

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. 12879 of 2009 (D)

PETITIONERS :

1. **DANI DIUS FERNANDES, S/O. ANIMMA VARGHESE, AGED 23 YEARS, T.C. 17/2426, THYCAUD, JAGATHY, THIRUVANANTHAPURAM.**
2. **EBY DIUS KANDACHAMKULAM, S/O. ANIAMMA VARGHESE, AGED 15 YEARS, T.C17/2426 THYCAUD, JAGATHY, TRIVANDRUM.**
3. **MANU DIUS KANDACHAMKULM, S/O. ANIAMMA VARGHESE, AGED 14 YEARS, T.C17/2426 THYCAUD, JAGATHY, THIRUVANANTHAPURAM.**
PETITIONERS 2 AND 3 REP. BY THEIR MOTHER ANIMMA VARGHESE, W/O. LATE DIUS FERNANDES, AGED 53 YEARS, SELECTION GRADE

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS :

1. **STATE OF KERALA REP. BY ITS SECRETARY TO GOVERNMENT, SCHEDULED CASTE & SCHEDULED TRIBE, DEVELOPMENT (G) DEPARTMENT, SECRETARIAT THIRUVANANTHAPURAM.**
2. **THE DIRECTOR, KIRTADS, THRISSUR.**
3. **THE DISTRICT COLLECTOR, TRIVANDRUM.**
4. **THE TAHSILDAR, THIRUVANANTHAPURAM TALUK, THIRUVANANTHAPURAM.**

R1 TO R4 BY GOVERNMENT PLEADER SRI. 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:

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF CASTE CERTIFICATE FOR MALI ARAYAN CHRISTIAN, VIDE NO. 14518/99 DT 30/12/1999 ISSUED BY THE TAHSILDAR, UDUMBANCHOLA, ISSUED TO ANIAMMA VARGHESE.
- P1(a): COPY OF CASTE CERTIFICATE FOR MALAI ARAYAM CHRISTIAN, VIDE 9201/200 DT 25/7/2000 ISSUED BY THE TAHSIDLAR, UDUMBANCHOLA, ISSUED TO VARGHESE.
- P1(b): COPY OF CERTIFICATE DT 14/6/2008 ISSUED FROM CSI CHRIST CATHEDRAL, MELUKAVU TO DEVASSIA AND FAMILY.
- P2: COPY OF CERTIFICATE DT 26/4/1990 ISSUED BY CHRIST CATHEDRAL, MELUKAVU TO ANIAMMA VARGHESE.
- P3: COPY OF CERTIFICATE OF MARRIAGE NO. 72 DT 21.4.2008 ISSUED TO DIUS AND THRESIA FROM ST. CASIMIR'S CHURCH, KADVOOR, KOLLAM 691701.
- P4: COPY OF DEATH CERTIFICATE DT 20-5-2006 ISSUED BY THE HEALTH SUPERVISOR, CORPORATION OF COCHIN, IN REPECT OF DIUS B. FERNANDES.
- P5: COPY OF COMMUNITY CERTIFICATE NO. A9-8386/03 DT 23/5/2003 ISSUED BY THE R4 TO THE 1ST PETITIONER.
- P5(a): COPY OF CERTIFICATE NO. A9-21621/99 DT 6/1/2000 ISSUED BY THE R4 TO THE 3RD PETITIONER.
- P5(b): COPY OF CERTIFICATE NO. A9-21622/99 DT 6/1/2000 ISSUED BY THE R4 TO THE 2ND PETITIONER.
- P6: COPY OF LETTER NO. A6-8757/08 DT 30/4/2008 ISSUED BY THE R4 TO SMT. ANIAMMA VARGHESE.
- P7: COPY OF ORDER, G.O.(MS) NO. 109/2008/SCSTDD DT 20/11/2008 OF THE R1.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE

bp

K. Vinod Chandran, J

W.P.(C).No.12879 of 2009-D

Dated this the 13th day of July, 2015

JUDGMENT

The petitioners had approached this Court claiming to be children of one Aniamma Varghese who belongs to “Mala Arayan” community, and late Dius Fernandes. According to the petitioners, the said caste is a notified Scheduled Tribe community. The grievance was insofar as non-issuance of Caste Certificate showing as “Scheduled Tribe Malai Arayan”, on the basis only of Anthropological investigation by the Kerala Institute for Research, Training and Development Studies (KIRTADS).

2. The writ petition was filed in the year 2009 when the 1st petitioner was completing his M.B.B.S, and was aspiring to go for post-graduate studies. The 2nd petitioner was then completing his matriculation and the 3rd petitioner seeking admission to Kendriya Vidyalaya Sangathan. It is admitted in the writ petition that the father of the petitioners was a Latin Catholic, an OBC category. In any event, the petitioners were not issued with any community certificate nor the petitioners were granted any interim order. The petitioners' remedy is under the Kerala (Scheduled

Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 [hereinafter referred to as "Act 11 of 1996"]. In such circumstances, leaving open the remedy under the Act 11 of 1996, the writ petition would stand closed.

Sd/-

K.Vinod Chandran
Judge.

vkul/-

[true copy]