

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 24TH DAY OF MARCH 2015/3RD CHAITHRA, 1937

WP(C).No.14200 of 2013 (Y)

PETITIONERS:

1. **ANNAMMA HANOCK,KUTTATTIL HOUSE,
KUNNACKAL KARA,VALAKAM VILLAGE,
MUVATTUPUZHA-682 316.**
2. **SWAPNA VARGHESE,KUTTATTIL HOUSE,
KUNNACKAL KARA,VALAKAM VILLAGE,
MUVATTUPUZHA-682 316.**
3. **SOMY VARGHESE,KUTTATTIL HOUSE,
KUNNACKAL KARA,VALAKAM VILLAGE,
MUVATTUPUZHA-682 316.**

**BY ADVS.SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI
SRI.BRIJESH MOHAN
SRI.JIKKU SEBAN GEORGE**

RESPONDENTS:

1. **STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
SCHEDULED CASTE/SCHEDULED TRIBES
DEVELOPMENT DEPARTMENT,GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
2. **THE DISTRICT COLLECTOR,COLLECTORATE,
KAKKANAD,ERNAKULAM. 682 030.**
3. **THE TAHSILDAR,MUVATTUPUZHA-686 661.**
4. **THE DISTRICT OFFICER,KERALA PUBLIC SERVICE COMMISSION,
DISTRICT OFFICE,ERNAKULAM-682 030.**
5. **THE DIRECTOR,KIRTADS,CHEVAYOOR POST,KOZHIKODE-17.**

**R1 TO R3 BY GOVERNMENT PLEADER SRI.RAFEEK V.K.
R4 BY SRI.P.C.SASIDHARAN,SC,KPSC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 24-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P1-COPY OF THE CASTE CERTIFICATE VIDE NO.SR-2519/06 DATED 7.7.2006
ISSUED BY THE 3RD RESPONDENT TO THE 1ST PETITIONER.**

**EXT.P2-COPY OF THE RELEVANT EXTRACT OF SECONDARY SCHOOL LEAVING
CERTIFICATE (SSLC) OF THE 2ND PETITIONER.**

**EXT.P3-COPY OF THE RELEVANT EXTRACT OF SECONDARY SCHOOL LEAVING
CERTIFICATE (SSLC) OF THE 3RD PETITIONER.**

**EXT.P4-COPY OF THE CASTE CERTIFICATE VIDE NO.SR.1311/02 ISSUED BY THE
3RD RESPONDENT TO THE 2ND PETITIONER.**

**EXT.P5-COPY OF THE CASTE CERTIFICATE VIDE NO.C-3069/11 DATED 9.8.11
ISSUED BY THE 3RD RESPONDENT TO THE 3RD PETITIONER.**

**EXT.P6-COPY OF THE INTERVIEW MEMO DATED 21.5.2013 ISSUED BY THE 4TH
RESPONDENT TO THE 2ND PETITIONER.**

**EXT.P7-COPY OF THE INTERVIEW MEMO DATED 21.5.2013 ISSUED BY THE 4TH
RESPONDENT TO THE 3RD PETITIONER.**

**EXT.P8-COPY OF THE APPLICATION FOR THE CASTE CERTIFICATE
DATED 3.10.12 SUBMITTED BY THE 1ST PETITIONER ON BEHALF OF THE
2ND PETITIONER.**

**EXT.P9-COPY OF THE APPLICATION FOR THE CASTE CERTIFICATE
DATED 3.10.12 SUBMITTED BY THE 1ST PETITIONER ON BEHALF OF THE
3RD PETITIONER.**

**EXT.P10-COPY OF THE ORDER NO.C-3986/12 DATED 6.10.2012 ISSUED BY THE
3RD RESPONDENT.**

**EXT.P11-COPY OF THE APPEAL FILED BY THE 1ST PETITIONER BEFORE THE
2ND RESPONDENT ON 8.10.12.**

**EXT.P12-COPY OF THE COMMUNICATION NO.A4/63519/2012 DATED 3.1.2013
ISSUED BY THE 2ND RESPONDENT TO THE 5TH RESPONDENT.**

RESPONDENT'S EXHIBITS:

EXT.R3(a):TRUE COPY OF G.O(MS)NO.25/2005/SCSTDD DATED 20.6.2005.

EXT.R3(b):TRUE COPY OF THE G.O(MS)NO.109/2008/SCSTDD DATED 20.11.2008.

//TRUE COPY//

P.S. TO JUDGE

A.V.RAMAKRISHNA PILLAI, J.

= = = = =

W.P(C) No.14200 of 2013

= = = = =

Dated this the 24th day of March, 2015

JUDGMENT

Ext.P10 order by which the third respondent had declined to issue community certificates to the petitioners is under challenge.

2. The first petitioner is a member of Malai Arayan community, converted to Christianity from Hindu-Malai Arayan community, which is included in the list of Scheduled Tribes. Petitioners 2 and 3 are the daughters of the first petitioner. The petitioners allege that they were also treated as members of Malai Arayan community converted to Christianity and were extended the benefits available to the Scheduled Tribe community and they were issued Exts.P4 and P5 caste certificates by the third respondent.

3. For the purpose of producing the caste certificate before the fourth respondent, the first petitioner submitted Exts.P8 and P9 applications before the third respondent and the third respondent as per Ext.P10 refused to issue the caste certificate, against which Ext.P11 appeal was preferred by the first petitioner before the

second respondent. Based on the direction of the second respondent, the third respondent directed the Village Officer, Valakom to conduct an enquiry and submit a report which was submitted to the effect that the petitioners are following the customs of Malai Arayan community.

4. However, based on the report of the Tahsildar, the second respondent sought opinion from the fifth respondent and the same is pending. However, in the meanwhile, the fourth respondent scheduled an interview to the post of Staff Nurse Grade II on 7.6.2013 and directed the petitioners to produce certificates to prove qualification as well as caste. If the certificate to the effect that the petitioners 2 and 3 belong to the Mali Arayan community is not produced, the fourth respondent would not permit petitioners 2 and 3 to appear for the interview scheduled to be held on 7.6.2013.

5. The grievance of the petitioners is that in view of Exts.P4 and P5 caste certificates issued to the petitioners 2 and 3 by the third respondent, there is no justification for denying the caste certificate applied as per Exts.P8 and P9. It is with this background, the petitioners have approached this Court.

6. In the counter affidavit filed by the third respondent, they have contended as follows:

The first petitioner belongs to Malai Arayan community converted to Christianity which is included in the list of scheduled tribes. The first petitioner is married to Sri. Varghese, who belongs to Christian Jacobite Community and the petitioners 2 and 3 are the children in the said wedlock. Exts.P2 and P3 are the copies of the school leaving certificates of petitioners 2 and 3 where the caste status has been furnished by the petitioners themselves as mala arayan. According to the third respondent, the school leaving certificates are not the conclusive proof to establish the caste status of a person. Exts.P4 and P5 are the caste certificates issued by the third respondent certifying that they are all members of scheduled tribes. According to the third respondent, these certificates are issued for the purpose of educational concessions to petitioners 2 and 3.

It was further stated that as per Ext.R3(a) dated 20.6.2005, the Government have clarified that the children of inter caste marriage couple of which one is scheduled caste or scheduled tribe would be eligible for education and monetary benefits

admissible to the SC/ST. The Government order also says that the case of children of such marriages is to be considered on the basis of the caste of their father.

It is further stated that by Ext.R3(b) the Government have clarified the above position treating Ext.R3(a) order as 8th paper. By the above order, the caste status of both the father and mother is made applicable if the children have suffered disabilities like socially, educationally and economically and such children are accepted by the original fold and living in the same social tenet.

It was further stated that though the Village Officer has reported that the children are brought up as ST, the benefits earmarked for SC/ST as such cannot be issued to them since as per Ext.R3(a), petitioners 2 and 3 are entitled only for educational concession and mandatory benefits admissible to scheduled tribes. The third respondent has rejected the scheduled tribe certificates to petitioners 2 and 3 as they have applied for the certificate for getting employment in the scheduled tribe quota. Therefore, they are not entitled for the reservation earmarked for scheduled tribe.

7. This Court by interim order dated 5.6.2013 permitted the petitioners 2 and 3 to participate provisionally in the interview

stated on 7.6.2013 without insisting for a caste certificate. It was also ordered that no appointment orders shall be issued without the orders from this Court.

8. Arguments have been heard.

9. On a specific query put by me during the course of argument, it was submitted by both sides that the petitioners have not yet approached the KIRTADS in the matter.

Therefore, this Court is of the view that the writ petition can be disposed of permitting the petitioner to approach the KIRTADS by a proper application. In the event of filing such an application, the same shall be considered and appropriate orders shall be passed after affording the petitioner an opportunity of being heard. This shall be done within a period of one month from the date of receipt of a copy of this judgment. No further time shall be granted.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj