

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C) .No. 34701 of 2015 (S)

PETITIONER(S) :

1. SUNDARAN, AGED 39 YEARS
(PRESIDENT, HINDU NAYADI CARITABLE SOCIETY
REG.NO.Q 235/88, PALLICAKL EAST, MYLOM
KOTTARAKKARA), S/O SUBRAMANIAN
RESIDING AT CHARUVILA PUTHENVEEDU, PALLICAKL P O
KOTTARAKKARA.
2. ANIRUDHAN A
SECRETARY, HINDU NAYADI CHARITABLE SOCIETY
REG. NO.Q 235/88, PALLICAKL EAST, MYLOM
KOTTARAKKARA, S/O AYYAPPAN, AGED 50 YEARS,
CHITHRABHAVANAM, PALLICKAL EAST, MYLOM, KOTTARAKKARA
3. KANNAN
S/O ALAGAPPAN, AGED 48 YEARS,
RESIDING AT BANGLAMTHARA PUTHEN VEEDU
PALLICAKAL P O, KOTTARAKKARA

BY ADVS.SMT.A.G.ANEETHA
SMT.M.KABANI DINESH
SMT.MIJI JOHN

RESPONDENT(S) :

1. STATE OF KERALA
RRERPESENTED BY SECRETARY
SCHEDULED CASTE AND SCHEDULED TRIBE DEVELOPMENT DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM-695 001
2. SCRUTINY COMMITTEE FOR VERIFICATION OF
COMMUNITY CERTIFICATES
SCHEDULED CASTE & SCHEDULED TRIBE DEVELOPMENT DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM-695 001
3. UNION OF INDIA
REPRESENTED BY SECRETARY
MINISTRY OF SOCIAL JUSTICE & EMPOWERMENT
SHASTRI BHAVAN, DR. RAJENDRAPRASAD ROAD
NEW DELHI-110001

R3 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
ADV.SRI.P.I.DAVIS, Sr.GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1: ORIGINAL PHOTOS OF NAYADIS IMPLEMENTS.

EXT.P2: COPY OF SCHOOL RECORD OF ONE OF THE FOREFATHERS OF PETITIONERS

EXT.P2(a): ENGLISH TRANSLATION OF EXT.P2.

EXT.P3: COPY DOCUMENT NO.9 STATING 3RD PETITIONER'S RACE TREE GRAPH.

EXT.P3(a): ENGLISH TRANSLATION OF EXT.P3.

EXT.P4: COPIES OF PAGES 17 & 47 OF MYLOM GRAMA PANCHAYATH DEVELOPMENT REPORT -1991.

EXT.P4(a): ENGLISH TRANSLATION OF EXT.P4.

EXT.P5: COPY OF LATEST CERTIFICATE ISSUED BY MYLOM GRAMA PANCHAYATH DT.27/10/15.

EXT.P5(a): ENGLISH TRANSLATION OF EXT.P5.

EXT.P6: COPY OF COMMUNITY CERTIFICATE ISSUED TO 3RD PETITIONER'S DAUGHTER BY COMPETENT AUTHORITY DT. 8/2/13.

EXT.P7: COPY OF R.T.I APPLICATION DT. 27/10/15 GIVEN BEFORE KIRTADS.

EXT.P7(a): ENGLISH TRANSLATION OF EXT.P7.

EXT.P8: COPIES OF PAGES 2 TO 7 OF KIRTADS REPORT IN THE CASE OF ONE RENJINI.O.

EXT.P9: COPY OF G O(MS) NO. 1579/13 SC & ST DD, TVM, DT. 11/11/13.

EXT.P9(a): ENGLISH TRANSLATION OF EXT.P9.

EXT.P10: COPY OF COMMUNICATION RECEIVED ON 16/5/11 FROM COMPETENT AGENCY REFUSING COMMUNITY CERTIFICATE DT. 16/8/11.

EXT.P10(a): ENGLISH TRANSLATION OF EXT.P10.

EXT.P11: COPIES OF RELEVANT PAGES OF KIRTADS REPORT NO. V-43 DT.29/9/14.

EXT.P12: COPY OF THE MARK LIST OF B.TECH 5TH SEMESTER OF 3RD PETITIONER'S DAUGHTER DT. 8/6/15.

EXT.P12(a): COPY OF THE CERTIFICATE OF POLYTECHNIC COURSES DT. 23/5/13 OF 3RD PETITIONER'S DAUGHTER.

EXT.P13: COPIES OF OBJECTION FILED BY 3RD PETITIONER'S DAUGHTER BEFORE THE 2ND RESPONDENT DT. 7/10/15.

Contd...

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EXT.P13(a): ENGLISH TRANSLATION OF EXT.P13.

EXT.P14: COPY OF EXPLANATORY NOTE FILED AGAINST P12 REPORT BY 3RD
PETITIONER'S DAUGHTER BEFORE 2ND RESPONDENT.

EXT.P15: COPY OF LETTER SENT TO FIRST RESPONDENT FROM THE 3RD
RESPONDENT DT. 14/8/15.

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

P.A.TO JUDGE

ami/

**ASHOK BHUSHAN, C.J. &
A.M.SHAFFIQUE, J.**

W.P.(C)No.34701 of 2015

Dated this the 17th day of November, 2015.

J U D G M E N T

SHAFFIQUE, J.

The petitioners have approached this Court challenging Ext.P9 government order, by which, the Government has accepted the reports of KIRTADS in which it was observed that the community of 'Nayadi' which was originally treated as Scheduled Caste, belongs to 'Kodangy Naikkan' community and does not belong to Schedule Caste category. A direction has been issued to include 'Kodangy Naikkan' community as 'Other Backward Community' (OBC). The petitioners have approached this Court by way of Public Interest Litigation. The 1st petitioner claims to be the President of Hindu Nayadi Charitable Society, the 2nd petitioner is its Secretary and the 3rd petitioner is a member. They have raised the grievances of the community as such, by contending that the present report is obtained with

reference to a particular individual, but made applicable to the entire Community and therefore they are entitled to challenge the decision taken by KIRTADS and Ext.P9 Government Order which was passed pursuant to the same.

2. The learned counsel for the petitioners would however submit that the person who is affected by Ext.P9 order and the report of KIRTADS has already approached the Scrutiny Committee, which is pending consideration. In such an event, when the issue is pending before the Scrutiny Committee, we are of the view that, it is open for the appellant to adduce necessary evidence regarding the community status. Even the petitioners can approach the Scrutiny committee and adduce evidence on behalf of the appellant.

3. The learned Government Pleader would submit that Ext.P13 is only an objection given by one Smt.Kanaka Renjini K. But on a perusal of Ext.P13 read with Ext.P14 would show that the said Kanaka Renjini had virtually

preferred an appeal under Section 8 of the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (Act 11 of 1996). Under such circumstances, we do not think that this Court will have to interfere with Ext.P9 at this stage of the proceedings. It shall be open for the petitioners to approach the Scrutiny committee and if advised, they will be entitle to submit additional representations and to adduce necessary evidence to support the claim and it is for the Scrutiny Committee to take appropriate decision after considering all the materials placed before it.

With the above observation, this writ petition is closed.

Sd/-
ASHOK BHUSHAN,
CHIEF JUSTICE.

Sd/-
A.M.SHAFFIQUE,
JUDGE.

ami/

//True copy//

P.A. to Judge