

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 23RD DAY OF JANUARY 2015/3RD MAGHA, 1936

WP(C).No. 2423 of 2015 (S)

PETITIONER :

T.G.MOHANDAS,
8/996, SANTHINAGAR COLONY,
KOOVAPADOM, KOHI - 682 002.

BY ADVS.SRI.T.V.VINU
SRI.JAISHANKAR V.NAIR
SMT.PARVATHY S.KRISHNAN
SRI.SUVIN.R.MENON

RESPONDENTS :

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY,
SCHEDULES CASTE & SCHEDULED TRIBE DEVELOPMENT DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY,
THIRUVANANTHAPURAM - 695 004.
3. THE CHIRMAN,
KERALA PUBLIC SERVICE COMMISSION,
THIRUVANANTHAPURAM - 695 004.
4. SAJU GEORGE,
CONTROLLER OF EXAMINATIONS,
KERALA PUBLIC SERVICE COMMISSION,
THIRUVANANTHAPURAM - 695 004.

R1 BY GOVERNMENT PLEADER, SMT. GIRIJA GOPAL
R2 & R3 BY SRI.P.C.SASIDHARAN, SC, KPSC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 2423 of 2015 (S)

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P1 : TRUE COPY OF GO(MS) NO.63/79/DD DATED 16.04.1979 ISSUED BY
THE SECRETARY, DEVELOPMENT (C) DEPARTMENT.

EXT.P2 : TRUE COPY OF THE GO(MS) NO.57/84/HWD DATED 04.08.1984 ISSUED
BY THE JOINT SECRETARY, HARIJANS WELFARE (E) DEPARTMENT.

EXT.P3 : TRUE COPY OF CIRCULAR NO.5/1996 DATED 05.06.1996 ISSUED BY THE
2ND RESPONDENT.

EXT.P4 : TRUE COPY OF THE NEWS PAPER REPORT PUBLISHED IN MATHRUBHOOMI
MALAYALAM DAILY ON 13.01.2015 ALONG WITH ITS TRUE ENGLISH
TRANSLATION.

EXT.P5 : TRUE EXTRACT OF THE SSLC OF THE 3RD RESPONDENT.

EXT.P6 : TRUE COPY OF COMMUNITY CERTIFICATE NO.12253/96(A) DATED
17.09.1996 ISSUED BY TAHSILDAR, THIRUVANANTHAPURAM.

RESPONDENTS' EXHIBITS :

NIL

/TRUE COPY/

PA TO JUDGE

ASHOK BHUSHAN, Ag.C.J. & A.M. SHAFFIQUE, J.

W.P.(C) No. 2423 OF 2015

Dated this the 23rd day of January, 2015

JUDGMENT

Shaffique, J.

The writ petition is filed seeking the following prayers:

"i) issue a writ of mandamus or any other writ, direction or order commanding the respondents 1 to 3 to review all appointments in public services made through the KPSC, against vacancies earmarked for ST under Mala Araya quota from 05.06.1996.

ii) issue a writ of mandamus or any other writ, direction or order commanding the 1st respondent to invoke Section 11 of the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of issue of Community Certificates Act, 1996 and cancel all illegal appointments made to public services in Kerala under ST Mala Araya Quota since 05.06.1996 cancelling all such false Community Certificate;

iii) issue a writ of quo warranto against the 4th respondent and remove the 4th respondent from the post of Controller of Examinations, KPSC, in the interest of justice."

2. Perusal of the writ petition indicates that the petitioner claims to be a social activist and was the State Vice President of Bharatheeya Vichara Kendram. According to him,

Ext.P3 Circular dated 05.06.1996 has been issued by the Public Service Commission giving certain relaxation to persons belonging to Mala Araya(Hindu) Community who embraced Christianity and overlooking the consideration of community certificate as per Ext.P1 Government Order, appointments were made since 1996. Petitioner submits that the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of issue of Community Certificates Act, 1996 had come into effect from 01.10.1996 which was not being taken into consideration and several persons were being appointed based on Ext.P3 Circular. Petitioner also challenges the appointment of 4th respondent and seeks a *quo warranto* against 4th respondent to remove him from the post of Controller of Examinations, Kerala Public Service Commission.

3. Perusal of the above averments in the writ petition indicate that the issue involves service matter which cannot be adjudicated before this Court by way of Public Interest Litigation. This position has been settled by Supreme Court in **Ayaubkhan Noorkhan Pathan v. State of Maharashtra** [(2013) 4 SCC 465].

4. That apart, the petitioner seeks to nullify the appointments that had taken place since 1996. No sufficient materials are produced to invoke the jurisdiction of this Court.

In such circumstances, in the absence of any materials in this regard, the Writ Petition is dismissed without prejudice to the right of the petitioner to take appropriate proceedings as permissible under law.

**Ashok Bhushan,
Acting Chief Justice.**

**A.M. Shaffique,
Judge.**