

(2011) 06 KL CK 0226

High Court Of Kerala

Case No: W.A. No. 803 of 2011

Aswin B. Naik

APPELLANT

Vs

Commissioner for Entrance and
Tahsildar

RESPONDENT

Date of Decision: June 21, 2011

Hon'ble Judges: Jasti Chelameswar, C.J; Antony Dominic, J

Bench: Division Bench

Advocate: M.V. Amaresan, for the Appellant; No Appearance, for the Respondent

Final Decision: Dismissed

Judgement

Antony Dominic, J.

The unsuccessful writ Petitioner in W.P(C). No. 14232 of 2011 is the Appellant.

2. In response to the prospectus issued by the Respondents inviting applications for admission to professional courses, Kerala 2011, the Appellant submitted an application, claiming eligibility for the benefit available to candidates belonging to scheduled caste, on the basis that his parents are an inter-caste married couple, of which his mother belongs to Velan community, a scheduled caste community in the State of Kerala.

3. However, by Exhibit P8 memo, issued by the first Respondent, his application was rejected and the reason stated therein reads as under:

Mr. ASWIN B NAIK is informed that your "SC" claim is disallowed since you have not produced Community Certificate along with the application for admission to Professional Degree Courses, Kerala 2011. You are directed to remit the balance application fee for Rs. 350/- (Rupees Three Hundred and Fifty only) as Demand Draft in favour of Commissioner for Entrance Examinations payable at Thiruvananthapuram, to be considered as a General candidate, failing which your candidature will be cancelled.

4. It was challenging Exhibit P8 and seeking a direction for permitting the Appellant to participate in the selection process that the Writ Petition was filed. By the judgment under appeal, the learned Judge dismissed the Writ Petition relying on Clause 5.4.3 of the prospectus and holding that the Applicants like the Appellant should have produced a caste certificate. It is aggrieved by the said judgment that the Writ Appeal is filed.

5. It is the admitted case of the Appellant that he did not produce a caste certificate, regarding his caste status. On the other hand, during the course of the arguments, learned Counsel for the Appellant relied on Clause 5.4.2(h) of the prospectus, which provides for reservation in favour of children of inter-caste married couple of which one is SC/ST. Although such reservation is available, the Applicant claiming such reservation has to satisfy the requirements laid down in Clause 5.4.3(a) of the prospectus, which reads as under:

(a) Candidates claiming reservation under Scheduled Castes/Scheduled Tribes quota should obtain the caste/community certificate from the Tahsildar concerned, in the proforma given in the application form specifically meant for them. SC/ST caste status of children, whose parents contracted Inter-caste marriage, will be subject to the orders/clarification issued in GO (Ms) No. 25/2005/SCSTDD dated 20.06.2005, judgment dated 10.08.2005 of the Full Bench of the Hon"ble High Court of Kerala in WP(C) 2483/2005 and connected cases and GO (Ms) No. 109/2008/SCSTDD dated 20.11.2008. As per G.O.(MS) No. 109/2008/SCSTDD, dated 20.11.2008, the children born of inter-caste married couple of which one of the parents is SC/ST can claim the status of SC/ST on proof of the conditions of acceptance, customary traits and tenets under which such children are brought up. The competent authority issuing SC/ST community certificate to children born of inter-caste married couple, of which one of the parents is SC/ST, should ensure that the claimant is subjected to same social disabilities and also following the same customs and traditions and the community has accepted that person to its fold as such. The authority to issue caste certificate should also ensure that:

(i) Each case shall be examined individually in the light of the existing facts and circumstances.

(ii) The claimant has suffered disabilities-socially, economically and educationally.

(iii) The society has accepted the claimant to their original fold as one among them and is living in the same social tenet.

Christian converts who have subsequently embraced Hinduism should produce caste/community certificate in the proforma given in the application form. The following certificate should also be got recorded by the Revenue Official, below the certificate, "The certificate is issued after observing the guidelines issued in the Government Circular No. 18421/E2/SCSTDD dated 15.12.1987".

6. A perusal of the aforesaid clause of the prospectus, which has been relied on by the learned Judge shows that a certificate as contemplated therein should have been produced by candidates like the Appellant and such a certificate was not produced by the Appellant. Consequently, the rejection of the application made by the Appellant cannot be said to be illegal.

7. For these reasons, we do not see any reason to disagree with the view taken by the learned Judge.

The Writ Appeal fails and is, therefore dismissed.