

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 17TH DAY OF JULY 2015/26TH ASHADHA, 1937

WP(C).No. 15587 of 2015 (W)

PETITIONER:

**AMAL P.SUKESH, PUTHIYEDATH,
NECHOOR P.O., (VIA) PIRAVOM,
ERNAKULAM DISTRICT, PIN-686 664.**

**BY SRI.ABRAHAM VAKKANAL (SENIOR ADVOCATE)
ADVS. SRI.PAUL ABRAHAM VAKKANAL
SRI.DIJO SEBASTIAN
SMT.VINEETHA SUSAN THOMAS**

RESPONDENT(S):

- 1. THE TAHSILDAR,
MOOVATTUPUZHA, PIN- 686 661.**
- 2. THE VILLAGE OFFICER,
MANEED, PIN - 696 673.**
- 3. THE DISTRICT COLLECTOR,
CIVIL LANE, KAKKANAD,
KOCHI, PIN-682 030.**

BY GOVERNMENT PLEADER SRI.C.K.JAYAKUMAR

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 - TRUE COPY OF THE SSLC CERTIFICATE OF THE PETITIONER
DATED: MARCH 2005.
- P2 - TRUE COPY OF THE PLUS TWO CERTIFICATE OF THE PETITIONER DATED:
MARCH 2007.
- P3 - TRUE COPY OF THE COMMUNITY CERTIFICATE EARLIER ISSUED BY THE
1ST RESPONDENT HIMSELF DATED: 15.03.2012.
- P4 - TRUE COPY OF THE COMMUNITY CERTIFICATE EARLIER ISSUED BY THE
1ST RESPONDENT HIMSELF DATED:14.05.2014.
- P5 - TRUE COPY OF THE CERTIFICATE ISSUED BY THE MALA ARAYA MAHA SABHA
DATED 08.04.2013.
- P6 - TRUE COPY OF THE COMMUNITY CERTIFICATE OF THE PETITIONER'S
MOTHER K.R.LEELA DATED 30.06.2005.
- P7 - TRUE COPY OF THE SSLC RELEVANT PAGE OF THE PETITIONER'S MOTHER
DATED: NIL.
- P8 - TRUE COPY OF THE NATIVITY CERTIFICATE NO.733/12 DATED 14.03.2012.
- P9 - TRUE COPY OF THE EXTRACT OF THE ADMISSION REGISTER DATED: NIL.
- P10 - TRUE COPY OF THE AFFIDAVIT BEFORE THE 2ND RESPONDENT
DATED 13.05.2014.
- P11 - TRUE COPY OF THE AFFIDAVIT BEFORE THE 2ND RESPONDENT
DATED 13.05.2014.
- P12 - TRUE COPY OF THE ORDER G.O.(MS)NO.109/SCSTDD DATED 20.11.2008.
- P13 - TRUE COPY OF THE CERTIFICATE ISSUED BY PSC HAVING VERIFIED HIS
CERTIFICATES AND FOUND CORRECT DATED: NIL.
- P14 - TRUE COPY OF THE INTIMATION TO APPEAR FOR PHYSICAL TEST
DATED: NIL.
- P15 - TRUE COPY OF THE LETTER ISSUED FROM THE 1ST RESPONDENT
DATED 07.05.2015.
- P16 - TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER'S MOTHER
DATED: 08.05.2015.
- P17 - TRUE COPY OF THE PETITION DATED 22-05-2015.

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P18 - TRUE COPY OF THE ORDER IN WP(C)NO.15587/2015(W) DATED 8.6.2015.

P19 - TRUE COPY OF THE CERTIFICATE DATED 9.6.2015.

P20 - TRUE COPY OF THE PETITION WITH POSTAL RECEIPT DATED 9.7.2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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K. VINOD CHANDRAN, J.

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Dated this the 17th day of July, 2015

J U D G M E N T

The petitioner admittedly is the progeny of an inter-caste marriage, where the father is a Hindu-Dheevera and the mother, a Hindu-Mala Araya. The petitioner's contention is that, the petitioner was brought up in the social milieu of the mother's community and that the petitioner is entitled to be considered as a Scheduled Tribe since, the Mala - Araya community is included as a Scheduled Tribe.

2. The petitioner also relies on the certificates issued at the earlier point of time being Exts.P3 and P4, wherein the petitioner was considered as a Hindu-Mala Araya by the competent authority under the Kerala (Scheduled Castes & Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (for brevity, 'the Act of 1996').

3. The petitioner in the present writ petition is aggrieved with Ext.P15, wherein the Tahsildar, Muvattupuzha on a subsequent application made had rejected the prayer for grant of a community certificate showing the petitioner's community as Hindu - Mala Araya. The Tahsildar, Muvattupuzha found that the petitioner's caste is Hindu - Dheevera by reason of the father of the petitioner belonging to that community.

4. The learned Government Pleader submits that the examination as to whether a person belongs to the Scheduled Tribe member has to be on the basis of the facts and an enquiry conducted by the expert agency under the Act of 1996. Further, it is also submitted that Ext.P5 is an appealable order under Section 12 of the Act of 1996. On a reading of the enactment aforementioned, it is seen that the petitioner is entitled to file an appeal before the appellate authority under Section 12 of the Act of 1996. There is however a limitation provided that the appeal shall be filed within a period of 30 days. The order at Ext.P15 is dated 07.05.2015 and the writ petition was filed on 26.05.2015,

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within the period of limitation.

5. Since a bonafide proceeding had been initiated before this Court and this Court has now declined jurisdiction only on the issues of an alternate remedy available and this Court being disabled from looking into the facts to decide on the caste status of the petitioner, it is only appropriate that the petitioner be permitted 30 days time from today for filing an appeal before the Appellate Authority. The petitioner could also take up a remedy before the Scrutiny Committee, which would definitely refer the case to the expert agency, being Kerala Institute for Research, Training and Development Studies (KIRTADS) for consideration of the caste status of the petitioner.

In such circumstance, leaving open such remedies, the writ petition would stand closed.

**Sd/-
K. VINOD CHANDRAN,
JUDGE**

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P.A to Judge.