

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN**

**FRIDAY, THE 31ST DAY OF JULY 2015/9TH SRAVANA, 1937**

**WP(C).No. 26821 of 2009 (W)**  
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**PETITIONER(S):**  
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**SUBI JOSEPH,  
MULLACKAL HOUSE, THENGODU, KAKKANADU,  
ERNAKULAM.**

**BY ADV. SRI.SAIGI JACOB PALATTY**

**RESPONDENT(S):**  
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- 1. STATE OF KERALA,  
REPRESENTED BY SECRETARY, SCHEDULE CAST/SCHEDULE  
TRIBE DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.**
- 2. THE TAHSILDAR,  
TALUK OFFICE, KANAYANNUR, ERNAKULAM.**
- 3. THE DISTRICT COLLECTOR,  
CIVIL STATION, KAKKANADU, ERNAKULAM.**

**BY GOVERNMENT PLEADER SMT.LALY VINCENT**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31-07-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**PJ**

**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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- P1- PHOTOCOPY OF THE CERTIFICATE DTD.1/6/09**
- P2 - PHOTOCOPY OF THE CALL LETTER DATED /5/09 ISSUED BY THE KENDRIYA VIDYALAYA**
- P3 - PHOTOCOPY OF THE APPLICATION FOR COMMUNITY CERTIFICATE**
- P4 - PHOTOCOPY OF THE COMMUNITY CERTIFICATE DATED 15/12/2004 ISSUED BY THE TAHSILDAR MEENACHIL**
- P5 - TPHOTO COPY OF THE COMMUNITY CERTIFICATE DATED 18/12/07 ISSUED BY THE R2**
- P6- PHOTOCOPY OF THE ORDER DATED 30/5/09 ISSUED BY THE R2 REJECTING THE APPLICATION**
- P7- TRUE PHOTOCOPY OF THE G.O.MS.109/08 DATED 20/11/08 ISSUED BY THE GOVERNMENT**
- P8- TRUE PHOTOCOPY OF THE REPORT OF THE VILLAGE OFFICER DATED 21/5/09**
- P9- TRUE PHOTOCOPY OF THE REPORT OF THE VILLAGE OFFICER DATED 25/5/2009**
- P10- TRUE PHOTOCOPY OF THE APPEAL DATED 2/6/09 FILED TO THE R3**
- P11- TRUE PHOTOCOPY OF THE ORDER DATED 4/8/09 ISSUED BY THE R3.**

**RESPONDENT(S)' EXHIBITS**  
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**NIL.**

**/ TRUE COPY /**

**P.S. TO JUDGE**

**PJ**

**K. VINOD CHANDRAN, J.**

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**W.P(C). No.26821 of 2009**  
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**Dated this the 31<sup>st</sup> day of July, 2015.**

**JUDGMENT**

The petitioner is aggrieved with the fact that, her son Joseph Daniel has not been granted a Certificate as a Scheduled Tribe 'Mala Araya'. The petitioner has not been issued with a Certificate showing her to be a Scheduled Tribe member. In fact Ext.P4 shows that the Tahsildar specifically had opined that the petitioner, who belonged to Hindu 'Mala Araya', converted herself to Christianity. The Certificate issued in favour of the son of the petitioner Joseph Daniel, is at Ext.P5. There also Joseph Daniel is said to be a 'Christian Mala Arayan'. Hence, it is clear that the petitioner's son was brought up as a Christian, being the caste of his father.

2. However, in Ext.P5, it is stated that the son would be eligible for educational and monetary benefits admissible to Scheduled Tribe as is provided in GO(MS) No.25/05/SC/ST/DD.

However, that would depend upon the circumstances in which the child is brought up.

3. Admittedly, the petitioner had converted to Christianity and had also married a Jacobite Christian, there is no case of reconversion projected. Further, in **Rameshbhai Dabhai Naika v. State of Gujarat [(2012) 3 SCC 400]**, the Hon'ble Supreme Court has held that the presumption available to an intercaste child is that the child would take the community of the father. Herein, the petitioner's husband is admittedly a Christian Jacobite and hence the son would also take that caste. Ext.P5 is also to that end, finding the son of the petitioner to be a Christian Jacobite, taking the Community of his father. Further, going by the specific averments, though the petitioner contends that the petitioner is living in the social milieu of 'Hindu Mala Araya', the specific contention is that, she is living as a 'Christian Mala Araya' with status of a Scheduled Tribe. A Christian convert hence cannot be considered to be entitled to Scheduled Tribe status; especially a progeny of a Christian father and converted Christian mother.

In such circumstances, there can be no direction issued,

directing issuance of a Scheduled Tribe Certificate to the son of the petitioner.

The writ petition would stand dismissed.

Sd/-

**K. VINOD CHANDRAN,  
JUDGE**

sp