

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

WP(C).No. 5112 of 2014 (L)

PETITIONER:

**TINTU MEREENA BABU,AGED 21 YEARS,
D/O.BABU.P.P, NGO QUARTERS G1-A, CUTCHERY.P.O.,
KOLLAM.**

BY ADV. SRI.AJAYA KUMAR. G

RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
SCHEDULED CASTE AND SCHEDULED TRIBES DEVELOPMENT
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.**
- 2. THE SCRUTINY COMMITTEE FOR VERIFICATION OF COMMUNITY
CERTIFICATE, REPRESENTED BY CHAIRPERSON AND THE SECRETARY
TO GOVERNMENT, SCHEDULED CASTE AND SCHEDULED TRIBES
DEVELOPMENT DEPARTMENT,GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001.**
- 3. THE DIRECTOR,
KIRTHADS, CHEVAYOOR,
KOZHIKODE, PIN-673 017.**
- 4. VIGILANCE OFFICER,
VIGILANCE CELL, DIRECTORATE OF KIRTHADS,
KOZHIKODE-17, PIN-673 017.**
- 5. THE PRINCIPAL,
T.K.M.COLLEGE OF ENGINEERING, KARIKODE, TKMC-PO,
KOLLAM, PIN-691 005.**

***ADDL.R6 & R7 IMPEADED**

***ADDL.R6: UNIVERSITY OF KERALA,
REPRESENTED BY ITS REGISTRAR,
UNIVERSITY CAMPUS,
THIRUVANANTHAPURAM,PIN-695 034**

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***ADDL.R7: CONTROLLER OF EXAMINATION,
UNIVERSITY OF KERALA, UNIVERSITY CAMPUS,
THIRUVANANTHAPURAM,PIN-695 034**

***ADDL.R6 & R7 ARE IMPEADED AS PER ORDER DATED 17/4/2015 IN
IA.NO.5574/2015.**

R1 TO R4 BY GOVERNMENT PLEADER SMT. P.K.SANTHAMMA

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1	COPY OF THE CASTE CERTIFICATE DATED 15-06-2009
EXT.P2	COPY OF THE PETITIONER'S SECONDARY SCHOOL LEAVING CERTIFICATE
EXT.P3	COPY OF THE CERTIFICATE ISSUED BY C.S.I. CHURCH KOOTTICKAL
EXT.P4	COPY OF THE RELEVANT PAGE OF ADMISSION REGISTER OF THE PETITIONER'S FATHER
EXT.P5	COPY OF THE CASTE CERTIFICATE ISSUED BY THE TAHSILDAR,RANNI DT. 21-08-1999
EXT.P6	COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER FOR ADMISSION TO THE PROFESSIONAL DEGREE COURSE
EXT.P7	COPY OF THE ENQUIRY REPORT OF THE 3RD RESPONDENT DT. 12-05-2010
EXT.P8	COPY OF THE INTERIM ORDER DATED 7-7-2011 IN WP(C)15986/2011
EXT.P9	COPY OF THE JUDGMENT DATED 17-8-2012 IN WP(C)15986/2011
EXT.P10	COPY OF THE ORDER DATED 22-7-2013 OF THE 2ND RESPONDENT
EXT.P11	COPY OF THE BAPTISM CERTIFICATE ISSUED BY THE PARISH PRIEST DATED 16-2-2013
EXT.P12	COPY OF THE ORDER DATED 10-12-2013 OF THE 1ST RESPONDENT
EXT.P13	COPY OF THE ORDER DATED 15-01-2014 ISSUED BY THE 5TH RESPONDENT.
EXT.P14	COPY OF THE RECEIPT DATED 18/3/2015 SHOWING REMITTANCE OF THE EXAMINATION FEES BY THE PETITIONER.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

K. VINOD CHANDRAN, J.

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Dated this the 17th day of June, 2015

J U D G M E N T

The petitioner is the progeny of an inter-caste marriage, in which the father is a Christian Malai Arayan and the mother a Roman Catholic. The petitioner's claim for consideration as a Scheduled Tribe was forwarded to the Screening Committee, on her applying for an admission in the professional Engineering course. However pending consideration by a Screening Committee, the petitioner was allowed to be continued to the course. The Screening Committee's report went against the claim, challenging which an application was filed before the Scrutiny Committee. The Scrutiny Committee confirmed the rejection which order is challenged in the above writ petition.

2. It is trite that with respect to inter-caste marriages though there is a presumption available to a person whose

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father is a person belonging to the SC/ST, the same is a rebuttable presumption. There can also be no conclusiveness attached to a certificate issued by the competent authority under the Kerala (Scheduled Castes & Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996. Herein, the report received from the Kerala Institute for Research, Training and Development Studies (KIRTADS) specifically found that the petitioner was brought up under the social milieu of the mother of the petitioner, who belonged to a forward community. The Screening Committee being not competent to interfere with the findings of the expert agency, declined the claim of the petitioner.

3. Admittedly the petitioner got admission to the professional degree course under the ST quota by virtue of orders issued by this Court in an earlier writ petition. The petitioner had been continuing so and this Court eventually disposed of the writ petition by directing the petitioner to

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approach the Scrutiny Committee as per Ext.P9. Ext.P9 also permitted the petitioner to continue. When the Scrutiny Committee's order came, produced at Ext.P10, the above writ petition was filed challenging the same. In the circumstance of the petitioner having continued for many years, there could be no chance of another eligible candidate being admitted to the course and hence this Court directed the continuance of the petitioner despite the order of the Scrutiny Committee.

4. When the matter came up for hearing, the learned Counsel for the petitioner would submit that Ext.P9 would indicate the petitioner was baptized in one Guardian Angels Church, Pathanamthitta. The school records also would indicate that the petitioner had been described as a ST candidate. Ext.P11 would not disclose the ST status of the petitioner since the sect which frequents the Church is not evident. As for the school records, disclosing her ST status, the same is only on the declaration made by the petitioner or her parents and cannot be

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given any sanctity when the claim sought is for reservation which has to be considered under the Act of 1996.

5. With respect to the findings of the expert agency as extracted by the Scrutiny Committee, the case of the petitioner and her brother were considered so:-

(iii) The evidence produced by the Expert Agency, which were made available to the claimants, for filing objections if any, clearly reveals that the baptism of Tibu Gregory Babu and Tintu Mereena Babu, was done in the years 1989 and 1993 respectively, at St. Mary's Malankara Syrian Catholic Church, Pampumala, the parish to which the claimants' mother belongs. The marriage of the said claimants' parents was solemnized in the same Church. The time of enquiry by the Expert Agency the claimants' parents stated that they have membership in St. Antony's Church, Arayanjilimon, the parish in which their paternal grandparents belong to. The statement furnished by the Vikar of St. Antony's Church, Arayanjilimon, reveals that the claimants and their parents do not belong to that Church. The enquiry revealed that the claimants and their parents come with in the parish of St. Mary's Malankara Syrian Catholic Church, Pampumala.

6. In such circumstance, the enquiry conducted by the expert agency effectively rebutted the presumption available to the petitioner. The petitioner hence cannot be said to be a

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member entitled to reservation under the ST category. However, the petitioner having continued the course and completed it, the petitioner would have the benefit of regularisation of her admission in the course and also for publication of results withheld, if any, following the principles laid down by the Hon'ble Supreme Court in **State of Maharashtra v. Milind and other [2001(1) SCC4]**. The petitioner would also be permitted to sit for the supplementary examinations. The petitioner though entitled to be regularised in the admission already granted to her, all the same, would have to remit the entire fees due to the College if any and if any subsidy disbursed remit it to the Government.

The writ petition is dismissed with the above direction.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

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P.A to Judge.