



O.P.(KAT).No.241/2019

-:1:-

2024:KER:80994

'C.R.'

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE MR. JUSTICE P.M.MANOJ

FRIDAY, THE 1ST DAY OF NOVEMBER 2024 / 10TH KARTHIKA, 1946

OP(KAT) NO. 241 OF 2019

AGAINST THE ORDER DATED 27.05.2019 IN OA NO.195 OF 2018 OF
KERALA ADMINISTRATIVE TRIBUNAL, THIRUVANANTHAPURAM

PETITIONER/S:

ANU.S.P.,
AGED 31 YEARS
FIREMAN, FIRE STATION, MUVATTUPUZHA, ERNAKULAM- 686661,
RESIDING AT APPATTUVILA KADAYARA PUTHEN VEEDU,
KANJIRAMKULAM P.O., THIRUVANANTHAPURAM- 695524.

BY ADVS.
N.NANDAKUMARA MENON (SR.)
P.K.MANOJKUMAR
SMITHA S.PILLAI
ALICE THOMAS
M.C.SINY

RESPONDENT/S:



- 1 STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM- 695001.
- 2 THE KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY, PSC OFFICE, PATTOM,
THIRUVANANTHAPURAM-695004.
- 3 THE CHAIRMAN,
KERALA PUBLIC SERVICE COMMISSION, PSC OFFICE, PATTOM,
THIRUVANANTHAPURAM- 695004.
- 4 THE INTERNAL VIGILANCE OFFICER,
KERALA PUBLIC SERVICE COMMISSION, PSC OFFICE, PATTOM,
THIRUVANANTHAPURAM- 695004.
- 5 BINJU R.G. ,
AGED 26 YEARS
S/O.RAJENDRAN, RESIDING AT T.C.501263, VARUKUZHAYEM
VILAKATHU VEEDU, THALIYAL, KARAMANA (P.O), TRIVANDRUM-
695002, (IS IMPEADED ADDITIONAL RESPONDENT NO.5 AS PER
ORDER DATED 21.03.2018 IN MA 532/18 IN O.A.NO.195/18) ,
KERALA.

BY ADVS.
SRI.D.KISHORE
SRI.R.MURALEEKRISHNAN (MALAKKARA)

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING BEEN FINALLY
HEARD ON 23.10.2024, THE COURT ON 01.11.2024 DELIVERED THE
FOLLOWING:



'C.R.'

A.MUHAMED MUSTAQUE & P.M.MANOJ, JJ.

O.P.(KAT).No.241/2019

J U D G M E N T

Dated this the 1st day of November, 2024

A.Muhamed Mustaque, J.

The petitioner, Mr.Anu, was born to Hindu Nadar parents. He was raised and brought up as a Hindu Nadar. Hindu Nadar is a backward community and the members of the community are entitled for reservation.

2. The Kerala Public Service Commission (KPSC) invited applications in the year 2011 to the NCA vacancy for Hindu Nadar candidates for the post of Jail Warder in the Jail Department. Anu applied and got a selection as per the advice memo of KPSC on 25/02/2015. He had also applied for the post of Fireman (Trainee) through KPSC as per the notification issued in the year 2012 and he got selected and was advised, as per advice memo dated



15/07/2015. This selection was again in the community category of Hindu Nadar. Anu resigned from the post of Male Warder and joined as a Fireman (Trainee) with effect from 03/01/2016.

3. On 13/01/2017, Anu received a show cause notice from KPSC stating that a fraud has been committed by him on KPSC as to his caste status. It is also stated therein that Anu was converted to Christianity, and thereafter, reconverted to the Hindu Community through the Arya Samaj. It is further stated in the show cause notice that, suppressing the caste status in the actual application, Anu got the selection to the community quota and, therefore, it has to be cancelled. Anu gave a reply to the show cause notice and, thereafter, filed O.A.No.185/2017 before the Kerala Administrative Tribunal. The Tribunal disposed of the original application on 07/08/2017 directing KPSC to pass final orders after affording an opportunity of hearing to Anu. Thereafter, KPSC passed a final order and ordered cancellation of advice. This order was issued on 29/01/2018. KPSC found that after the last date of application, Anu converted his religion from Hindu Nadar to Christianity and obtained an appointment by committing fraud. The



last date for receipt of the application to the post of Male Warder in the NCA vacancy was 14/12/2011. It is the case of KPSC that Anu converted to Christianity after the submission of the application to the post of Jail Warder in the Jail Department and reconverted to Hindu Nadar as per the Gazette Notification on 30/08/2014. KPSC thus ordered cancellation of the advice memo and also ordered registration of a criminal case against him. KPSC also noted that in terms of general conditions, Anu is debarred from applying for all future posts and, therefore, his subsequent appointment as a Fireman (Trainee) is vitiated. This was questioned by Anu before the Tribunal. The Tribunal noted that Anu married a Christian lady in a Church on 13/11/2013. Therefore, the Tribunal assumed that Anu embraced Christian religion. Tribunal also noted that Anu had embraced Hinduism through the Arya Samaj and caused issuance of Gazette notification on 30/08/2014. Tribunal found that the Suddhi Certificate issued by the Arya Samaj reveals that he had converted to Christian Nadar community during the selection process of Male Warder. Therefore, holding that Anu committed fraud, the Tribunal affirmed the order of KPSC.



4. Assailing the order of the Tribunal, the learned Senior Counsel appearing for the petitioner, Shri Nandakumara Menon argued that KPSC failed to take into account the explanation offered by Anu as to the circumstances under which the Gazette notification happened to be issued. The learned Counsel reiterated that Anu was never converted to Christianity. According to the learned Counsel, Anu married a Christian woman and a blessing ceremony was held in the Church. It is submitted that he approached the Village Officer, Kanjiramkulam, for a Caste Certificate and the Village Officer insisted for a Suddhi Certificate and a Gazette notification for the issuance of the Caste Certificate. The learned Counsel further submitted that there is no dispute to the fact that Anu was born and raised as a Hindu Nadar and, his SSLC and other certificates would establish that he belonged to Hindu Nadar. The learned Senior Counsel also submitted that KPSC cannot enter into a finding regarding fraud by conducting an enquiry, and that such an enquiry has to be conducted by authority which issued the caste certificate. Per contra, the learned Standing Counsel for KPSC, Shri P.C.Sasidharan submitted that a public



notice of reconversion has been issued regarding conversion of Anu from Christianity and, therefore, no further enquiry is required as to the caste status of Anu. It is further submitted that, even if Anu reconverted to Hinduism, it cannot be said that he belonged to a particular caste of Hindu community as there is no conversion from caste to caste as the basis of conversion is from religion to religion.

5. Caste is a social construct, while religion is a system of beliefs or practices focused on worship of the unseen. Religion is founded on this belief or worship, evolving into an organized system of principles and practices believed to be ordained by a creator. Changing religions involves more than a formal act; it requires moving from one set of beliefs to another. Renouncing a belief system and embracing another are essential elements of religious conversion. This process becomes particularly complex when an individual from a backward or reserved community converts to another religion, and even more so if they later revert to their original faith, prompting the question of whether they still belong to their initial subcategory within the community. Courts



have addressed similar issues on several occasions. We will examine some precedents before discussing the merits of this case.

6. In **S.Rajagopal v. C. M. Armugam & Ors. [(1969) 1 SCR 254]**, the Apex Court considered the issue of a Scheduled Caste member who had converted to Christianity and later reconverted to Hinduism. The Apex Court held that an Adi Dravida caste member, upon converting to Christianity, ceased to belong to the Adi Dravida caste and on reconverting to Hindu religion, for professing it again he has to prove that he has once again become a member of the Adi Dravida caste. The point that is referred to in this case is that on reconversion, such a person will have to prove that he has been accepted as a member of his original caste.

7. In **C.M.Arumugam v. S.Rajgopal and Others [(1976) 1 SCC 863]**, the Apex Court again considered the issue of reconversion to the original religion and opined that, upon reconversion to Hinduism, such a person once again becomes a member of the caste into which he was born provided the members of the caste accept him as a member.



8. In **S. Anbalagan v. B. Devarajan and Others [(1984) 2 SCC 112]**, the Apex Court held that for reconversion to Hinduism, no particular ceremony such as expiatory rites need to be performed unless the practice of the caste makes it necessary and further opined that on reconversion, he becomes a member of his original caste provided that he has been accepted by that community.

9. In **Kailash Sonkar v. Smt. Maya Devi [(1984) 2 SCC 91]**, the Apex Court again considered the issue of reconversion and the revival of caste through reconversion, reiterating the law established earlier.

10. In **Kodikunnil Suresh alias J.Monian v. N.S. Saji Kumar and Others [(2011) 6 SCC 430]**, the Apex Court considered an issue of reconversion to Hinduism from Christianity and opined that the acceptance of members from the Scheduled Caste community is sufficient to hold that such persons belong to the Scheduled Caste community.



11. In **K.P. Manu v. Chairman, Scrutiny Committee for Verification of Community Certificate [(2015) 4 SCC 1]**, the Apex Court considered the principles related to conversion and reconversion. It is appropriate to refer to the relevant principles as follows:

- (i) There must be absolutely clear-cut proof that he belongs to the caste that has been recognised by the Constitution (Scheduled Castes) Order, 1950;
- (ii) There has been reconversion to the original religion to which the parents and earlier generations had belonged; and
- (iii) there has to be evidence establishing the acceptance by the community.

12. On a conspectus reading of the precedents as above, the following proposition of law emerges:

1. On conversion, a person ceases to become a member of a religion to which he originally belongs and he ceases to have the benefit of the caste status he originally had.
2. On reconversion, such a person automatically is not entitled to claim caste status and there must be



evidence to prove that he has been accepted by the original community and he is treated as a member of the original caste.

13. Three points are required to be considered in an enquiry related to the caste status of Anu.

- i. Whether Anu had been converted from Hinduism to Christianity?
- ii. If Anu had been converted to Christianity at any point of time, whether he has been reconverted to Hinduism?
- iii. If Anu had been reconverted, had the Hindu Nadar community accepted him as a full member of the community?

14. The nature of the enquiry described above should have been conducted by the authority that issued the caste certificate. It is important to consider Anu's explanation regarding the circumstances under which the Gazette notification was issued during this enquiry. Such a factual investigation is crucial in this



case, given the allegations of fraud against Anu. Fraud here is alleged based on factual elements, meaning there must be foundational facts establishing fraudulent intent. Fraud involves intentional deception by someone who seeks to mislead another relying on their representation. Fraud invalidates the entire transaction, rendering all actions that follow it null and void.

15. The primary question is whether KPSC itself should investigate allegations of fraud committed against revenue officials who issued the caste certificate. While KPSC does have the authority to cancel a recommendation based on misrepresentation and fraud, it cannot unilaterally determine that the certificate was fraudulently obtained from another agency or authority. As a constitutional agency entrusted with recruitment and selection, KPSC has no power under the Constitution or any law to conduct an enquiry into an applicant's caste status. If KPSC suspects that an applicant obtained a caste certificate through fraud or misrepresentation, it must refer the matter to the issuing authority, which alone is responsible for investigating caste status and any



potential fraud or misrepresentation. This means KPSC cannot independently nullify an individual's caste status.

After reviewing the records and the Tribunal's order, we find that both the KPSC and the Tribunal made a serious error in determining the petitioner's caste status. It is undisputed that the petitioner, Anu, was born and raised as a Hindu Nadar, and all his school and caste certificates reflect this. None of these caste certificates have been annulled by the issuing or any higher authority. There is a clear legal distinction between fraud on facts and fraud on a court or authority. Fraud on facts involves misrepresentation or deceit that generally occurs between private parties and pertains to specific details or circumstances. In contrast, fraud on a court or authority directly targets the judicial or administrative process itself. In such cases, it is the Court or authority that has the exclusive competence to determine the nature and extent of the fraud committed upon it. This distinction is significant because fraud against a Court or authority compromises the integrity of its proceedings, and only the affected authority can effectively assess and address the fraud's impact on its



proceedings. Thus, we conclude that KPSC is not empowered to determine an applicant's caste status. Instead of referring the matter to the revenue authority or relevant agency, KPSC took it upon itself to make a decision regarding the petitioner's caste. Therefore, we set aside Ext.P7 impugned order as well as KPSC's order, dated 29/01/2018, canceling the advice and appointment [Ext.P1(A15)]. However, this does not prevent KPSC from referring the matter to the competent authority for an enquiry into the petitioner's caste status.

The original petition is allowed as above.

Sd/-

A.MUHAMED MUSTAQUE

JUDGE

Sd/-

P.M.MANOJ

JUDGE



APPENDIX OF OP(KAT) 241/2019

PETITIONER EXHIBITS

- EXHIBIT P1 THE PHOTOSTAT COPY OF THE ORIGINAL APPLICATION NO.195/2018 DATED 07.02.2018 BEFORE THE HON'BLE KERALA ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH AT THIRUVANANTHAPURAM.
- Exhibit P1(A1) TRUE COPY OF MEMO OF ADVICE NO.KLR III(3)1448/12 DATED 15.7.2015.
- Exhibit P1(A2) TRUE COPY OF APPLICATION DETAILS OF THE APPLICANT DATED 9.4.2012.
- Exhibit P1(A3) TRUE COPY OF MEMO OF ADVICE NO.C.V. (1)1700/2012(3) DATED 25.2.2015.
- Exhibit P1(A4) TRUE COPY OF ORDER NO.J.O.B.-82/2015 DATED 6.3.2015 OF THE SUPERINTENDENT OF CENTRAL PRISON, KANNUR.
- Exhibit P1(A5) TRUE COPY OF PSC RANKED LIST NO.17/2015/DOC DATED 20.1.2015.
- Exhibit P1(A6) TRUE COPY OF SHOW CAUSE NOTICE NO.SS 1(2) 489/15 DATED 13.1.2017.
- Exhibit P1(A7) TRUE COPY OF RELEVANT PAGE OF SSLC WITH REG. NO.667285 OF THE APPLICANT.
- Exhibit P1(A8) TRUE COPY OF RELEVANT PAGE OF SSLC OF THE FATHER OF THE APPLICANT ISSUED FROM THE P.K.S.HIGH SCHOOL, KANJIRAMKULAM.
- Exhibit P1(A9) TRUE COPY OF THE RELEVANT PAGE OF SSLC OF THE MOTHER OF THE APPLICANT ISSUED FROM THE GOVT. HIGH SCHOOL FOR GIRLS, KANJIRAMKULAM.
- Exhibit P1(A10) TRUE COPY OF NON-CREAMY LAYER CERTIFICATE NO.167/2012 DATED 14.3.2012 FROM THE VILLAGE OFFICE, KANJIRAMKULAM.
- Exhibit P1(A11) TRUE COPY OF CERTIFICATE NO.618/14 DATED



11.11.2011, CATEGORY NO.394/2011.

Exhibit P1 (A12)

TRUE COPY OF THE PSC NOTIFICATION DATED
11.11.2011, CATEGORY NO.394/2011.

Exhibit P1 (A13)

TRUE COPY OF PSC NOTIFICATION DATED 28.3.2012
CATEGORY NO.01/2012.

Exhibit P1 (A14)

TRUE COPY OF ORDER DATED 7.8.2017 OF THIS
HON'BLE TRIBUNAL IN O.A.NO.185/17.

Exhibit P1 (A15)

TRUE COPY OF ORDER NO. SS1(2) 489/15 DATED
29.1.2018 OF THE 4TH RESPONDENT.

Exhibit P1 (A16)

TRUE COPY OF REPRESENTATION DATED 7.2.2018 TO
THE SECRETARY PSC.

Exhibit P2

THE PHOTOSTAT COPY OF THE IMPLEADING PETITION
FILED BY THE ADDITIONAL 5TH RESPONDENT DATED
13.3.2018 BEFORE THE HON'BLE KERALA
ADMINISTRATIVE TRIBUNAL, TVM BENCH.

EXHIBIT P3

THE PHOTOSTAT COPY OF THE REPLY STATEMENT
FILED BY RESPONDENTS 2 TO 4 IN THE O.A.NO.195
OF 2018 BEFORE THE HON'BLE KERALA
ADMINISTRATIVE TRIBUNAL, TVM BENCH.

EXHIBIT P4

THE PHOTOSTAT COPY OF THE REPLY STATEMENT
FILED BY THE ADDITIONAL 5TH RESPONDENT DATED
06.04.2018 BEFORE THE HON'BLE KERALA
ADMINISTRATIVE TRIBUNAL, TVM BENCH.

EXHIBIT P5

THE PHOTOSTAT COPY OF THE REJOINDER STATEMENT
FILED BY THE PETITIONER IN THE O.A.NO.195 OF
2018 DATED 12.06.2018 BEFORE THE HON'BLE
KERALA ADMINISTRATIVE TRIBUNAL, TVM BENCH.

Exhibit P5 (A17)

TRUE COPY OF THE G.O. (MS) NO.9/2013/BCDD
DATED 30.8.2013.

Exhibit P5 (A18)

TRUE COPY OF THE GO (MS) NO.55/2015/SCSTDD
DATED 4.4.2012.

Exhibit P5 (A19)

TRUE COPY OF THE ENQUIRY REPORT V.E.NUMBER
33/2015 DATED 17.10.2016, OF THE VIGILANCE &



SECURITY OFFICER, VIGILANCE WING, KERALA PSC.

- Exhibit P5 (A) THE PHOTOSTAT COPY OF THE MISCELLANEOUS APPLICATION FOR EXTENSION OF STAY DATED 12.6.2018 FILED BY THE PETITIONER BEFORE THE HON'BLE KERALA ADMINISTRATIVE TRIBUNAL, TVM BENCH.
- EXHIBIT P6 THE PHOTOSTAT COPY OF THE MISCELLANEOUS APPLICATION DATED OCTOBER 2018 FILED BY THE ADDITIONAL 5TH RESPONDENT BEFORE THE HON'BLE KERALA ADMINISTRATIVE TRIBUNAL, TVM BENCH.
- Exhibit P6(R5) (A) TRUE COPY OF THE RELEVANT PAGES OF THE GAZETTE NOTIFICATION DATED 30.8.2014.
- Exhibit P6(R5) (B) TRUE COPY OF THE PHOTOGRAPH SHOWS THE APPLICANT IN OA 195/18 RECEIVES PRIZE FROM THE CHURCH.
- Exhibit P6(R5) (C) TRUE COPY OF THE PHOTOGRAPH SHOWS THE APPLICANT IN OA 195/18 ENGAGE IN MARRIAGE AT CHURCH ACCORDING TO CHRISTIAN CUSTOM.
- Exhibit P6(R5) (D) TRUE COPY OF REPLY STATEMENT FILED ON BEHALF OF 2ND RESPONDENT IN OA 185/17 OF HON'BLE TRIBUNAL.
- Exhibit P6(R5) (E) TRUE COPY OF THE SHOW CAUSE NOTICE DATED 11.1.2017 ISSUED BY THE 4TH RESPONDENT TO THE APPLICANT IN OA 195/18.
- EXHIBIT P7 THE PHOTOSTAT COPY OF THE ORDER DATED 27.05.2019 IN O.A.NO.195/2018 PASSED BY THE HON'BLE KERALA ADMINISTRATIVE TRIBUNAL AT THIRUVANANTHAPURAM.