
(2001) 04 KL CK 0026
In the High Court Of Kerala
Case No : O.P. No. 11632 of 2001

Balagopalan

APPELLANT

Vs

K.P.S.C.

RESPONDENT

Date of Decision : 06-04-2001

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 2002 Ker 159

Hon'ble Judges : M.R. Hariharan Nair, J

Bench : Single Bench

Advocate : Kodath Sreedharan, for the Appellant; O.V. Radhakrishnan, for the Respondent

Judgement

M.R. Hariharan Nair, J.—In his application made to the respondent P.S.C. for the post of Draftsman/Overseer Grade II (Civil), the petitioner mentioned his caste as Hindu Gurukkal (OBC). The P.S.C. thereupon issued notice to the petitioner to produce the relevant Creamy Layer Certificate. The petitioner then produced Exts. P2 and P3 Certificates issued by the Tahsildar and Village Officer respectively certifying that the petitioner belongs to the Hindu-Yogi Community which is designated as OBC in the State of Kerala and also certifying further that the petitioner does not belong to the Creamy Layer category. The grievance of the petitioner is that as per Ext. P4 order the P.S.C. has informed that his application would not be considered as one from a member of OBC (Non-Creamy Layer) and that he would be treated as only a member of Forward Community.

2. During hearing, the learned counsel for the petitioner submitted that it was following the entry in his SSLC book that he belongs to Gurukkal Community that he mentioned as such in the application made to the P.S.C. and that actually Gurukkal and Yogi are one and the same caste.

3. The learned Standing Counsel for the P.S.C., who was heard, submitted, relying on the decision in District Officer, K.P.S.C. v. Karthikeyan 1989 (1) KLT 46 that an applicant has to correctly state his community in the application and that

no deviation can be allowed thereafter.

4. The decision aforementioned dealt with a case where the petitioner had originally mentioned his caste as Peruvannan; but later on he claimed that he belongs to a Scheduled Caste. A Bench of this Court had considered the matter and observed that the court must confine the attention to the material placed before the P.S.C. which are expected to be examined with due diligence. The conduct of the P.S.C. cannot be examined with reference to the subsequent material which the applicant claims to be produced in support of his case that he is a member of the Scheduled Caste. In such circumstances, it was held that the P.S.C. cannot be found fault with in not accepting the plea of the applicant made subsequently and that it was bound to proceed as though the applicant was a member of Peruvannan community as claimed by him.

5. As far as the present case is concerned, the contention appears to be slightly different. The petitioner does not go back from the representation made before the P.S.C. that he belongs to Gurukkal Community. His contention is only that the said community is the same as Yogi as certified in Exts. P2 and P3. There is no evidence or precedent placed before me to justify a conclusion that the said two communities are one and the same. It is therefore not possible to give any direction to the P.S.C. as sought for in the petition. Suffice it to say that it will be open to the petitioner to produce before the P.S.C. sufficient authority to prove his contention that the said two communities are one and the same and in case any such authority is produced, the P.S.C. will proceed to consider his application treating him as a member of the OBC as certified in Exts. P2 and P3. In case no such authority is produced before the P.S.C. within a period of one month from today, the P.S.C. will be justified in proceeding as mentioned in Ext. P4.

6. The Original Petition is disposed of as above.