
(2006) 12 KL CK 0076

In the High Court Of Kerala

Case No : Writ Petition (C) No. 24227 of 2004

Rajan, S. and Others

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 18-12-2006

Acts Referred:

Citation : (2006) 12 KL CK 0076

Hon'ble Judges : M.N. Krishnan, J;K.S. Radhakrishnan, J

Bench : Division Bench

Advocate : Shabu Sreedharan and P.A. Noor Mohammed, for the Appellant; P.C. Sasidharan, SC, KPSC and P.K. Santhamma, Spl. G.P., for the Respondent

Final Decision : Dismissed

Judgement

K.S. Radhakrishnan, J.—Writ Petition Nos. 24227 and 15059 of 2004 are placed before us on a reference by Justice K.M. Joseph doubting the correctness of the Judgments in O.P. 15506/03, O.P. 39151/02, O.P. 19195 of 2000 and O.P. 12640 of 2002 wherein this Court had directed the Tahsildar to issue Non-creamy Layer Certificates provisionally showing they belong to Christian Parava Community in some cases as Christian Bharatha Community. Writ Petitions were preferred since the Tahsildar had refused to issue certificates stating that they belong to Christian Parava Community.

2. Petitioners submit that they belong to "Christian Parava" Community and their ancestors belonged to the "Parava" or "Bharatha" Community, which are scheduled Castes in the State of Kerala. For the purpose of employment, they wanted the Community Certificate showing that they belong to "Christian Parava" or "Bharatha" Community. Petitioners submit on refusal to issue such a certificate, they lost their chance to apply to various posts while similarly persons obtained certificates as requested for based on the entry in the SSLC Book. They also state that the third Respondent deleted the Petitioners' name from the rank list in respect of last grade servants in Malappuram District in various Government Departments for non-production of Non-creamy Layer Caste

Certificate of Christian Parava. Under such circumstance Petitioners and similarly placed persons have approached this Court seeking a writ of mandamus directing the Tahsildar to issue Non-creamy Layer Caste Certificate of Christian Parava. To prove their caste, Petitioners mainly relied on the SSLC Certificate and submitted that in the absence of any other reliable evidence, Tahsildar should have placed reliance on the SSLC Certificate and issued a certificate as requested.

3. Detailed counter-affidavit has been filed on behalf of second Respondent stating that the enquiry revealed that the Petitioner and his family belongs to Christian Latin Catholic Community and the parents of the Petitioner made a false declaration while admitting the Petitioners in the school to the effect that they belong to the Christian Parava Community and thereby there occurred false entries as Christian Parava in the SSLC Books. Further, it is also stated that it is for the Petitioners to produce sufficient proof with regard to the caste status at the time of local enquiry. But the Petitioners failed to produce sufficient material except SSLC Book so as to prove that they belong to Christian Parava. Further it is also stated that enquiry revealed that the parents of the Petitioner also originally belonged to Christian Latin Catholic Community and they are not scheduled caste converts as claimed.

4. Counter-affidavit has also been filed on behalf of first Respondent by the Additional Secretary, scheduled Caste/scheduled Tribe Development Department stating that the anthropological investigation conducted by KIRTADS during the last two decades has revealed that some persons belonging to Latin Catholic Community styling themselves as "Christian Parava" are obtaining false certificates with ulterior motives. Further it is stated that because of the mere entry of the caste name in the school record as "Christian Parava" one cannot claim that he belongs to a particular caste. Further it is also asserted that the Petitioners predecessors did not belong to scheduled Caste Paravan Community. Report of the Vigilance Officer, KIRTADS was also made available. It has been stated that in Kollam District, persons belonging to Latin Catholic Community have obtained certificates stating that they belong to Parava of Bharathar Christians and snatching away the benefits available to scheduled Caste Community. scheduled Castes converted to Christian Community it is stated are listed under the Other Eligible Communities (OEC) which would enable them to enjoy all education concessions normally allowed to scheduled Castes.

5. Paravan Community is recognized as a scheduled Caste. So members belonging to genuine Paravan Community on conversion to Christianity are entitled to enjoy benefits of OEC. Question that is posed for consideration is whether those benefits are available to the members of Latin Catholic Community in the absence of any evidence to show that they are converts from scheduled Castes. No evidence has been adduced to show that the predecessors of the Petitioners belonged to scheduled Caste Parava Community. Latin Catholic Community consists of few subdivisions. One of the subdivisions is known as Paravas/Paravar Christian and they are mainly distributed in the coastal areas of

Kollam District. They trace their origin from Tutticorin of Tamil Nadu. They were described as a noble caste and thrived upon the business of pearl culture. They collect bivalve shells. In the Madras Census Report of 1901, they are described as native Christians and claim to be Kshatriyas of the Pandyan Line of Kings and will eat only in the houses of Brahmins. Religiously they belong to Christian Latin Catholic Community. The scheduled Caste Paravan Community of Central Travancore, whose women folk follow the traditional occupation of washing clothes and of men folk coconut tree climbing. They genuinely belong to scheduled Caste Paravan Community. The traditional fisher folk belonging to Christian Latin Catholic Community has no relationships with the scheduled Caste Paravan or Bharathar Community of Kerala. Anthropologically, unless the Petitioners show that their ancestors belong to Christian Parava Community, they would not fall under Other Eligible Community (OEC).

6. We are of the view in the light of the report submitted by the Vigilance Officer, KIRTADS and in the absence of any reliable evidence to show that Petitioners ancestors belonged to scheduled Caste Community rejection of the creamy layer certificate by the Tahsildar is justified. We are unable to accept the reasoning of the learned Single Judge in O.P. 19195 of 2002 and the other connected matters stating that Latin Catholic Community is entitled to get certificate as Christian Parava or Bharatha. The Tahsildar in his letter dt. 30-3-2005 [Ext.R-2(a)] has stated that the Caste is a fact which can be ascertained by local enquiry. Non-creamy Layer Certificate cannot be issued based on the caste noted in the SSLC Book/Educational records. Caste noted in SSLC Book is not a binding evidence for proving caste. Certificate issued by the parish priest of local church also is not a binding evidence to prove caste status. Most of the persons of the locality, knowing the fact that they will not get Parava/Bharatha X"ian certificates as these communities are not in this locality, are now trying to correct the caste noted in SSLC Book as Latin Catholic. In fact the parish priest, who issued Parava X"ian certificate to the applicant, is also issuing Latin Catholic Certificate to such persons in the same locality simultaneously. Local enquiry further revealed that people in the suburban area of that church are Latin Catholics. There are no Parava X"ian/Bharatha X"ian Communities in the area.

7. Under the above-mentioned circumstance we are inclined to dismiss all the writ Petitions rejecting their request describe them as members belonging to Christian Parava/Bharatha Community. We make it clear that if the Petitioners still feel that they really belong to scheduled Castes Community it is for them to produce the relevant materials before the authorities concerned and establish their claim. We make it clear that if the Petitioners want the Community Certificate, stating that they belong to Parava/Bharatha Community the burden is on them to establish the same. SSLC Book is not an authentic piece of evidence to determine the caste status of a community especially in the wake of the report of the Vigilance Officer, KIRTADS and the Tahsildar. We hold that the direction given by the learned Judge in O.P. 15506/03, O.P. 39151/02, O.P. 19195/00, O.P. 12640/02, etc. directing the Tahsildar to issue caste certificate based on the

entries in the SSLC Book cannot be sustained. We fully endorse the view of referring Judge and hold that the direction given in the above Judgment are not legally sustainable. Writ Petitions and the original Petitions are dismissed as above.