the seriousness of the questions thrown up by the case and an openness to course correction. On October 9, when it hears the case next, the apex court must restore the rights of Hadiya.

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