

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. 22706 of 2007 (C)

PETITIONER :

**SULAJAKUMARI M.K.,
D/O. K.K. KRISHNAN, MANGAPURA HOUSE,
NOOLPUZHA P.O., SULTAN BATTERY
KALLOOR, WAYANAD DISTRICT.**

**BY SENIOR ADVOCATE SRI.T.SETHUMADHAVAN
BY ADVS.SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR**

RESPONDENT(S) :

- 1. THE GOVERNMENT OF KERALA
REPRESENTED BY THE CHIEF SECRETARY
SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE KERALA STATE SCHEDULED CASTE AND
SCHEDULED TRIBE LEGISLATURE COMMITTEE
REPRESENTED BY THE SECRETARY
KERALA LEGISLATURE SECRETARIAT,
THIRUVANANTHAPURAM.**
- 3. THE CHAIRMAN,
THE NATIONAL COMMISSIONER FOR THE SCHEDULED
CASTES AND TRIBES, UNION OF INDIA, NEW DELHI.**
- 4. THE DIRECTOR,
KIRTHADS, KOZHIKODE.**
- 5. THE DISTRICT COLLECTOR,
WAYANAD, KALPETTA.**

**R1, R2, R4 & R5 BY SPL. GOVT. PLEADER SMT. P.K. SANTHAMMA
R3 BY ASSISTANT SOLICITOR GENERAL SRI. N. NAGARESH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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...2/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT.P1 : COPY OF THE RELEVANT PAGE OF NOTIFICATION NO. II ISSUED BY THE HARIJAN WELFARE DEPARTMENT DT. 30.4.1980.
- EXT.P2 COPY OF THE JUDGMENT IN OP NO. 9158/1985 AND CONNECTED CASES DATED 18.3.1986.
- EXT.P3 COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER'S FATHER DATED 19.4.1996.
- EXT.P4 COPY OF THE COMMUNICATION DATED 4.9.1995.
- EXT.P5 COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER FOR THE POST OF MUNSIFF-MAGISTRATE.
- EXT.P6 COPY OF THE REPORT SUBMITTED BY THE KIRTADS REPORTING THAT THE WAYANADAN CHETTY COMMUNITY CANNOT BE INCLUDED IN THE LIST OF SCHEDULED TRIBE ON THE GROUND THAT THE WAYANADAN CHETTY COMMUNITY HAS LOST MANY OF THE DISTINCTIVE CULTURE OF THE SCHEDULED TRIBE.

RESPONDENT'S EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

Mn

K. Vinod Chandran, J

W.P.(C).No.22706 of 2007-C

Dated this the 13th day of July, 2015

JUDGMENT

The petitioner, a member of the 'Wayanadan Chetty' community, sought for consideration of placing Wayanadan Chetties in the list of 'Scheduled Tribes' when a selection for employment in Government was notified. The petitioner's contention is that by Exhibit P2 the backwardness of the Wayanadan Chetties is specifically noticed and directions issued to consider their case. Exhibit P6 report of the Kerala Institute for Research, Training and Development Studies [for brevity "KIRTADS"] also noticed the backwardness of the community. Reference to Exhibit P6 is made insofar as to show that the KIRTADS had reported that a subsequent study will be made. In fact, the learned counsel would also contend that the community satisfies all the five traits for inclusion in the category of 'Scheduled Tribes'.

2. Admittedly the petitioner's community is not included in the category of 'Scheduled Tribe' and is included as an 'Other Backward Class' [for brevity "OBC"] and is entitled to the reservations and concessions as provided for other backward communities. No reliance can be placed on Exhibit P2, since in the said case what came up for consideration before this Court was the question of backwardness of the Malabar area and the necessity for a provision specifically in the division of medical seats, in proportion of the population of the Malabar and Travancore areas considering the more backwardness of the Malabar area. True, this Court had made an observation in paragraph 27 specifically with respect to Wayanadan Chetties and directed that their complaint would also be considered on merits. However, it is to be noticed that even in Exhibit P2 judgment the contention was only with respect to the backwardness of the community and rather meagre opportunities the community actually gets in the matter of reservation. There is nothing at all in the judgment to show that they should be given the status of 'Scheduled Tribe'. The

KIRTADS also conducted a study on the aspects of backwardness and after a detailed enquiry, a report was filed pointing out the entire factual situation. The conclusion is as extracted hereunder:

“For a community to be identified as scheduled tribe the required characteristics are; primitive traits, distinctive culture, shyness of contact with the public at large, geographic isolation and social economic and educational backwardness. Comparing Wayanadan Chetty Community with the above stated tribal characteristics they are part of the plural society and do not possess any primitive traits. They have lost many of their distinctive culture. They are free to the outsiders and they do not have shyness of contact with others. They are not geographically isolated. The community in question does not satisfy the criteria to be included in the Scheduled Tribe list of Kerala. But considering their social, educational and economical backwardness they are already classified as Other Backward Class in Kerala. Hence their request for inclusion as Scheduled Tribe cannot be conceded”.

The KIRTADS specifically opined in Exhibit P6 that Wayanadan Chetties are not to be included in the 'Scheduled Tribe' category and they are to be classified as “OBC”. This

Court does not find any reason to interfere with such finding. As to the comprehensive socio-economic survey to be conducted by the Planning and Economic Affairs Department regarding the status of the various communities in the list of OBS, including Wayanadan Chetties, it is not clear as to whether the same has been completed. If any member of the community has any grievance, such person can approach the appropriate authority for consideration of such grievance.

The writ petition would stand closed. No costs.

Sd/-
K.Vinod Chandran
Judge.

vkul/-

[true copy]