

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. 25109 of 2009 (G)

PETITIONER(S):

**ANEESHA S.P.,
D/O.SASIKUMARAN. S, 29 YEARS, WILLS COTTAGE,
ARAYOOR, P.O., THIRUVANANTHAPURAM- 695 122.**

BY ADV. SMT.P.R.REENA.

RESPONDENT(S):

**1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF REVENUE,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.**

**2. TAHSILDAR, TALUK OFFICE,
NEYATTINKARA, THIRUVANANTHAPURAM
PIN- 695 121.**

**3. THE VILLAGE OFFICER, CHENKAL,
MARYAPURAM PO, AMARAVILA (VIA).,
THIRUVANANTHAPURAM- 695 127.**

*** ADDL. R4 IMPEADED**

**4. KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY,
OFFICE OF THE KERALA PUBLIC SERVICE COMMISSION,
PATTOM, THIRUVANANTHAPURAM-4.**

*** IS IMPEADED AS ADDL. 4TH RESPONDENT AS PER ORDER
DATED 24/09/2009 IN I.A. NO.11567/2009.**

**R1 TO R3 BY SPL. GOVT. PLEADER SMT.LALY VINCENT.
ADDL. R4 BY ADV. SRI.P.C.SASIDHARAN, SC.**

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

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1 COPY OF THE 3RD PAGE OF THE SSLC BOOK DATED 19/03/1995.
- EXT.P2 COPY OF THE CREAMY LAYER CERTIFICATE ISSUED BY THE
TAHSILDAR NEYYATTINKARA DATED 05/10/2002.
- EXT.P3 COPY OF THE RANKED LIST PUBLISHED BY THE KPSC
DATED 30/06/2009.
- EXT.P4 COPY OF THE COVERING LETTER DATED 05/08/2009.
- EXT.P5 COPY OF THE ACKNOWLEDGMENT CARD DATED 06/08/2009.
- EXT.P6 COPY OF THE ORDER ISSUED BY THE 3RD RESPONDENT
DATED 10/08/2009.
- EXT.P7 COPY OF THE INTERVIEW CARD ISSUED BY THE KERALA
PUBLIC SERVICE COMMISSION DATED 31/08/2009.

RESPONDENT'S EXHIBITS:-

- EXT.R2A COPY OF THE MEMBERSHIP CERTIFICATE DATED 18/09/2009
ISSUED BY THE PRESBYTER AND DISTRICT CHAIRMAN,
CSI, CHURCH.

//TRUE COPY//

P.S. TO JUDGE

rs.

K. Vinod Chandran, J

W.P.(C).No.25109 of 2009-G

Dated this the 13th day of July, 2015

JUDGMENT

The petitioner is aggrieved with the fact that the petitioner's backward community status has been disputed by the officers of the State and, hence, the petitioner was declined a Non-Creamy Layer Certificate.

2. The petitioner asserts that the petitioner was born in the Hindu-Nadar community, as is seen from Exhibit P1, Secondary School Leaving Certificate and Exhibit P2, Caste Certificate issued to her by the Tahsildar on 05.10.2002. However, the fact remains that the admitted case of the petitioner is that the petitioner converted into Christianity and married a Christian. The petitioner's contention is that she has converted back to Hinduism and, hence, the community of her birth should be the status given to her. The petitioner also relies on ***S.Anbalagan v. B.Devarajan [AIR 1984 SC 411]***, ***Shanmughathayi Ammal v. Devasahayam Nadar [1954 KLT 448 (FB)]***, and ***Valsala. v. State of Kerala [2005 (4) ILR Kerala 122]***.

3. The principle laid down in ***Shanmughathayi Ammal*** (*supra*) was that even after conversion to Christianity, continuity of a Hindu in his original family was according to the Hindu Law of succession prior to the Christian Succession Act [II of 1092, Travancore]. That has no application in deciding reservation.

4. ***Valsala*** (*supra*) was relied on to contend that the caste of a person depends on the birth and that the Government does not have the competence to determine a caste of a particular person or class of persons. The said decision would also be not applicable, since herein the admitted case is that the petitioner had converted into Christianity. The petitioner's re-conversion is merely asserted without any evidence.

5. ***S.Anbalagan*** (*supra*) also was a case in which the Election Tribunal took evidence and found on the basis of the evidence that the claimant therein re-converted into Hinduism.

6. In the present case, there is absolutely no evidence to show that the petitioner had reconverted into Hinduism. The mere assertion that the Hindu community had

accepted her coming back would not suffice insofar as granting the community status. The petitioner would have her remedies before the appropriate forum. However, no directions can be issued in the writ petition.

The writ petition would stand dismissed. No costs.

Sd/-

K.Vinod Chandran
Judge.

vkul/-

[true copy]