

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

W.P(C)No.33850 of 2006 (D)

PETITIONER:

VIGNARAJ. R., AGED 24,
(S/O.RAMASWAMY), C/O.TRICHY CLOTH STORE,
K.K. ROAD, VANDIPERIYAR, IDUKKI DISTRICT,
KERALA STATE.

BY ADV.SRI.T.K.M.UNNITHAN
SRI.V.JAYAKUMAR
SRI.T.D.PARAMESWARAN UNNI

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY, GOVERNMENT OF KERALA
THIRUVANANTHAPURAM.
2. KIRTADS (KERALA INSTITUTE FOR
RESEARCH, TRAINING AND DEVELOPMENT STUDIES)
FOR SCHEDULES CASTES REPRESENTED BY THE
VIGILANCE OFFICER, VIGILANCE CELL
DIRECTORATE OF KIRTADS, KOZHIKODE-17.

BY SPL. GOVT. PLEADER, SMT.P.K.SANTHAMMA, FOR R1

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
21.07.2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

[P.T.O]

APPENDIX

PETITIONER'S EXHIBITS

- EXT.P1: TRUE COPY OF THE SSLC BOOK PAGE 1 & 2 OF THE PETITIONER
- EXT.P2: TRUE COPY OF THE ANTHROPOLOGICAL REPORT DATED 23.08.2001 ISSUED FROM THE VIGILENCE CELL OF KIRTADS.
- EXT.P3: TRUE COPY OF THE NATIITY CERTIFICATE DATED 10.4.2001 ISSUED BY THE VILLAGE OFFICER, MANJUMALA VILLAGE, IDUKKI DISTRICT
- EXT.P4: TRUE COPY OF THE RATION CARD ISSUED BY THE TALUK SUPPLY OFFICER, IDUKKI
- EXT.P5: TRUE COPY OF THE IDENTITY CARD ISSUED FROM THE ELECTORAL REGISTRATION OFFICER TO THE PETITIONER
- EXT.P6: TRUE COPY OF THE REPRESENTATION DATED 14.7.2004 SUBMITTED BY THE PETITIONER'S FATHER RAMASWAMY BEFORE THE SECRETARY, SC/ST DEVELOPMENT DEPARTMENT.

RESPONDENTS' EXHIBITS: Nil

//TRUE COPY//

PA TO JUDGE

PtK/

K. VINOD CHANDRAN, J.

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W.P.(C) No.33850 of 2006 - D

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Dated this the 21st day of July, 2015

J U D G M E N T

The petitioner, the son of a native of Tamil Nadu, who had migrated to Kerala for employment, seeks the caste status as 'Kavara', which admittedly belongs to the Scheduled Caste list for the State of Kerala. Even as per the averments in the writ petition, the petitioner's father Ramaswamy had migrated from the State of Tamil Nadu and was employed in a textile shop in Kerala. The petitioner's mother also had migrated to Kerala pursuant to her marriage to Ramaswamy. Three children were born in the wedlock, all of them having been born and brought up in Kerala. The petitioner was admitted to the school with his caste identity asserted as 'Kavara'. The petitioner also had been getting benefits due to a Scheduled Caste all through his academic pursuits.

2. At the time of filing of the above writ petition, the petitioner was a student of B.Sc Physics studying at the University College and staying at the Metric Hostel No.1 of Vellayambalam, which residence was permitted on account of his Scheduled Case status. The petitioner also had been issued with a community certificate indicating that the petitioner is a Scheduled Case belong to the 'Kavara' community. However on a request made by the Commissioner for Entrance Examination, the Kerala Institute for Research, Training and Development Studies (KIRTADS) had conducted an enquiry about the caste status claimed by the petitioner and filed an Anthropological report produced at Ext.P2.

3. Having traced the paternal and maternal ancestors of the petitioner from Tamil Nadu, the report found that the petitioner is the son of migrant parents. The petitioner's father belonged to the 'Gavara' community of Tamil Nadu, which is listed as a backward caste in that State. In such circumstance,

the petitioner's caste status as a member of the 'Kavara' community was declined by Ext.P2 report. The report also recommended that action may be taken to recover the benefits which the petitioner had availed of as a member of the Scheduled Caste community.

4. I have heard the Counsel appearing for the petitioner Sri. T.K.M. Unnithan as also the learned Special Government Pleader (SC & ST).

5. Admittedly there were two communities in Kerala, which were included in the list of Scheduled Caste for the State being 'Kavara' and 'Gavara'. It was in the year 1994 the decision of the Constitution Bench in **Action Committee on issue of Caste Certificate to Scheduled Castes and Scheduled Tribes in the State of Maharashtra and Another v. Union of India and Another [1994(5) SCC 244]**, declined migrants from another State to claim Scheduled Caste or Scheduled Tribe status in the State to which they migrated. In 2002 by Act 61 of

2002, the community 'Gavara' was removed from the list of Scheduled Castes for the State of Kerala.

6. It cannot be said that the declaration of the petitioner as a member of the Scheduled Caste community was deliberate and with the full knowledge that his family did not belong to that community. Both the communities by name 'Kavara' and 'Gavara' were earlier included in the Scheduled Caste community for the State of Kerala. The petitioner even as per Ext.P2 report belonged to 'Gavara' community of the State of Tamil Nadu. The social status of the family of the petitioner also does not commend a conclusion that the attempt was one deliberately made to corner the benefits of the Scheduled Caste. Hence, though the petitioner would not be entitled to any further benefits as a member belonging to the Scheduled Caste community, it is declared that the petitioner shall not be divested of any benefits, which he had already obtained including the academic degrees he obtained, as also the

concessions already availed of. No steps shall be taken to recover the benefits availed of by the petitioner. The petitioner shall also be left the remedy to approach the State from which his father migrated, to obtain the necessary caste certification. However, the said reservation is not to be taken as a direction by this Court to issue such certificate.

The writ petition hence would stand dismissed however with the above reservations.

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

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P.A to Judge.