

V.K.Devarajan vs the Scrutiny Committee for Verification of Community Certificates

V.K.Devarajan vs the Scrutiny Committee for Verification of Community Certificates

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Court : Kerala

Decided On : Jun-15-2023

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/9857/2021

Appellant : V.K.Devarajan

Respondent : The Scrutiny Committee for Verification of Community Certificates

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN THURSDAY, THE 15TH DAY OF JUNE 2023 / 25TH JYAISHTA, 1945 PETITIONER: V.K.DEVARAJAN, AGED 59 YEARS, SON OF KESAVAN, VARIKOLIL HOUSE, VENPALA P.O. KUTTOOR VILLAGE, THIRUVALLA 689 102, PATHANAMTHITTA DISTRICT. BY ADVS.K.RAMAKUMAR (SR.) SRI.T.RAMPRASAD UNNI SRI.S.M.PRASANTH SRI.T.H.ARAVIND SMT.R.S.ASWINI SANKAR SHRI.G.RENJITH RESPONDENTS:

1 THE SCRUTINY COMMITTEE FOR VERIFICATION OF COMMUNITY CERTIFICATES, SC/ST DEVELOPMENT (G) DEPARTMENT, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM - 695 001, REPRESENTED BY ITS CHAIRMAN AND PRINCIPAL SECRETARY TO GOVERNMENT, SC AND ST DEVELOPMENT (G) DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM. 2 THE DIRECTOR, SCHEDULED TRIBES DEVELOPMENT DEPARTMENT, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM - 695 001, (MEMBER SCRUTINY COMMITTEE FOR VERIFICATION OF COMMUNITY CERTIFICATES). 3 THE DIRECTOR, SCHEDULED CASTES DEVELOPMENT DEPARTMENT, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM - 695 001, (MEMBER SCRUTINY COMMITTEE FOR VERIFICATION OF COMMUNITY CERTIFICATES). 4 THE DIRECTOR, KIRTADS, CHEVAYOOR, KOZHIKODE - 673 017, (MEMBER SCRUTINY COMMITTEE FOR VERIFICATION OF COMMUNITY CERTIFIES). 5 THE DISTRICT COLLECTOR, PATHANAMTHITTA COLLECTORATE, PIN - 689 645. 6 THE VIGILANCE OFFICER, KIRTADS, CHEVAYOOR, KOZHIKODE - 673 017. -2- 7 THE TAHSILDAR, THIRUVALLA TALUK, THIRUVALLA, PATHANAMTHITTA 689 101. 8 ADDL.R8: THE CHIEF GENERAL MANAGER, BHARAT SANCHAR NIGAM LIMITED, KERALA CIRCLE, THIRUVANANTHAPURAM-695 033 (ADDL.R8 IS IMPEADED AS PER ORDER DATED 07.12.2021 IN IA NO.4/2021 IN WP(C) 9857/2021). 9 ADDL.R9: THE GOVERNMENT OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF OF SCHEDULED CASTES/SCHEDULED TRIBES DEVELOPMENT (G) DEPARTMENT, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM - (ADDL. R9 IS IMPEADED AS PER ORDER DATED 23.12.2021 IN IA NO.3/2021 IN WPC NO. BY ADVS.SRI.V.SANTHARAM SMT.LATHA THANKAPPAN, SPL.GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15.06.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: -3-

JUDGMENT

The petitioner impugns Ext.P6 proceedings of

the Statutory Scrutiny Committee

consequential order of the Government of Kerala, respectively; as per which, it has been declared that he does not belong to Mala Araya community - which is one of the Scheduled Castes, but only to Araya community - which is included among Other Backward Classes (OBC).

2. Sri.S.M.Prasanth - learned counsel for the petitioner, vehemently argued that both Exts.P6 and P7 are untenable because, the former

order has reached certain conclusions against

his client without any reasonable basis. He argued that when his client had sufficient -4- materials with him to prove that he belongs to

the Mala Araya community, a contrary con

merely illegal, but wholly mala fide. He thus prayed that Exts.P6 and P7 be set aside.

3. Sri.S.M.Prasanth further submitted that

consequence of Exts.P6 and P7 is that his clients long service with the Bharat Sanchar Nigam Limited (BSNL) - from which he voluntarily retired on 31.01.2020 - without any objection being raised - would now be fully prejudiced and he would be disentitled to his retiral benefits, particularly when Ext.P6 order was issued only

on 03.03.2021, which is much after his retirement. He argued that there is a concatenated series of judgments of this Court and that of the Honble Supreme Court, that the findings of the Scrutiny Committee of the -5- KIRTADS would apply only prospectively; and therefore, that, even assuming Ext.P6 to be valid, his clients retiral benefits cannot be refused to be paid by the BSNL.

4. Pertinently, Sri.V.Santharam - learned

Standing Counsel for the BSNL, submitted that his client has no intention to hold on to the retiral benefits of the petitioner and that they are willing to act as per Ext.R8(a) order of the Central Administrative Tribunal, obtained by him. He added that his client will abide by any directions to be issued by this Court.

5. Smt.Latha Thankappan - learned Special Government Pleader, however, argued in defence of Exts.P6 and P7, saying that the Report of the

Vigilance Officer of KIRTADS would clearly est

Mala Araya. She argued that, when the factual -6- inputs recorded in Ext.P6 are without dispute, the petitioner cannot argue to the contrary; and hence that Ext.P7 Order of the Government is without error.

6. I have considered the afore dialectical contentions, juxtaposed on the pleadings and materials available on record.

7. When one examines Ext.P6 order of the

Scrutiny Committee of KIRTADS, it becomes manifest that its Vigilance Officer has found, after a valid inquiry, that the mother, uncle and two cousins of the petitioner had caste in all their certificates shown as Hindu-Araya. It is also recorded therein that the siblings of

the petitioner had caste entered in t

Araya in the year 1961; while, in the Admission Register of another sister, her caste is shown -7- again as Hindu-Araya. The Vigilance Officer has also reported that the genealogical proforma furnished by the petitioner, at the time of hearing, would show that his children belonged to Hindu-Araya community; and, therefore, that his caste Certificate, namely Ext.P1, which he had obtained showing that he was Mala Araya, is obviously a suspicious document.

8. Pertinently, faced with the above, Sri.S.M.Prasanth submitted that his client does

not challenge the factual assertions made in Ext.P6 order; but that, since he had obtained Ext.P1 validly as early as in the year 1976, it was improper for the KIRTADS and the Government to have cancelled it retrospectively, particularly when the order of the former, namely Ext.P6, was issued only on 03.03.2021.

9. I do not propose to enter into the afore contentions of Sri.S.M.Prasanth because, I have -8- little doubt that Ext.P6 remains without challenge, at least qua the factual factors recorded therein. That being so, the factum of the petitioner being an Araya and not a Mala

Araya is virtually without contest. However, whether any consequences of this should attach to him or follow him, are matters which are to be considered by his employer and not by this Court at the first instance. This is more so because, even in Ext.P7, Government of Kerala has only made a recommendation to the employer to take necessary action, if they are so interested.

10. However, as matters now stand, BSNL

seems to be taking the position that they are intending to disburse the retiral benefits to the petitioner as per the directions in Ext.R8(a) order of the Central Administrative Tribunal. I do not think, therefore, that any -9- further orders are required from this Court at this point of time.

11. This is more so because, as rightly argued by Sri.S.M.Prasanth, the petitioner retired from service voluntarily on 31.01.2020, at a time when his Caste Certificate had not been set aside. In the afore circumstances, I close this

writ petition, without acceding to the challenge against Exts.P6 and P7; however, clarifying that all contentions of the petitioner with respect to the employment and retiral benefits are left open, if it becomes necessary in future to be impelled by him.

Sd/- DEVAN RAMACHANDRAN JUDGE akv -10- APPENDIX OF WP(C) 9857/2021 PETITIONER EXHIBITS EXHIBIT P1 TRUE COPY OF CERTIFICATE NO.K. DIS.8691/76 DT. 18.05.1976 ISSUED BY THE TAHSILDAR, TIRUVALLA TO THE PETITIONER. EXHIBIT P2 TRUE COPY OF CERTIFICATE NO. K. DIS.

THE TAHSILDAR , TIRUVALLA TO THE PETITIONER. EXHIBIT P3 TRUE COPY OF EXTRACT OF SSLC BOOK OF THE PETITIONER ISSUED BY THE SNVS HIGH SCHOOL, TIRUVALLA. EXHIBIT P4 TRUE COPY OF SHOW CAUSE NOTICE NO.

2607286/SCSTDD DTD. 16.11.2020 ISSUED BY R1 TO THE PETITIONER ALONG WITH ENQUIRY REPROT NO. V 1711/16 (24) DT. 05.11.2020 SUBMITTED BY THE VIGILANCE OFFICER, KIRTADS TO R1.

EXHIBIT P5 TRUE COPY OF EXPLANATION DT. 02.01.2021 SUBMITTED BY THE PETITIONER BEFORE R1. EXHIBIT P6 TRUE COPY OF ORDER NO. ISSUED BY R1 TO THE PETITIONER. EXHIBIT P7 TRUE COPY OF THE G.O.(MS)NO.25/2021/SCSTDD DATED 31.3.2021 ISSUED BY ADDL.R8. EXHIBIT P8 TRUE COPY OF OFFICE MEMORANDUM NO.38/09(02)/2020-P&PW(A)(6721) DATED PG AND PENSION -11- EXHIBIT P9 COMMUNICATION NO.60-2/2020-SCT(PT)

DATED 25.04.2022 IN FILE NO.BSNLCO- SCT/15(11)/3/ 2022-CLO/SCT SENT BY THE DEPUTY GENERAL MANAGER (SCT), BSNL RESPONDENT EXHIBITS EXHIBIT R8(a) TRUE COPY OF THE ORDER DATED 19.02.2021 IN OA NO.186 OF 2020 PASSED BY THE TRIBUNAL. EXHIBIT R8(b) TRUE COPY OF THE COMMUNICATION NO.HR- I/40-9/SCT/DVK&KNP/2018/42 DATED 22.03.2021.

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