

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

WP(C). No.27513 of 2012 (L)

PETITIONER(S):

**P.BHARGHAVAN AGED 42 YEARS
AGED 42 YEARS, S/O.PACHAN, THANNICKAL HOUSE
MUTTAM P.O., THODUPUZHA, 685 587.**

**BY ADVS.SRI.V.MANOJ KUMAR
SRI.IYPE JOSEPH**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY
SCHEDULED CASTES AND SCHEDULED TRIBES
DEVELOPMENT (G) DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM 695 001.**
- 2. THE DIRECTOR, KIRTADS, GOLF LINK ROAD, CHEVAYUR, KOZHIKODE
KERALA 673 017.**
- 3. THE TAHSILDAR, TALUK OFFICE, THODUPUZHA,
IDUKKI 685 584.**
- 4. THE VILLAGE OFFICER, VILLAGE OFFICE, MUTTOM P.O.,
THODUPUZHA 685 587.**

ADDITIONAL 5TH RESPONDENT IMPLEADED:

- 5. MAHATMA GHANDHI UNIVERSITY,
REPRESENTED BY ITS REGISTRAR,
PRIYADARSINI HILLS, ATHIRAMPUZHA P.O.,
KOTTAYAM - 685 562.
(ADDITIONAL 5TH RESPONDENT IS IMPLEADED AS PER ORDER DATED
14.12.012 IN I.A NO.16597 OF 2012.)**

**R5 BY ADVS. SRI.VARUGHESE M.EASO, SC, M.G. UNIVERSITY
DR.P.LEELAKRISHNAN, SC, M.G.UNIVERSITY**

R3 BY GOVERNMENT PLEADER SMT. LALY VINCENT

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S) EXHIBITS:

EXT.P-1:-TRUE COPY OF THE COMMUNITY CERTIFICATE NO.K.DIS F116717/30/04 TO THE PETITIONER BY THE 3RD RESPONDENT DATED 16.12.04.

EXT.P-2:-TRUE COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE GREESHMA BHARGHAVAN, MARCH 2010

EXT.P-3:-TRUE COPY OF THE SECONDARY SCHOOL LEAVING CERTIFICATE OF RESHMA BHARGHAVAN.

EXT.P-4:-TRUE COPY OF THE COMMUNITY CERTIFICATE NO.K.DIS.F714867/10 TO THE PETITIONER'S DAUGHTER BY THE 3RD RESPONDENT DATED 3.07.2010.

EXT.P-5:-TRUE COPY OF THE REPORT NO.269/12 TO THE 3RD RESPONDENT DATED 2.02.2012.

EXT.P-6:-TRUE COPY OF THE APPLICATION FILED BEFORE THE 3RD RESPONDENT BY THE PETITIONER DATED 9.2.2012.

EXT.P-7:-TRUE COPY OF THE CERTIFICATE ISSUED BY THE NEWMAN COLLEGE THODUPUZZHA TO PETITIONER'S DAUGHTER DATED 7.11.2012.

EXT.P-8:-TRUE COPY OF THE LETTER NO.16429/G3/2012/S.C.S.T., D.D. ISSUED BY 1ST RESPONDENT TO THE PETITIONER DATED 29.06.2012.

EXT.P-9:-TRUE COPY OF THE COMMUNICATION NO.F7/3308/12 ISSUED BY THE 3RD RESPONDENT TO THE PETITIONER DATED 20.06.2012.

EXT.P-10:- TRUE COPY OF THE COMMUNICATION DATED 20.11.2012 ISSUED TO THE PETITIONER'S ELDER DAUGHTER GREESHMA BHARGHAVAN BY THE ADDL. 5TH RESPONDENT.

EXT.P-11:- TRUE COPY OF THE COIMMUNITY CERTIFICATE NO.2642450 ISSUED TO THE PETITIONER BY THE REVENUE DIVISIONAL OFFICER, PADMANABHAPURAM THUCKALAY, DATED 1.4.1995.

EXT.P-12:- TRUE COPY OF THE LIST OF SCHEDULED TRIBES (ST) (AS AMENDED BY THE SCHEDULED CASTES AND SCHEDULED TRIBES ORDERS (AMENDMENT) ACT, 2002 (ACT 10 OF 2003) VIDE PART-VII-KERALA SECOND SCHEDULE NOTIFIED IN THE GAZETTE OF INDIA DATED 08.01.2003).

RESPONDENTS' EXHIBITS:- NIL

KRJ

/True Copy/

P.A to Judge

A.V.RAMAKRISHNA PILLAI, J.

= = = = =

W.P(C) No.27513 of 2012

= = = = =

Dated this the 29th day of January, 2015

JUDGMENT

The petitioner alleges that he belongs to Hindu Malakurava community which is a Schedule Tribe. According to him, he migrated from Thannickal House, Muttom P.O., Thodupuzha, Idukki District, Kerala State in the year 1985. He further alleges that he married a Cheramar Christian lady by name Gracy and two daughters were born in that wedlock. The petitioner points out that as per Ext.P1 community certificate issued by the third respondent, he belongs to Hindu Mala-Arayan community. The petitioner further points out that the as per Exts.P2 to P4, his daughter's religion and community is Hindu Mala Araya.

2. The grievance of the petitioner is that on 2.2.2012, his elder daughter by name Greeshma Bharghavan filed an application for community certificate before the fourth respondent for producing the same for Kerala Engineering, Agricultural, Medical Examinations, 2012 (KEAM). Thereafter, the fourth respondent forwarded Ext.P5 report recommending the third respondent to issue community certificate to the petitioner's daughter as Hindu

Mala Araya. However, since there was no response from the third respondent, the petitioner filed Ext.P6 application before the third respondent to issue community certificate. In the meantime, the third respondent issued Ext.P9 communication to the petitioner informing that the matter is referred to the second respondent for taking decision in this regard.

3. It is further alleged that the second respondent made a detailed enquiry on 8.8.2012 regarding the community of the petitioner and his family. Even after a lapse of more than three months, the matter was pending before the second respondent without any action.

4. This Court by interim order dated 14.12.2012 directed the fifth respondent university to grant sufficient time to the petitioner to produce the community certificate since the community certificate has not been issued because of the pendency of this writ petition.

5. In the counter affidavit filed by the State, it was contended that the Director of KIRTADS did not give any directions about the community of the petitioner till date and, therefore, it was unable to issue community certificate to the petitioner.

In the light of the contention taken by the respondent State in their counter, the writ petition is disposed of directing the KIRTADS to consider and pass appropriate orders on Ext.P9 after affording the petitioner an opportunity of being heard. This exercise shall be completed within a period of three months from the date of receipt of a copy of this judgment.

To facilitate early action, it is open to the petitioner to produce a copy of this judgment along with Ext.P9 and copy of this writ petition and any other documents in support of his claim before the KIRTADS at the earliest.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj