
(2014) 07 KL CK 0251

In the High Court Of Kerala

Case No : Writ Appeal No. 988 of 2014 in W.P. (C). 15051/2014

Athira Suresh

APPELLANT

Vs

Principal Secretary

RESPONDENT

Date of Decision : 17-07-2014

Acts Referred:

Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 — Section 13

Citation : (2014) 07 KL CK 0251

Hon'ble Judges : Dr. Manjula Chellur, C.J.; P.R. Ramachandra Menon, J

Bench : Division Bench

Advocate : R.T. Pradeep, Advocate for the Appellant; Laly Vincent, Spl. Government Pleader, Advocate for the Respondent

Judgement

Dr. Dr. Manjula Chellur, C.J.—Petitioner/candidate herein has claimed Scheduled Caste status as he belongs to Hindu Cheramar Community. Apparently, an enquiry was conducted by the Vigilance Officer of KIRTADS/expert agency. Ext.P5 therein is the report of the Vigilance Officer/KIRTADS. The report is not in favour of the candidate/petitioner, who is seeking Scheduled Caste Status. As per the report, the candidate's paternal grandfather belonged to Hindu Cheramar Community, but married a Hindu Ezhava lady. Similarly, the candidate's (petitioner) father, who was an offspring of an inter caste married couple, married a person belonging to Hindu Nadar Community.

2. As per Ext.P5 report, the candidate/petitioner did not suffer any of the social disabilities or social discrimination of the Scheduled Caste community. Ext.P5 report, according to the Vigilance officer of KIRTADS, does not indicate that the candidate was born and brought up according to the custom and traditions of Scheduled Caste, i.e Hindu Cheramar Community. Therefore, the claim of the petitioner was negated. Learned Judge, ultimately opined that Ext.P5 is only an opinion expressed by the Expert agency/KIRTADS and the petitioner still has an opportunity to challenge the same before the Scrutiny Committee or other

statutory authorities envisaged under the Act concerned. In the net result, the learned Single Judge did not finally opine whether Ext.P5 is perverse or otherwise. However, while reserving liberty to the petitioner to approach the Scrutiny Committee, made an observation that Ext.P5 report of the officer cannot be termed as perverse at that point of time, which according to the petitioner/appellant may come, in the way of positive decision, in their favour before the Scrutiny Committee.

3. On the whole, by reading the judgment of learned Single Judge, it is seen that learned Single Judge has analysed the arguments of both sides and has also made observations regarding various precedents relied upon by both parties. General observations are made as to how enquiry officer has to conduct enquiry and what is the criterion and under what circumstances, a positive opinion could be expressed by the enquiry officer under the concerned enactment. Whether opinion in question is perverse or not - no reasoning as such is given- why it is perverse or why it is not perverse. This has to be considered by the Scrutiny Committee as appellant/petitioner has opportunity to challenge the same before the Scrutiny Committee. Therefore, without disturbing the judgment of learned Single Judge, we dispose of the Writ Appeal opining that none of the observations made by learned Single Judge would have any persuasive value on the Scrutiny Committee while disposing of the representation. So also, if any revision is filed before the Government under Section 13 of the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996, observations of learned Single Judge will not have any persuasive value. If any representation is made before the Scrutiny/Screening Committee, the Scrutiny/Screening Committee, based on the report of the Officer, KIRTADS, must pass orders immediately, at any rate, within seven days and communicate the same to the candidate, so that he/she can pursue further course of action.