

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

WP(C).No. 20608 of 2015 (A)

PETITIONER(S):

1. RAHUL H.I., AGED 28 YEARS,
S/O.INDIRA M.N., UNNIYIL HOUSE, V.M.C.18,
VAIKOM P.O., KOTTAYAM DISTRICT.
2. ROHAN H.I., AGED 18 YEARS,
S/O.INDIRA M.N., UNNIYIL HOUSE, V.M.C.18,
VAIKOM P.O., KOTTAYAM DISTRICT.

BY ADV. SRI.P.A.ABDUL JABBAR

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY
SC/ST DEVELOPMENT DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 590 001.
2. THE TAHSILDAR, TALUK OFFICE,
VAIKOM, KOTTAYAM DISTRICT, PIN - 686 141.
3. DIRECTORATE OF KIRTADS [KERALA INSTITUTE FOR
RESEARCH TRAINING AND DEVELOPMENT STUDIES
OF SCHEDULED CASTES AND TRIBES],
KOZHIKODE-17.

R1 & R2 BY GOVERNMENT PLEADER SRI.BIJU MEENATTOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

P1- TRUE COPY OF THE CASTE CERTIFICATE ISSUED BY THE THASIDLAR, VAIKOM.

P2- TRUE COPY OF THE CASTE CERTIFICATE ISSUED BY THE TRIBAL EXTENSION OFFICER, VAIKOM.

P3- TRUE COPY OF THE CERTIFICATE ISSUED BY THE AYKYA MALA ARAYA MAHASABHA.

P4- TRUE COPY OF THE GOVERNMENT ORDER NO.G.O.(MS)109 SC/ST DD.

P5- TRUE COPY OF THE JUDGMENT IN W.P.[C] NO.5157/2009.

P6- TRUE COPY OF THE PROVISIONAL CASTE CERTIFICATE ISSUED BY THE 3RD RESPONDENT.

P7- TRUE COPY OF THE ANTHROPOLOGICAL REPORT OF THE 3RD RESPONDENT.

P8- TRUE COPY OF THE JUDGMENT IN W.P[C] NO.19828/2009.

P9- TRUE COPY OF THE TRANSFER CERTIFICATE ISSUED FROM S.M.S.N.HIGHER SECONDARY SCHOOL, VAIKOM.

P10- TRUE COPY OF THE TRANSFER CERTIFICATE ISSUED FROM LISIEUX ENGLISH SCHOOL.

P11- TRUE COPY OF THE APPLICATION FOR CASTE CERTIFICATE.

P12- TRUE COPY OF THE REPORT OF THE VILLAGE OFFICE THALAPPULAM.

P13- TRUE COPY OF THE LETTER RECEIVED FROM THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K. Vinod Chandran, J

W.P.(C).No.20608 of 2015-A

Dated this the 16th day of July, 2015

JUDGMENT

The petitioners are siblings, who claim caste status of 'Scheduled Tribe' community, on the strength of the mother of the petitioners belonging to the Scheduled Tribe community 'Mala Araya'. The father of the petitioners admittedly belongs to 'Dheevara'. The 1st petitioner had applied for such caste status in the entrance examination for the year 2009. The Commissioner for Entrance Examinations had referred the said matter to the Kerala Institute for Research, Training and Development Studies [for brevity "KIRTADS"], which is the expert agency constituted under the Kerala (Scheduled Castes & Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 [for brevity "Act of 1996"]. The KIRTADS, by Exhibit P7, found against the 1st petitioner's claim.

2. Neither the 1st petitioner nor his parents took up the matter before the Scrutiny Committee or the Government as provided under the Act of 1996. The 1st petitioner obviously did not take up the matter since W.P.(C).No.19828 of 2009 was pending

before this Court. By judgment dated 17.10.2014, the said writ petition was dismissed as infructuous. Even after that the petitioners had not challenged the proceedings before the Scrutiny Committee.

3. In any event, there is no time provided in the Act of 1996 for approaching the Scrutiny Committee. The present writ petition is filed on the premise that the 2nd petitioner, who is the brother of the 1st petitioner, is now ripe for graduation and the claim has to be sustained at least provisionally. However, since Exhibit P7 has been passed by the expert committee and no challenge is made to that till date, this Court cannot pass a provisional order in the case of the 2nd petitioner also.

The petitioners have to challenge Exhibit P7 order either before the Scrutiny Committee or before the Government as provided under the Act of 1996. Leaving open such remedy, the writ petition would stand closed.

Sd/-
K.Vinod Chandran
Judge.

vkul/-

[true copy]