

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 29TH DAY OF JULY 2015/7TH SRAVANA, 1937

WP(C) .No. 18332 of 2010 (N)

PETITIONER(S) :

ATHIRA SREENIVASAN,
NAMBIAMPURATHU HOUSE,
KOLENCHERY P.O., ERNAKULAM.

BY ADVS.SRI.P.KESAVAN NAIR
SRI.K.G.CLEETUS.

RESPONDENT(S) :

1. COMMISSISONER FOR ENTRANCE EXAMINATION,
OFFICE OF THE ENTRANCE EXAMINATION,
HOUSING BOARD BUILDINGS, SANTHI NAGAR,
THIRUVANANTHAPURAM-695 001.
2. CONVENOR,
SCREENING COMMITTEE,
(COMMISSIONER FOR ENTRANCE EXAMINATION)
OFFICE OF THE COMMISSIONER OF ENTRANCE EXAMINATION,
HOUSING BOARD BUILDINGS, SANTHI NAGAR,
THIRUVANANTHAPURAM-695 001.
3. VIGILANCE DIRECTOR,
VIGILANCE CELL, DIRECTORATE OF KIRTHADS, KOZHIKODE-17.

*ADDL.R4 &R5 IMPLEADED.

R4. TAHASILDAR,
KUNNATHUNAD TALUK, PERUMBAVOOR.

R5. VILLAGE OFFICER,
IKARANAD SOUTH VILLAGE, POOTHRIKKA,
PUTHENCROUZ, ERNAKULAM DISTRICT.

(*ADDITIONAL R4 & R5 ARE IMPLEADED IN WP(C)18332/10 AS PER ORDER DATED
07/09/2010 IN IA 12095/2010)

BY GOVERNMENT PLEADER SMT.P.K.SANTHAMMA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
29-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT.P1: THE TRUE COPY OF THE INTERCASTE MARRIAGE CEWRTIFICATE DATED 22/12/2009 ISSUED BY THE VILLAGE OFFICER, ALKARANAD SOUTH VILLAGE.
- EXT.P2: TRUE COPY OF THE 1ST PAGE OF THE SSLC OF PETITIONER'S FATHER.
- EXT.P3: THE TRUE COPY OF THE APPLICATION DATED 28/12/2009 SUBMITTED TO THE 1ST RESPONDENT.
- EXT.P4: THE TRUE COPY OF THE COMMUNITY CERTIFICATE DATED 03/06/2008 ISSUED BY THE TAHSILDAR KUNNATHUNAD TALUK.
- EXT.P5: THE TRUE COPY OF THE LETTER DATED 29/01/2010 ISSUED BY THE 2ND RESPONDENT.
- EXT.P6: THE TRUE COPY OF THE LETTER DATED 15/05/2010 ISSUED BY THE 1ST RESPONDENT.
- EXT.P7: THE TRUE COPY OF THE REPORT OF THE ENQUIRY DATED 05/05/2010 PREPARED BY THE 3RD RESPONDENT.
- EXT.P8: THE TRUE COPY OF THE CERTIFICATE DATED 24/05/2010 ISSUED BY THE BRANCH SECRETARY KERALA VELAN MAHASABHA, KOLENCHERY BRANCH.
- EXT.P9: THE TRUE COPY OF THE ORDER DATED 26/05/2010 ISSUED BY THE 1ST RESPONDENT.
- EXT.P10: THE TRUE COPY OF THE CERTIFICATE DATED 21/08/2003 ISSUED BY THE SECRETAY, KERALA VELAN MAHASABA KUNNATHUNADU TALUK.
- EXT.P11: THE TRUE COPY OF THE CERTIFICATE DATED 20/08/2013 ISSUED BY THE GENERAL SECRETARY, KERALA VELAN MAHA SABHA.

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J.

W.P.(C) No. 18332 of 2010 (N)

Dated this the 29th day of July, 2015

J U D G M E N T

The petitioner is aggrieved with the fact that the petitioner's caste status as Hindu-Velan was rejected by the Kerala Institute for Research, Training and Development Studies (KIRTADS) for Scheduled Castes and Scheduled Tribes constituted under the Kerala (Scheduled Castes & Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (for brevity the 'Act').

2. The petitioner had sought for admission to the engineering course on the basis of Scheduled Caste status. The petitioner, admittedly, was the daughter of a Hindu-Velan father and Jacobite mother. The petitioner claims that she was brought up by her father in the social milieu of the Scheduled Caste community. The KIRTADS however, by Ext 7, rejected the same on the ground that candidate's father had specifically contended before the

KIRTADS that he and his family are following Christian religion. Merely following the belief would not take a person out of the community. But however, if there was a conversion and the petitioner was brought up in the social milieu of the Christian community, to which her mother belongs, then necessarily no claim as a Scheduled Caste can be urged. However, these are all factual matters which will have to be examined by the statutory authority constituted under the Act.

3. The petitioner, however, was granted an interim order of issuance of a provisional certificate, on the basis of which she had been admitted to the Engineering College. The Hon'ble Supreme Court in **State of Maharashtra v. Milind and others - (2001) 1 SCC 4** found that such educational degrees to which any person has been wrongly admitted cannot be withdrawn after a long lapse of time. Hence, the petitioner having completed the Graduate Engineering Degree, the petitioner would definitely have

the benefit of such graduate degree. However, **Dattu S/o. Nambev Thakur v. State of Maharashtra & others - (2012) 1 SCC 549** found that if any concession or reduction of fees has been availed by the candidate, then that will have to be made good by the candidate.

4. In such circumstance, the petitioner would have to approach the Scrutiny Committee, which the petitioner shall, within one month from the date of this judgment, failing which the Anthropological Report of the KIRTADS be deemed to have become final. The Scrutiny Committee shall consider the materials relied on by the KIRTADS and arrive at a finding, as expeditiously as possible, after affording an opportunity of hearing and also after looking at the evidence adduced. The petitioner's caste status shall depend upon the findings of the Scrutiny Committee and if found against, the petitioner shall be liable to make good any concession or reduction of fees availed of by her.

The writ petition would stand dismissed.

Sd/-
K.VINOD CHANDRAN,
JUDGE