

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&

THE HONOURABLE MR.JUSTICE K.HARILAL

THURSDAY, THE 5TH DAY OF FEBRUARY 2015/16TH MAGHA, 1936

WA.No. 938 of 2012 () IN WP(C).5840/2009

AGAINST THE ORDER/JUDGMENT IN WP(C) 5840/2009 of HIGH COURT OF
KERALA DATED 05-03-2012

APPELLANT(S)/RESPONDENTS 1 TO 5 IN THE WRIT PETITION:

1. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
SCHEDULED CASTE/SCHEDULED TRIBES
DEVELOPMENT DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
2. REVENUE DIVISIONAL OFFICER,
PALA.
3. TAHASILDAR
MEENACHIL TALUK.
4. VIGILANCE OFFICER
VIGILANCE CELL, DIRECTORATE OF KIRTADS,
KOZHIKODE-17.
5. COMMISSIONER FOR ENTRANCE EXAMINATIONS
HOUSING BOARD BUILDING, SANTHI NAGAR
THIRUVANANTHAPURAM.

BY ADV.SMT.P.K.SANTHAMMA, SPL. GOVERNMENT PLEADER

RESPONDENT(S)/PETITIONER IN THE WRIT PETITION:

PAUL ALEX (MINOR), REP. BY GUARDIAN (FATHER) ALEX PAUL,
KUZHIKKA PILAKKAL
KURUVANTHANAM, THIRUVANANTHAPURAM,
PIN - 695 022.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 05-02-2015,
ALONG WITH WA NO.957/12, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN &
K.HARILAL, JJ.

.....
W.A.Nos.938 of 2012 and 957 of 2012
.....

Dated this the 5th day of February, 2015.

J U D G M E N T

Thottathil B.Radhakrishnan, J.

1. These two writ appeals arise from a common judgment issued at the instance of Paul Alex, then stated to be a minor, on going by the cause title. He appears to have been aspiring for admission to professional degree courses for the year 2009.
2. Though service is complete on the writ petitioner, in these appeals which are filed by the State none appeared on his behalf.
3. We have heard the learned Special Government Pleader for the Scheduled Caste / Scheduled Tribe Welfare Department, in extenso, on the facts and materials. We have considered the materials on record, in particular, the KIRTADS's report and various findings and conclusions therein on the basis of enquiry and report made regarding the family of the writ petitioner–Paul

Alex. The question for determination at the hands of the KIRTADS was as to whether Paul Alex could claim to be a member of Malai Arayan community, to which his paternal grandfather Paulose belonged.

4. KIRTADS's report is supported by materials disclosed through the investigation by the Vigilance Cell in the Directorate of KIRTADS. Those materials disclosed that the paternal grandfather of the petitioner, namely, Paulose, belonged to Christian Malai Arayan community. He married Raichal, who belonged to Christian Marthoma community, which is neither a Scheduled Caste nor a Scheduled Tribe community. The couple had four children. Of them, Alex Paul is the writ petitioner's father. All the siblings of Alex Paul are shown to have married to members belonging to Marthoma community. That is the community to which their mother belonged.

5. Writ petitioner Paul Alex's mother is Annamma. She is one among

the children of Jacob and Chinnamma. Both of them belonged to Christian Jacobite community which again is neither a Scheduled Caste nor a Scheduled Tribe community. The family details show that all other children of that couple, namely, Jacob and Chinnamma, married persons belonging to Christian Jacobite community. Annamma married Alex Paul, who, as already noted, is born to a Christian Malai Arayan father and a Marthoma mother.

6. Apart from the fact that Alex Paul's father Paulose belonged to Christian Malai Arayan community, there was no shred of material to show that the couple, namely, Paulose and Raichal or their children had continued with the custom and practices of Malai Arayan community or were accepted by the Malai Arayan community as the members of that community. The totality of the facts clearly indicates that all that has happened is that Paulose, a Christian Malai Arayan, married a Marthomite Christian woman; nothing beyond that. We do not see the threads of

Christian Malai Arayan community having trickled down into offsprings or the next generation, or them being accepted into the Christian Malai Arayan community, going by the materials on record. Under such circumstances, we are unable to sustain the impugned common judgment interfering with the decision of the KIRTADS and other authorities.

7. Therefore, the impugned common judgment is liable to be vacated. For the aforesaid reasons, these writ appeals succeed.

In the result, these writ appeals are allowed vacating the impugned common judgment and dismissing the writ petitions.
No costs.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(K.HARILAL, JUDGE)