

(2014) 07 KL CK 0252

In the High Court Of Kerala

Case No : Writ Appeal No. 982 of 2014 in W.P. (C). 15548/2014

Karthik M.R.

APPELLANT

Vs

State of Kerala

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 0252

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

Bench : Division Bench

Advocate : N. Manoj Kumar and Jayasree Manoj, Advocate for the Appellant;
P.K. Santhamma, Spl. Government Pleader, Advocate for the Respondent

Judgement

Dr. Dr. Manjula Chellur, C.J.—Petitioner approached this Court challenging Ext. P10 report issued by the 4th respondent/Vigilance Officer. As a matter of fact, after announcing the results on 15.06.2014, a direction was sought to make a declaration that he belongs to Scheduled Caste Community. As per Ext.P10, apparently, petitioner's paternal grandfather belonged to Hindu Paraya Community, whereas paternal grandmother by name Mariya belonged to Christian Community. Again, father of the petitioner, Dr.Raman married one Daisy, who belonged to Christian Syrian Catholic Community. According to the petitioner, he being a person born to an offspring of an inter caste married couple, having suffered same disabilities as his father, he deserves a declaration that he belongs to Scheduled Caste Community.

2. Learned Single Judge, after referring to the averments in the petition and also objections filed on behalf of second respondent/Commissioner for Entrance Examinations supporting the stand taken by the expert agency/KIRTADS in Ext.P10 report, ultimately opined that in the light of the judgment in Indira Vs. State of Kerala, burden is on the claimant to establish that he or she belongs to a particular community either as Scheduled Caste or Scheduled Tribe. The entire

issue arises on account of an inter-caste marriage either between the parents or between the grandparents. So far as Ext.P10 is considered, the report says, Smt. Mariya, paternal grandmother of the petitioner was a member of the Christian Community and according to the petitioner, it is not correct. The petitioner also relies upon certain documents said to have been issued by the President of concerned Village/Panchayat, regarding his paternal grandmother's caste status. So far as maternal grandparents, admittedly, they belonged to Christian Community. The mother belongs to Syrian Catholic community.

3. As per Ext.P10, Genealogical Analysis, according to the 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 Paraya Community. Therefore, the claim of the petitioner was negated. Learned Judge, ultimately opined that Ext.P10 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 (i.e. Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996). In the net result, the learned Single Judge did not finally opine whether Ext.P10 is perverse or otherwise. However, while reserving liberty to the petitioner to approach the Scrutiny Committee, made an observation that Ext.P10 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.

4. 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 the appellant/petitioner has opportunity to challenge the same before the Scrutiny Committee. Therefore, without disturbing the judgment of the 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.