
(2021) 10 KL CK 0104
In the High Court Of Kerala
Case No : Writ Petition (C) No. 22286 Of 2021

A. Krishnaveni

APPELLANT

Vs

State Of Kerala

RESPONDENT

Date of Decision : 20-10-2021

Acts Referred:

Constitution of India, 1950 — Article 19(1)(g), 29(1), 30(1)

Citation : (2021) 10 KL CK 0104

Hon'ble Judges : Raja Vijayaraghavan V, J

Bench : Single Bench

Advocate : S.P.Aravindakshan Pillay, N.Santha, V.Varghese, Peter Jose Christo, S.A.Anand, K.N.Remya, Annapoorna.L, Vishnu V.K., Abhirami K. Uday, Kuruvilla Sabu Christy

Judgement

Raja Vijayaraghavan V, J.

1. The learned Government Pleader takes notice for the respondents.
2. I have heard Sri.S.P.Aravindakshan Pillay, the learned counsel appearing for the petitioners and the learned Government Pleader.
3. The grievance of the petitioners herein centres around the norms and guidelines for admission to Plus One Course in Private Aided Schools during the present academic year.
4. Till the last academic year, insofar as Private Aided schools are concerned, 50% of the seats were earmarked for the Open Merit candidates, 30% for the Management Quota, 12% for the Scheduled Castes and 8% for the Scheduled Tribes.
5. However, as per Clause 13 of Ext.P1 prospectus for admission to Plus One course through the Single Window System for this academic year, the Government has interfered with the 30% hitherto kept aside towards Management Quota in Private Aided Schools. It has been stipulated that out of

the 30% earmarked towards Management Quota, 10% seats are to be allotted to students of the community on merit basis and the balance 20% towards the Management Quota.

6. Sri.Sri.S.P.Aravindakshan Pillay, the learned counsel appearing for the petitioners would refer to G.O.(Ms)No.206/2005/G.Edn. dated 01.07.2005 and it is argued that it was pursuant to directions issued by this Court in various judgments that the Government had prescribed the norms and guidelines for admission to Higher Secondary course. The allotment of seats was as follows:

Government

Private Aided

Private Aided/Minority/

Backward Communities

Management

1

2

3

Open Merit

60%

50%

40%

Management Quota

-

30%

40%

Other Backward

Communities

1.

Ezhava

8%

--

--

2.

Muslim

7%

--

--

3.

Latin/SIUC

1%

--

--

4.

Other

1%

--

--

Backward

Christian

Community

5.

Other

3%

--

--

Backward

Hindu

Community

Scheduled Caste

12%

12%

12%

Scheduled Tribe

8%

8%

8%

7. However, numerous complaints were received by the Government that the rights of Minorities and Backward Classes were not being safeguarded. The Government considered the matter in detail and concluded as follows in paragraphs Nos. 5 and 6 of the order.

'5. Government have examined the case in detail in all its aspects in the light of the specific observations of the Hon'ble High Court in the judgments mentioned above. The Hon'ble High Court questioned only the provision in the Government Order read as 1st paper above that reservation for the community to which the school belongs. In the judgment dated 7.4.2003, the Hon'ble High Court clarified that the Courts' intention is not to take away the minority rights of certain communities but only to strike down the arbitrary provision for the reservation "for the communities to which the school belongs"

6. In the circumstances, Government have found that the orders issued, in the Government order read as second paper above require modification. Government therefore order to modify that from the 40% seats in Plus Two Course allotted as Management quota in the Private Aided Minority/Backward Communities Management Schools, 20% will be for the minority/backward class, students (Ezhava-8%, Muslim-7%, LC/SIUC/1%, OBC(Christian)1% and OBC(Hindu)3%) and the remaining 20% seats will be for the concerned aided/minority backward class management"

8. According to the learned counsel, the Government after considering all representations had only modified the 40% seats in Private Aided/Minority/Backward Communities Management and did not modify the 30% quota allotted for Private Aided schools.

9. The petitioners contend that the school run by the petitioners not being a minority school and not established by any community, it is incomprehensible as to how 10% seats can be allotted on the basis of merit from the community. It is contended that it is by overlooking all these aspects that the allocation of seats based on minority and merit was included in the prospectus. The learned counsel would urge that it is not discernible as to whether the community to which the 10% seats are to be allotted is the community of the Manager or the community of the management committee members. The said provision is unworkable, contends the learned counsel. It is also contended that the prospectus issued by the respondents cannot override the previous Government Order. Finally, it is submitted that the Private Aided Schools like the ones run by the petitioners not being minority schools, do not enjoy protection of Articles 29(1) and 30(1) of the Constitution of India. They are entitled to admit students in Management Quota and can only be subject to reasonable regulation by the State. According to the

learned counsel, the right of the petitioner as guaranteed under Article 19(1)(g) of the Constitution of India has been infringed by the interference of the respondents in the process of admission.

10. The learned Government Pleader submitted that the prospectus was approved vide G.O.(Rt) No. 3667/G.Edn. dated 12.8.2021. According to the learned Government Pleader, the management quota seats are not being appropriated by the Government. But, on the other hand, an option is given to the school to select the community and to allocate the seats to meritorious students from the said community. It is submitted that a statement shall be placed on record.

11. Having considered the rival submissions, I find that there is considerable force in the submission of the learned counsel appearing for the petitioners that their right to admit students in the Management Quota is being curtailed by unworkable conditions. A Private Aided school cannot be called upon to disclose a particular community to which they belong.

In that view of the matter, as in interim measure, Ext.P2 and P3 insofar as it sets apart 10% out of the 30% of the management quota seats as community quota seats for Plus One admission will stand stayed insofar as the school managed by the petitioner is concerned. There will be a further direction to the concerned respondent to permit the petitioner to admit students in the Management Quota without insisting that 10% of the seats shall be earmarked for being allotted to students from the same community. It is made clear that this order shall be operative only if the school managed by the petitioners is not an aided school established by a minority/backward community.

Post after ten days.

Registry is directed to issue a copy of this order today itself.