

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE V.G. ARUN

TUESDAY, THE 19<sup>TH</sup> DAY OF JULY 2022 / 28TH ASHADHA, 1944

WP(C) NO. 25642 OF 2021

PETITIONER/S:

R.KARTHIK  
AGED 32 YEARS  
S/O.P.RAJAN, SOUPARNIKA, SANGAKADA JUNCTION,  
PULIYILA, NALLILA P.O., NEDUMPANA, KOLLAM-  
691515.  
BY ADV VARUN C.VIJAY

RESPONDENT/S:

- 1 STATE OF KERALA  
REPRESENTED BY SECRETARY TO THE GOVERNMENT,  
DEPARTMENT OF SCHEDULED CASTE AND SCHEDULED  
TRIBES DEVELOPMENT, SECRETARIAT,  
THIRUVANANTHAPURAM-695001.
- 2 THE DISTRICT COLLECTOR,  
COLLECTORATE, CIVIL STATION, KOLLAM-691013.
- 3 TAHSILDAR,  
TALUK OFFICE, KOLLAM-691001.
- 4 TAHSILDAR,  
TALUK OFFICE, KANAYANNUR, ERNAKULAM-682011.
- 5 VILLAGE OFFICER  
VILLAGE OFFICE, NEDUMPANA, KOLLAM-691576.

OTHER PRESENT:

GP RIYAL DEVASSY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
13.07.2022, THE COURT ON 19.07.2022 DELIVERED THE  
FOLLOWING:

**JUDGMENT**

Dated this the 19<sup>th</sup> day of July, 2022

The petitioner's grievance is about Exts.P13 & P14 proceedings, by which his request for issuance of community certificate as Hindu - Pallan was rejected by the third respondent and confirmed in appeal by the second respondent. The essential facts are as under;

The petitioner's father belongs to Hindu -Pallan community. His mother is a Hindu-Ezhava. In the petitioner's school records, his caste status is recorded as Hindu-Pallan. From childhood onwards, the petitioner had been residing in Kanayannur Taluk in Ernakulam District. He was issued Exts.P3 to P11 community certificates by the Tahsildar, Kanayannur Taluk, certifying that he belongs to the Hindu-Pallan

community, covered by the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates) Act, 1996 ('the Act' for short). The petitioner's father was employed in the BSNL. He availed VRS in the year 31.01.2020. Prior to that, petitioner's family shifted residence to his mother's native place in Kollam. Thereafter, the application for issue of community certificate, on which Ext.P13 was passed, was filed before the Tahsildar, Kollam/third respondent. The application was rejected on the ground that the petitioner is born to an inter-caste married couple and his mother belongs to Ezhava Community. Further, petitioner is following the customs and rituals of Hindu-Ezhava community. Even though petitioner preferred an appeal against Ext.P13, that was rejected by Ext.P14.

2. Adv.Varun C.Vijay, learned Counsel for the petitioner, contended that the impugned

decisions are *ex facie* illegal, as they were passed without considering the crucial fact that, from birth onwards, the petitioner had grown up as a Hindu-Pallan. This fact stands proved by the entries in the admission register and the caste certificates issued over the years. It is submitted that, merely because a person has married from a different community or has shifted his residence, his community status will not get altered. To bolster the contention, reliance was placed on the decision in **Jyothsna A v. Kerala Public Service Commission, Tvm and others [2022 (1) KHC 401]** and reference made to the following extract from the Writings and Speeches of Dr.Babasaheb Ambedkar (Volume-I).

"Varna and Caste are two very different concepts. Varna is based on the principle of each according to his worth-while caste is based on the principle of each according to his birth."

3. Finally, it is contended that the

findings in Ext.P13 are entirely based on Ext.P18 report submitted by the Village Officer, Nedumpana. Attention is drawn to Ext.P18 to point out that complete absence of any adverse observation in the report, other than an observation that the petitioner's wife is also from Hindu-Ezhava community. Therefore, the factual findings in Ext.P13 are faulty and Ext.P14 was issued noticing this crucial defect.

4. Refuting the contentions, learned Special Government Pleader submitted that Tahsildars are not having the know-how or competence to decide community status of a person. On the other hand, the KIRTADS is having the expertise. Being so, this Court should not venture into the dispute as to the community status of the petitioner, since it is for the petitioner to prove his community status.

5. In reply, Counsel for the petitioner submitted that the provisions of the Kerala

(Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates) Act 1996, which provides for issue of community certificate does not envisage an enquiry by the scrutiny committee of the KIRTADS when there is no dispute regarding a person's community status.

6. The fact that in petitioner's community status is shown as Hindu-Pallan in his school records is not disputed. That, the petitioner had lived in Kanayanannur Taluk from his childhood upto 2019 is also assailed. Exts.P4 to P11 issued by the Tahsildar, Kanayannur Taluk, the competent authority, certifies the petitioner to be a member of Hindu-Pallan community. The third respondent seems to have refused to issue community certificate to the petitioner based on Ext.P18 report of the Village Officer, Nedumpana. As rightly contended by the learned Counsel for the petitioner, there is no adverse observation in Ext.P18. What is stated in the report is that

the petitioner had shifted his residence to Nedumpana Village in 2019 and in the school records, his community is shown as Hindu-Pallan. It is also stated that the petitioner's wife belongs to the Hindu-Ezhava community. The above observations do not justify the refusal to issue community certificate, contrary to the consistent stand in Exts.P3 to P14. In this regard, it is pertinent to refer to the relevant provisions of the Act. Section 4 provides for submission of application for community certificate and Section 5 deals with issuance of certificate by the competent authority. As per Section 5(1), when an application under Section 4 is submitted, the competent authority has to satisfy itself about the genuineness or otherwise of the claim. Hence, the provision envisages an enquiry into the relevant aspects by the competent authority. In my considered opinion, the fact that the petitioner's mother belongs to

Hindu-Ezhava community or his wife is from Ezhava community are not sufficient to hold that the petitioner does not belong to the Hindu-Pallan community. For arriving at such a conclusion, the competent authority should enquire about the caste/community to which the applicant is born, the manner in which he/she was brought up, the practices and customs followed and acceptance of the incumbent by the caste or a group to which he/she claims to belong etc. Indisputably, no such enquiry was conducted before issuing Ext.P13. As such, Exts.P13 and P14 cannot stand legal scrutiny.

7. As regards the contention that the petitioner should approach the KIRTADS, it is relevant to note that the Act provides for constitution of a scrutiny committee and Section 9, enquiry by an expert agency under the following circumstances;

*(i) Suo motu enquires on the basis of field*



*studies on castes, communities or tribes or as a part of or auxiliary to Anthropological or Sociological Studies or investigations.*

*(ii) On petitions and complaints being received by it, from any source pertaining to the Scheduled Caste or the Scheduled Tribe, claims of non-Scheduled Castes or non-Scheduled Tribes, as the case may be.*

*(iii) On references, requisitions, directions or proposals being received from the State and Central Governments, the competent authorities or the screening committee or the scrutiny committee."*

8. Having scrutinised the above provisions, I am unable to accept the contention that issuance of community certificate to the petitioner should be deferred till a report is submitted by the scrutiny committee of the KIRTADS. If any of the circumstances enumerated above are attracted, the KIRTADS can conduct an enquiry. But, a person issued with community certificate through out his life, cannot be

refused the certificates in a case where the KIRTADS has not even initiated such enquiry. It is pertinent to note that the petitioner has applied for selection and appointment to various posts in State Government service and any delay in obtaining community certificate will defeat his chance of securing employment.

For the aforementioned reasons, the writ petition is disposed of as under;

Exts.P13 and P14 orders are set aside. The third respondent is directed to reconsider the petitioner's application and issue community certificate based on Exts.P3 to P11. The issuance of such certificate will be subject to the report of enquiry, if any conducted by the KIRTADS.

Sd/-  
**V.G.ARUN**  
**JUDGE**

Sc1/

**APPENDIX OF WP (C) 25642/2021**

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE CASTE CERTIFICATE  
NO.DIS 5512/3/BT DATED 29.06.1981.
- Exhibit P2 TRUE COPY OF THE EXTRACT OF THE SCHOOL  
ADMISSION REGISTER PERTAINING TO THE  
PETITIONER.
- Exhibit P3 TRUE COPY OF THE CASTE CERTIFICATE  
DATED 19.05.2004 ISSUED BY THE  
TAHSILDAR, KANAYANNUR TALUK.
- Exhibit P4 TRUE COPY OF THE CERTIFICATE  
NO.SRNO.9677/08/A5(B) DATED 02.09.2008  
ISSUED BY THE TAHSILDAR, KANAYANNUR,  
KANAYANNUR TALUK
- Exhibit P5 TRUE COPY OF THE CERTIFICATE  
NO.SRNO.9878/08/A5 DATED 09.09.2008  
ISSUED BY THE TAHSILDAR, KANAYANNUR,  
KANAYANNUR TALUK.
- Exhibit P6 TRUE COPY OF THE COMMUNITY CERTIFICATE  
NO.SRNO.620/2014/A5 DATED 13.01.2014  
ISSUED BY THE TAHSILDAR, KANAYANNUR,  
KANAYANNUR TALUK.
- Exhibit P7 TRUE COPY OF THE COMMUNITY CERTIFICATE  
NO.8556705 DATED 15.10.2014 ISSUED BY  
TAHSILDAR, KANAYANNOOR TALUK OFFICE.
- Exhibit P8 TRUE COPY OF THE CERTIFICATE  
NO.SRNO.7072/2015/A5 DATED 13.07.2015  
ISSUED BY THE TAHSILDAR, KANAYANNUR,  
KANAYANNUR TALUK.
- Exhibit P9 TRUE COPY OF THE COMMUNITY CERTIFICATE  
NO.SRNO.1023/16/A5 DATED 22.02.2016  
ISSUED BY THE TAHSILDAR, KANAYANNOOR,  
ERNAKULAM.
- Exhibit P10 TRUE COPY OF THE CERTIFICATE  
NO.SRNO.7148/2016/A5 DATED 26.07.2016  
ISSUED BY THE TAHSILDAR, KANAYANNUR,  
KANAYANNUR TALUK.
- Exhibit P11 TRUE COPY OF THE CERTIFICATE

- NO.SRNO.1975/2017/A5 DATED 24.03.2017  
ISSUED BY THE TAHSILDAR, KANAYANNUR,  
KANAYANNUR TALUK.
- Exhibit P12 TRUE COPY OF THE JUDGMENT DATED  
18.09.2021 OF THE HON'BLE FAMILY COURT  
AT KOLLAM IN O.P(HMA)NO.119/2021.
- Exhibit P13 TRUE COPY OF THE ORDER DATED  
06.08.2020.
- Exhibit P14 TRUE COPY OF THE LETTER DATED  
07.05.2021 ISSUED BY THE DISTRICT  
COLLECTOR, KOLLAM.
- Exhibit P15 TRUE COPY OF THE APPEAL DATED  
30.10.2021 SUBMITTED BY THE PETITIONER  
BEFORE THE 1ST RESPONDENT.
- Exhibit P16 TRUE COPY OF THE POSTAL RECEIPT DATED  
01.11.2021.
- Exhibit P17 TRUE COPY OF THE ACKNOWLEDGE CARD  
EVIDENCING EXT.P15 IS RECEIVED BY THE  
1ST RESPONDENT ON 02.11.2021.
- Exhibit P18 TRUE COPY OF THE REPORT BEARING  
NO.84/2020 DATED 17.07.2020 ISSUED BY  
THE VILLAGE OFFICER, NEDUMPANA,  
KOLLAM.