

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 9139 of 2009 (J)

PETITIONER(S):

**SURESH UNNIKRISHNAN,
S/O.UNNIKRISHNAN NAIR, KAITHAPOLA VELI VEETIL,
MANNANCHERRI, AMBALAPUZHA, ALAPPUZHA DISTRICT.**

BY ADV. SRI.SANTHAN V.NAIR.

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE
CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE TAHSILDAR,
OFFICE OF THE TAHSILDAR, AMBALAPUZHA,
ALAPPUZHA DISTRICT.**
- 3. THE SECRETARY,
KERALA PUBLIC SERVICE COMMISSION,
PATTOM PALACE P.O., PATTOM, TRIVANDRUM.**
- 4. THE DISTRICT OFFICER,
KERALA PUBLIC SERVICE COMMISSION,
ALAPPUZHA DISTRICT.**
- 5. THE REVENUE DIVISIONAL OFFICER,
OFFICE OF THE R.D.O., ALAPPUZHA DISTRICT.**

R1, R2 & R5 BY SPL. GOVT. PLEADER SMT.P.K. SANTHAMMA.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE LETTER WITH REGISTER NO.A100482.
- EXT.P2 COPY OF THE RELEVANT PAGES OF THE SELECTION LIST FOR PHYSICAL TEST AND VERIFICATION IN CATEGORY CODE 81/2007.
- EXT.P3 COPY OF THE CERTIFICATE ISSUED BY NSS KARAYOGAM 1203 DATED 21/01/2009 NO.04.
- EXT.P4 COPY OF THE CERTIFICATE ISSUED BY KERALA VELAN MAHA SABHA DATED 16/01/2009 WITH REG. NO.60/09.
- EXT.P5 COPY OF THE G.O.(MS) NO.109/2008/SCSTDD DATED 20/11/2008.
- EXT.P6 COPY OF THE PROCEEDINGS OF THE 2ND RESPONDENT DATED 30/01/2009 NO.A3.24207/08.
- EXT.P7 COPY OF THE JUDGMENT IN WP(C).NO.7130/2009 DATED 05/03/2009.
- EXT.P8 COPY OF THE ADMISSION LETTER IN 23/100482.
- EXT.P9 COPY OF THE REPRESENTATION DATED 18/03/2009.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

K. Vinod Chandran, J

W.P.(C).No.9139 of 2009-J

Dated this the 13th day of July, 2015

JUDGMENT

The issue is with respect to the caste status of the children of intercaste marriages. The petitioner sought consideration of his representation as per Exhibit P5 Government Order.

2. The law has underwent considerable change after the Government Order at Exhibit P5. The petitioner's father admittedly belongs to 'Hindu-Nair' community and the mother 'Hindu-Velan' community. The Hon'ble Supreme Court in ***Rameshbhai Dabhai Naika v. State of Gujarat [(2012) 3 SCC 400]*** held that in an inter-caste marriage there may be a presumption that the child has the caste of the father. The said presumption was said to be non-conclusive and rebuttable. It was open for the child of such marriage to lead evidence that he/she was brought up by the mother who belonged to the Scheduled Caste/Scheduled Tribe. The petitioner obviously will have to rebut such presumption, since his father admittedly belongs to a forward caste community.

3. The petitioner had approached this Court when the petitioner was under consideration for the post of Excise Guard in Excise Department. This Court had by order dated 20.03.2009 granted the interim prayer that, the petitioner would be provisionally given the benefit of Hindu-Velan community. If the petitioner has obtained appointment, then it is for the petitioner to prove before the appropriate authority that the petitioner belongs to the Scheduled Caste community to which he claims. In such circumstance, leaving open such remedy, the writ petition would stand closed. No costs.

Sd/-

K.Vinod Chandran
Judge.

vkul/-

[true copy]