

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

WP(C).No. 11580 of 2014 (V)

PETITIONER(S) :

**VARIJA.K, W/O.SIVAPPU P,
NAVANEETHAM, NEAR MAHAVISHNU TEMPLE,
PARAD, KUTTIKOL P.O, TALIPARAMBA,
KANNUR- 670 141.**

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENT(S) :

- 1. UNIVERSITY OF CALICUT,
REPRESENTED BY THE REGISTRAR, UNIVERSITY OF CALICUT,
C.U.CAMPUS P.O, THENHIPALAM- 673 635,
KOZHIKODE DISTRICT.**
- 2. REGISTRAR,
UNIVERSITY OF CALICUT, C.U CAMPUS P.O,
THENHIPALAM- 673 635, KOZHIKODE DISTRICT.**

BY ADV. SRI.SANTHOSH MATHEW, S.C

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: TRUE COPY OF THE GAZETTE NOTIFICATION DATED 08.01.2003.**
- EXHIBIT P2: TRUE COPY OF THE U.O NOTE DATED 04.07.2003.**
- EXHIBIT P3: TRUE COPY OF THE COMMUNICATION DATED 12.07.2012 TOGETHER WITH MINUTES.**
- EXHIBIT P4: TRUE COPY OF THE CONSTITUTION (SCHEDULED TRIBES) ORDER (AMENDMENT) ACT, 2013.**
- EXHIBIT P5: TRUE COPY OF THE JUDGMENT DATED 01.06.2004 IN W.P.(C).NO.3305/04.**
- EXHIBIT P6: TRUE COPY OF THE REPRESENTATION DATED 26.02.2014 SUBMITTED BY THE PETITIONER.**
- EXHIBIT P7: TRUE COPY OF THE CASTE CERTIFICATE DATED 12.02.2014.**

RESPONDENT(S)' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.11580 of 2014

Dated this the 9th day of March, 2015

JUDGMENT

The petitioner belongs to 'Marati Community'. The Community as such had been included in the Scheduled Tribe in Kerala. However, by way of an amendment to the list of Scheduled Caste/Scheduled Tribe as per the presidential notifications published in the Gazette of India Extra Ordinary dated 8.1.2003, the Marati Community has been taken out of the Community included among the Scheduled Tribe. Thereafter, the National Commission for Scheduled Tribe recommended inclusion of Marati Community among the Scheduled Tribes. Based on the recommendation by amending the list, the Community has been included in the year 2013, that means for a period of decade, the Community was denied the benefit of Scheduled Tribe. Going by the tenure of Ext.P4, it can be only

seen that this was only a restoration of the benefit, which was originally given to the Community.

2. The Calicut University invited application for the post of Peon/Watchman as well as Assistants for various vacancies in the Calicut University. This application was submitted in the year 2005. In fact, all these applications were made during this period, in which, the Community was taken out of the benefit of the Scheduled Tribe. Therefore, the Community members including the petitioner applied for the post as General Category candidates.

3. The petitioner approached this Court for including him as a Scheduled Tribe for the purpose of reservation to the post in which the petitioner applied. The petitioner also relied on the judgment of the Kerala Administrative Tribunal in O.A.No.744/2014, in which the petitioner was the applicant to canvass the members of the Community shall not be denied the benefit of the reservation, for which, they applied during

interregnum on account of the fact that in the application, they had not mentioned about the caste status. The Tribunal found that “it will not be illegal if the benefit of reservation is extended to the members of the Marati Community who could not make that claim in their applications for obvious reasons”. The Tribunal directed the Public Service Commission to take a decision for enabling the members of the committee claiming reservation.

For a decade, the members of the Marati Community could not enjoy the benefit of the status as Scheduled Tribe as Community was excluded by Presidential Notification. Thereafter, based on the recommendation of the National Commission, they were included in the year 2013. That means, this is only a restoration of the benefits. The inclusion of the community itself fortify the fact that they suffered all the backwardness are being suffered by other Scheduled Tribe Community. No doubt, in an individual claim like this, it cannot be entertained by the

University. The University shall take a policy decision to extend the policy benefit to all the members of Marati Community, who have applied. Therefore, all the candidates, who have qualified in the written test should be given an opportunity to exercise their option for claiming the benefit as Scheduled Tribe Community. The petitioner shall approach the Vice Chancellor with a request to extend the benefit of claiming reservation as Scheduled Tribe. If such request is made, the Vice Chancellor shall take appropriate decision in the light of the benefit of the caste status of members of the community. Needful shall be done within two weeks from the date of receipt of a copy of this judgment and before finalization of the selection process.

The writ petition is disposed of as above. No costs.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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