
(2002) 07 KL CK 0104
In the High Court Of Kerala
Case No : W.A. No. 983/02

Mathai, K.C. and Another

APPELLANT

Vs

Commissioner of Entrance Examinations and Others

RESPONDENT

Date of Decision : 10-07-2002

Acts Referred:

Citation : (2002) 07 KL CK 0104

Hon'ble Judges : B.N. Srikrishna, C.J;G. Sivarajan, J

Bench : Division Bench

Advocate : T.A. Shaji, for the Appellant; K.C. Joseph, Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

B.N. Srikrishna, C.J.—We have perused the record and heard the learned Counsel for the Appellant as well as the learned Special Government Pleader. In our view, this appeal can be disposed of very shortly.

2. By Government Order dated 23rd March 1961, with a view to encouraging inter-caste marriages, the State Government ordered that children born of inter-caste marriages would be allowed all educational concessions given to Scheduled Castes/Scheduled Tribes provided either the father or mother belongs to a Scheduled Caste or Scheduled Tribe community. The Kerala Public Service Commission requested for a clarification as to whether the children born out of parents one of whom is a Scheduled Caste or Scheduled Tribe should be treated as belonging to either mother's community or father's community. After examining all the aspects of the case, by Government Order dated 25th January 1977, Government of Kerala ordered that, principle enunciated in the G. O. dated 23rd March 1961 would be adopted for determining the caste status of the children born of such inter-caste marriage "for all purposes" according to which the children will be treated as belonging to Scheduled Caste or Scheduled Tribe community, if either of the parents belong to that community.

3. The second Appellant has produced Ext. P-2 certificate dated 18th March, 200L from the Tahsildar, Devikulam, Idukki stating that the-Appellant is the son of an inter-caste marriage couple that his father Mathai, K.C. belongs to Christian Jacobite community and his mother Mercy belongs to Christian Malai Arayan community. On the strength of this certificate, the second Appellant applied for admission to professional degree course in a seat reserved for Scheduled Tribe. The case of the second Appellant was investigated by the Vigilance Cell of KIRTADS who has filed a report dated 5th June 2001, Ext. P-4. The proceedings of the Commissioner for Entrance Examination, by order dated 10th August 200L at Ext. P-5, specifically considered the case of the second Appellant as well as the report made by the Vigilance Officer, KIRTADS. The order states that, the genealogical analysis has revealed that the candidate's father belong to Christian Jacobite community which admittedly is not a Scheduled Tribe community. The candidate's mother is an offspring of Christian parents having two distinct communities, her father a Christian Malai Arayan and her mother a Christian Marthomite. Therefore, the candidate's mother, as per G.O. dated 25th January 1977 can only be treated as belonging to Scheduled Tribe.

4. Once we reach the conclusion, then, by virtue of Government Order dated 25th January 1977, the mother of the second Appellant should be treated as belonging to Scheduled Tribe "for all purposes". The problem then resolves itself. The caste of the second Appellant can also be considered under the very same Government Order as a child born out of marriage between a Scheduled Tribe woman and a man who does not belong to Scheduled Tribe community. We, therefore, see no reason why the offspring of such a marriage is not entitled to the benefit of Government Order dated 25th January 1977. In our view, the reasoning of the committee for rejecting the claim of the second Appellant is wholly erroneous and proceeds on a misinterpretation of Government Order dated 25th January 1977. We, therefore, hold that the second Appellant is entitled to the benefit of Government Order dated 25th January 1977 and entitled to be treated as belonging to Scheduled Tribe community.

In the result, we allow the appeal, set aside the order of the learned Single Judge and allow the Original Petition in terms of prayers (a) and (b). No order as to costs.