

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

WP(C).No. 16142 of 2015 (P)

PETITIONER:

**GOKUL RAJ P., AGED 19 YEARS,
S/O.DR.JAGADEESH RAJ, PANDARIKKAL HOUSE,
KIZHAKKUMMURI.P.O, PERINGOTTUKARA,
THRISSUR DISTRICT.**

**BY ADVS.SRI.BABU KARUKAPADATH
SMT.M.A.VAHEEDA BABU
SRI.K.A.NOUSHAD
SRI.P.U.VINOD KUMAR
SRI.MITHUN BABY JOHN
SRI.J.RAMKUMAR**

RESPONDENT(S):

- 1. THE COMMISSIONER FOR ENTRANCE EXAMINATIONS,
OFFICE OF THE COMMISSIONER FOR ENTRANCE EXAMINATIONS,
HOUSING BOARD BUILDING, SANTHI NAGAR,M
THIRUVANANTHAPURAM, PIN-695001.**
- 2. THE VILLAGE OFFICER,
KIZHAKKUMMURI VILLAGE, KIZHAKKUMMURI.P.O,
PERINGOTTUKARA, PIN-680571,
THRISSUR DISTRICT-686583.**
- 3. THE TAHSILDAR,
TALUK OFFICE, THRISSUR-686583.**

BY ADV. GOVERNMENT PLEADER SRI.ROSHEN D.ALEXANDER

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 09-06-2015, THE COURT ON 15-06-2015 DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1 : A TRUE COPY OF THE INTER CASTE MARRIAGE CERTIFICATE CERTIFYING THAT,THE PETITIONER IS THE SON OF AN INTER CASTE MARRIED COUPLE,ISSUED BY THE 3RD RESPONDENT,WHICH WAS SUBMITTED BY THE PETITIONER SEEKING FOR RESERVATION UNDER SEBC FOR CHILDREN OF INTER CASTE MARRIED COUPLES,LAST YEAR.
- EXT.P2 : A TRUE COPY OF THE RELEVANT PORTION OF THE PROSPECTUS PUBLISHED BY THE 1ST RESPONDENT FOR KEAM-2015.
- EXT.P3 : A TRUE COPY OF THE G.O.DATED 5/1/2015 PUBLISHED BY THE GOVERNMENT.
- EXT.P4 : A TRUE COPY OF THE APPLICATION FORM PUBLISHED BY THE 1ST RESPONDENT IN THE WEBSITE,TO BE SUBMITTED ONLINE,BY THE APPLICANTS.
- EXT.P5 : A TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER ON 13/1/2015 BEFORE THE 1ST RESPONDENT.
- EXT.P6 : A TRUE COPY OF THE G.O.DATED 1/1/2015 ALONG WITH THE RELEVANT PORTIONS OF ANNEXURES TO THE SAID G.O.
- EXT.P7 : A TRUE COPY OF THE REPRESENTATION DATED 29/4/2015 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

K. VINOD CHANDRAN, J.

W.P(C). No.16142 of 2015

Dated this the 15th day of June, 2015.

JUDGMENT

The petitioner claims consideration under the Socially and Economically Backward Community quota (for brevity, SEBC) being the progeny of an intercaste marriage, in which the father belongs to the SEBC. Admittedly, the petitioner did not apply to the Kerala Engineering Agriculture Medical Entrance Examinations-2015 (KEAM-2015) as an SEBC candidate or as the progeny of an intercaste marriage.

2. The petitioner's contention is that, he did not so apply due to the confusion created by the Government in the prospectus as also in the orders issued after the prospectus. After the examination and publication of results, the petitioner having not been placed higher up in the merit, amongst the general quota candidates, he turns around to seek inclusion as an SEBC

candidate, since his rank would then entitle him to be admitted presumably to a Government Medical College.

3. The petitioner's contention is based on the clause granting exemption to the children of intercaste marriages, where both or either of the parents belong to SEBC Community as provided for in Clause 5.4.2 (g) in Ext.P2 prospectus. A reading of the said clause would indicate that the children of intercaste married couple with either the father or mother belonging to a community in the SEBC list would be eligible for reservation under SEBC, provided an intercaste Marriage Certificate from the Village Officer is produced. The same has to be in the proforma at Annexure XV of the prospectus. There is also a stipulation that, such candidates need not produce Income Certificate for claiming communal reservation, if they do not claim any fee concessions/ Scholarships/any other benefits. The learned Senior Government Pleader would however contend otherwise; which would be noticed later on.

4. Subsequent to the notification, the Government brought out Ext.P3 GO(MS) No.4/2015/H.Edn. dated 05.01.2015, in which

it was directed that, candidates from Creamy Layer would be excluded from the SEBC reservation in admission to Professional Degree Colleges. The reservation for progeny of intercaste marriages were also to be so governed. The petitioner would contend that, his father being a Medical Doctor, employed in a Medical College, the petitioner was under the impression that he would be excluded from reservation for reason of being included within the Creamy Layer.

5. Allegedly, subsequent to Ext.P3, another notification was brought out produced at Ext.P6 GO(P) No.1/2015/BCDD dated 01.01.2015, in which the salary income of the parent was excluded for being included in the Creamy Layer. The petitioner alleges that, he was not aware of such notification and it was only in such circumstances, that he did not make an application for being included in the SEBC quota. The petitioner also has an alternate contention in so far as the proforma for application to be uploaded, produced at Ext.P4, containing a provision to indicate duly those intercaste marriages, with either of the parent belonging to the Scheduled Caste or Scheduled Tribe. Hence,

definitely there could not have been an indication of his SEBC status under the intercaste marriage category, for reason of SEBC not being specifically shown therein. The omission, if any, made by the petitioner, was not deliberate and the Government alone is to be blamed. The petitioner has been deprived of his rightful eligibility for reason only of such mistake committed by the State and he should hence be restored to the position, he would have had, if the State had not committed such a mistake.

6. The learned Senior Government Pleader, however would at the outset, contend that there could be no understanding that candidates claiming benefit of the intercaste marriage need not produce an Income Certificate. According to him, the reservation available to SEBC candidates, born to intercaste married couple, is the reservation extended to SEBC candidates itself, which is indicted in Clause 5.4.2(a) of the prospectus. The said clause specifically restricts eligibility to candidates, whose family has income only up to Rupees Six lakhs and there could not have been any larger benefit or relaxation conferred on candidates born to intercaste parents. It is also specifically asserted that, the

petitioner even in Ext.P5 application, at the place provided for indicating intercaste category, has declared in the negative. Ext.P5 application was in the general category and only on the results being published, the petitioner turned around to claim SEBC reservation. There was no certificate produced as provided in Annexure XV of the prospectus along with the application to claim the reservation under SEBC, is the final argument.

7. The petitioner cannot plead ignorance of the specific terms of reservation granted to the SEBC candidates belonging to the intercaste category. The prospectus, by a mistake indicated that no Income Certificate need be produced by the SEBC category. Even accepting the argument of the petitioner, as per the prospectus there was no prohibition in the petitioner applying under the intercaste category of SEBC students. The petitioner admittedly applied under the general quota. The explanation of the petitioner is that, by Ext.P3 since Creamy Layer was excluded, the petitioner was under the impression that he would not be entitled to so apply, for reason of his father having income above Rupees Six lakhs. The petitioner pleads

ignorance of the notification produced at Ext.P6 and contends that it was only published much later.

8. All said and done the petitioner puts the blame on the State on the basis of Ext.P3 order, which gave a wrong message that Creamy Layer is excluded. A reading of Ext.P3 order would indicate that Ext.P6 G.O. was specifically read as item No.2 in the said G.O. The body of Ext.P3 also specifically refers to Ext.P6 twice and mandates a 'Non-Creamy Layer' Certificate as provided in Ext.P6 G.O. Hence, a diligent candidate should have enquired as to what is the exact stipulation in the Government Order read and referred to in Ext.P3 G.O. Ext.P6 definitely excludes income from salary and then the petitioner would definitely have been entitled to apply under the SEBC category. The petitioner cannot feign ignorance of Ext.P6 G.O. It is also pertinent that the Government granted time upto 10.02.2015 for candidates to submit the certificates and claim reservation; if not already claimed.

9. Fact remains that the petitioner did not apply in the SEBC category, though his father belongs to the community included in

the list of SEBCs and his mother is from a different caste. The petitioner, one who admits knowledge of Ext.P3 G.O., having applied in the general quota cannot allege confusion on the basis of the various G.O.s produced, since there is no anomaly as pleaded. The petitioner's attempt is to divert attention from the simple fact that he was not diligent enough and has committed a mistake; by putting the blame on the State.

10. The learned counsel appearing for the petitioner would fervently plead that in declining such relief to the petitioner, this Court would be curtailing and stalling the future of a nineteen year old. This Court cannot countenance such argument, because another student in his teens with the same aspirations, and equally meritorious who had also diligently applied under the reserved category, is waiting in the queue. This Court cannot shut its eyes to the plight of other eligible candidates, with similar dreams and aspirations to be admitted to a professional course; none of whom are in the party array. The hurdle placed before the petitioner if at all, is the consequence of his action or rather omission. A second or third chance in life is often the gift

of destiny and not frequently enabled by orders of Court; which could only be issued on an evaluation of the balancing considerations and overall consequences.

The writ petition is dismissed. No costs.

Sd/-
K. VINOD CHANDRAN,
JUDGE

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