

**He renders her fit for כהונה even in the situation where a majority of disqualifying people are available**

## **OVERVIEW**

כשרה and נאמנת the woman is ר"ג ור"א according to maintains that ריב"ל <sup>1</sup>. The גמרא in קדושין states that it is even in a case of רוב פסולים אצלה, לכהונה, even in a case of רוב פסולים אצלה; and not ר"ג תוספות will resolve this apparent discrepancy.

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והא דקאמרינן בפרק עשרה יוחסין (קדושין עד,א ושם) גבי אבא שאול -

**And that which the גמרא states in פרק עשרה יוחסין concerning the משנה<sup>2</sup> which states that אבא שאול -**

**היה קורא לשתוקי בדוקי -**

**would refer to a שתוקי as a בדוקי.** A שתוקי is a child whose mother is known, but not his father. When the child refers to anyone as his father, his mother silences him; hence the term שתוקי. אבא שאול would refer to this שתוקי by the name בדוקי; he is verifiable.

**ומפרש בגמרא שבדקין את אמו ואומרת לכשר נבעלתי -**

**And the גמרא explains** what is meant by בדוקי. This child can be verified as being a כשר child **for we verify by the mother**; by asking her who fathered this child? **And when she claims that he was fathered by a כשר**, she is believed and the child is כשר. We do not suspect that it is the child of a נתין or a ממזר.

**ופריך כמאן כרבן גמליאל תנינא חדא זמנא היתה מעוברת כולי -**

**And the גמרא challenges** this explanation and asks **like whom** does אבא שאול rule; **like רבן גמליאל** we already learnt this one time in a משנה; referring to our משנה, **she was pregnant, etc.** ר"ג maintains that if she claims נבעלתי she is believed –

**פירוש<sup>3</sup> והוה ליה למימר וכן אמר אבא שאול וכן פירש שם בקונטרס -**

**The explanation** of this question in the גמרא is why does the משנה state this ruling of אבא שאול as an independent ruling **when the משנה should have**

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<sup>1</sup> It seems that ריב"ל derives this from this תוספתא of זו עדות וכו' which is cited in our גמרא. The fact that ר"י compares מדברת to שבויה, indicates that the discussion between ר"ג and ר"י was even in a case of רוב פסולים.

<sup>2</sup> פרק עשרה יוחסין דף סט,א.

<sup>3</sup> The term פירוש (and כלומר) are used when the explanation given is different than the apparent explanation. The simple interpretation of the question is why אבא שאול mentions this דין at all, since it was already taught by רבן גמליאל. Perhaps the reason תוספות (רש"י) reject this ('simpler') explanation is because it is not understood why the opinion of אבא שאול should not be added to that of ר"ג and ר"א. Especially if he was a later תנא, as is apparent from the גמרא.

לכשר **stated, and אבא שאול also stated** as ר"ג, that the **אשה** is נאמנת to claim **and so does רש"י there explain it** in the same manner as תוספות stated.<sup>4</sup>

**ומשני דאבא שאול עדיפא מרבן גמליאל דאי מהתם הוה אמינא ברוב כשרים אצלה כולי -**  
**And the אבא שאול answered** that the reason the **משנה** cites **אבא שאול** as an independent view, not merely as agreeing with ר"ג, is **because אבא שאול** teaches us **more that ר"ג, for if from there;** from our **משנה** in **כתובות** where ר"ג states that she is נאמנת, **I may have thought** that she is believed only when there are **a majority of כשרים by her, etc.** Therefore **אבא שאול** teaches us that she is believed to say לכשר נבעלתי even if there are **רוב פסולים אצלה**. This concludes the citation from the **גמרא** in **קדושין**.

now presents his question:

**אף על גב דאמרין הכא דרבן גמליאל מכשיר אפילו ברוב פסולין -**  
**even though the גמרא states here** in the name of **ר"ג** **that ריב"ל** **is מכשיר** **even by רוב פסולים**. Why does the **גמרא** say there that **מכשיר ברוב פסולים** is the addition of **אבא שאול** and we do not know this from ר"ג, when our **גמרא** clearly states that ר"ג is **מכשיר** **even פסולים**.<sup>5</sup>

answers:

**אבא שאול קאי אמתניתין וממתניתין לא משמע מידי דאיירי ברוב פסולים -**  
**אבא שאול is referring to our משנה itself and from our משנה** (in **כתובות**) **per se it is not indicated at all that it is discussing** a case of **רוב פסולים**. It was only (the **אמורא**) **ריב"ל** who maintains (by inferring from the **ברייתא**) that ר"ג is **מכשיר** even **ברוב פסולים**. The **משנה** itself gives no such indication. Therefore the **גמרא** in **קדושין** states that by citing **אבא שאול** as making an independent statement in the **משנה**, this indicates that **מכשיר** itself views the **הכשר** to be effective even **ברוב פסולים**.

concluded that the discussion of the **גמרא** in **קדושין** concerning the difference

<sup>4</sup> 'וכן היה אבא שאול' **there states** that the question was that the **משנה** here in **כתובות** should have added: **אבא שאול** (and it should not have been mentioned in **קדושין** at all).

<sup>5</sup> **prefaced** this question by first interpreting that the question of the **גמרא** was that the **משנה** should have stated **אבא שאול** **אמר**. If the **גמרא's** question had been that **א"ש** should not have been quoted at all (see previous footnote # 3), **תוספות** would have no question. The **גמרא** cannot ask that the **משנה** should not teach us a **דין** (of **ברוב פסולים מכשיר**) since we can derive it from a **ברייתא** (or an **אמורא**); the **משנה** itself wants to teach us this **דין**. However, since the question there was that the **משנה** (here) should have stated **א"ש** **אמר**, the subsequent answer there is not understood. Granted that **א"ש** wants to teach us that he is **מכשיר** **רוב** **פסולים**, but ר"ג agrees to that as well (as **ריב"ל** inferred it from the **ברייתא**), so why did not the **משנה** simply state that **א"ש** **אמר**. (See **מהרש"ל**.)

between ר"ג and אבא שאול is only regarding what is apparent from the משנה itself; not how the subsequent אמוראים interpreted the משנה. This leads תוספות to discuss an additional difficulty. The גמרא there originally stated that אבא שאול is adding on to ר"ג that even the daughter is כשרה לכהונה. The גמרא there rejected this interpretation. תוספות continues to discuss that גמרא:

**והא דפריך התם לעיל למאי דהוה בעי למימר דאבא שאול אתא להכשיר בבתה -**

**And that which the גמרא there, previously challenged according to that which the גמרא originally wanted to say that אבא שאול is coming to add on ר"ג, that the daughter is also כשר (even though she has no חזקת כשרות as the mother). The גמרא challenges this assumption that אבא שאול is adding הכשר הבת, by asking – הניחה למאן דאמר לדברי המכשיר בה פוסל בבתה -**

**This answer is appropriate according to the one who maintains that even ר"ג who is מכשיר the mother, nevertheless he disqualifies the daughter. We can then explain that א"ש is adding that even the daughter is כשרה –**

**אבל למאן דאמר מכשיר בבתה מאי איכא למימר -**

**However according to the one who maintains that ר"ג is also מכשיר בבתה what can be said!** What is א"ש adding to ר"ג? This concludes the citation from the גמרא. According to what was previously said that we do not concern ourselves with other statements; only with the statement of the משנה, what is the גמרא's question. In the משנה it is not at all clearly stated that ר"ג is מכשיר בבתה (in fact it is a מחלוקת between the אמוראים<sup>6</sup> as to what ר"ג rules concerning the בת), therefore it can easily be assumed that א"ש is coming to add that even the בת is כשרה; for ר"ג never stated it (clearly) in the משנה. It is seemingly exactly the same as what the גמרא there concludes eventually, that א"ש is adding רוב פסולים, which ר"ג never clearly stated in the משנה (even though ריב"ל derives [from a ברייתא] that it is so).

מכשיר ברוב פסולים answers that there is a difference between the assumption of מכשיר ברוב פסולים (which we cannot assume from the משנה) and the assumption of מכשיר בבתה (which we can assume from the משנה):

**התם פריך שפיר דאפילו לזעירי<sup>7</sup> לשון המשנה דקתני מה טיבו של עובר זה -**

<sup>6</sup> גמרא immediately following our רבי אלעזר and רבי יוחנן.

<sup>7</sup> The 'question' of 'אפילו' is much stronger according to ר"א who clearly maintains that פוסל בבתה (and hence how can we say that ר"ג also maintains [clearly in the משנה (according to יוחנן)] that the בת is כשרה as א"ש maintains); as opposed to זעירי, for whom we do not know whether he is מכשיר or פוסל בבתה. The 'answer' according to the מהרש"א, will be that שתוקי ברייתא of ר"א also basically agrees that the לשון המשנה indicates that מכשיר בבתה, however there is the ברייתא of ר"א, which indicates that פוסל בבתה, therefore ר"א maintains that מכשיר בה פוסל בבתה. However even he agrees that if not for the ברייתא of שתוקי, the משנה indicates that מכשיר בבתה. Therefore according to ר' יוחנן, who interprets that even the ברייתא of שתוקי agrees that מכשיר בבתה, then certainly the משנה itself indicates that ר"ג is מכשיר בבתה.

**There** (in the case of מכשיר בבתה) **it is a proper challenge for even according to זעירי** who maintains that מדברת means נסתרה and therefore we are not compelled (as according to רב אסי) to interpret the duplicity of נסתרה and נבעלה to include להכשיר בה and להכשיר בבתה, nevertheless even according to זעירי **the syntax of the משנה which reads, 'what is the nature of this fetus'**; this syntax of mentioning the child –

**משמע דאתי להכשיר בבתה:**

**indicates that ר"ג is coming to be מכשיר even her daughter<sup>8</sup>.** Therefore since this is indicative in the משנה itself (as opposed to ר"ג being מכשיר ברוב פסולים which is not indicative in the משנה itself), therefore the גמרא there in קדושין asks properly that according to this מ"ד, there is no need for א"ש to add להכשיר בבתה because ר"ג already clearly stated it in the משנה by using the term 'מה טיבו של עובר זה'.

### **SUMMARY**

Our משנה does not indicate whether ר"ג is מכשיר ברוב פסולים; we know it from קדושין in אבא שאול. Our משנה does indicate that ר"ג is מכשיר בבתה (according to ר' יוחנן) since it uses the expression 'מה טיבו של עובר זה'.

### **THINKING IT OVER**

1. The גמרא states that אבא שאול teaches us that she is נאמנת even by רוב פסולים. Do we know this (only) because otherwise אבא שאול is redundant (to ר"ג), or do we know it from the ruling of אבא שאול itself?
2. When the גמרא states that אבא שאול teaches us that נאמנת even ברוב פסולים, does that meant that (only) אבא שאול maintains that or that (even) ר"ג maintains that?

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<sup>8</sup> Otherwise, the משנה should have stated, של אביו של זה וכיו"ב or מה טיבו של איש זה.