PROCEEDINGS OF THE SCRUTINY COMMITTEE FOR
VERIFICATION OF COMMUNITY CERTIFICATES

Present: 1) Smt.Sumana.N.Menon I.A.S
Secretary to Government                - Chairperson
Scheduled Castes
Development Department, Kerala.

2) Dr.Bindu.S
Director                              - Member
KIRTADS

No.16358/G2/2013/SCSTDD               11.11.2013

Sub:- Kerala (Scheduled Castes and Scheduled Tribes) Regulation of issue of Community Certificates Act, 1996 – Scheduled Caste (Paravan) claim of Anand Narayanan and Muguntha Narayanan, Children of Chittaras, Narayana Vilasom, Thettiyyode, Parassala, Thiruvananthapuram – Rejected cancelling the Community Certificates issued to them – Orders issued.

Read:- 1) Judgment of the Hon'ble High Court of Kerala dated 19.07.12 in W.P.(C)No.16765/2012(U) filed by Scheduled Caste (Paravan) claim of Anand Narayanan and Muguntha Narayanan, Children of Chittaras, Narayana Vilasom, Thettiyyode, Parassala, Thiruvananthapuram.
3) Notice of even No. dated 04.10.2013.
4) Submission dated 16.08.2013 filed by the representative of the Counsel of the claimant on 11.11.2013.

ORDER

1. The Government, vide its order read as second paper above, issued in compliance of the direction of the Hon'ble High Court of Kerala, U/s.13(1) of the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996.

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Certificates Act, 1996 (Act 11 of 1996 as amended by Act 32 of 2008; herein after referred to as Act 11 of 1996) read as first paper above, referred the case of Scheduled Caste (Paravan) claim of the Writ Petitioners/Claimants, to the Scrutiny Committee for verification of Community Certificates, (herein after referred to as the Committee) and made available a copy of the report No.V.9/12/Rej/SC-99 dated 17.05.12 of the Expert Agency.

2. On receipt of the Government Order, read as first paper above, and the report of the Expert Agency, the Committee has issued notice read as third paper above to the claimants, along with the copy of the report of Expert Agency, directing them to file objections, if any, to the said report, within a fortnight, from the date of receipt of the notice and to appear before the Committee for hearing on 28.10.2013. Notice was also issued to the Tahsildar, Neyyattinkara, the Competent Authority, to appear before the Committee on 28.10.2013, along with the file/files, in which, community certificates were issued to the claimants. The Expert Agency was also directed to appear before the Committee on that day.

3. On 28.10.2013, the Counsel for the claimants was represented. In spite of acknowledging the receipt of the notice and copy of the enquiry report of the Expert Agency, by the claimants, on 08.10.2013, no objection was filed as directed in the notice. The Counsel who has represented his senior, has filed Vakalath and petition/submission dated 16.08.2013 in which it was alleged that despite repeated requests, the copy of the report on the local discreet enquiry conducted by the Expert Agency was not made available to him. But neither the claimants, nor their Counsel, could produce copy of even a single request, claimed to have been filed for the copy of the report. In the petition/submission, it was requested that all the claims raised by the respondents based on the alleged local discreet enquiry may be denied in toto.

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4. The Deputy Tahsildar, Neyyattinkara has appeared along with authorisation letter No.A7-30550/13 dated 26.10.2013 of the Tahsildar, Neyyattinkara, the competent authority. Since in the said authorization, no reason was stated for the non appearance of the competent authority, he was directed to appear before the Committee on 11.11.2013, along with the files, in which, community certificates were issued to the claimants.

5. The Tahsildar, Neyyattinkara, the Competent Authority appeared before the Committee on 11.11.2013 and produced File Nos.A6-28359 of 2009 and A6-58398 of 2009 in which community certificates were issued to the claimants, Sri.Muguntha Narayanan and Sri.Ananda Narayanan, respectively and File No.A6/10185/12 in which community certificate was issued to Sri.Muguntha Narayanan.

6. The Committee considered the case, with reference to the relevant provisions in Act 11 of 1996, the Government Order read as second paper above, the report of the Expert Agency and the files produced by Competent Authority and found as follows:

(i) The Expert Agency, in its report, has pointed out that it was revealed during the local discreet enquiry that the claimants were born out of the marital union between Sri.Chittaras and Smt.Kavitha and that they were brought up in the milieu and circumstances of their mother's community viz, Reddiar, and are living according to the customs and traditions of Reddiar community. It was also reported by the Expert Agency, that the father of the claimants, is an offspring of intercaste married parents, of whom, the father belongs to Hindu Paravar community, and mother belongs to Reddiar community.

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(ii) Even though the copy of the said report of the Expert Agency was made available to the claimants, giving them ample opportunity to file objections, if any, to the said report and to adduce evidence to disprove the facts reported by the Expert Agency, they didn't care to file any objection in the proper manner, except filing a petition/submission dated 16.08.2013, on 28.10.2013, and didn't file any request for the so called "local discreet enquiry report", except, mentioning it, in the petition/submission dated 16.08.2013. Section 10 of the Act 11 of 1996, clearly provides that the burden of proving that the claimants belong to Scheduled Caste shall be on the claimants. In this case, the claimants did not file any objection to the enquiry report of the Expert Agency, the receipt of which was acknowledged, on 08.10.2013 and failed miserably to disprove the said report of the Expert Agency. As such, the Committee has no other option, but to accept the report of the Expert Agency that the claimants do not belong to Scheduled Caste (Paravan) community and that they are the offsprings in the marital alliance between the father belonging to Paravan community and the mother belonging to Reddiar community.

(iii) As per the latest judgment of the Apex Court in Ramesh Dabhai Naika Vs. State of Gujarat (Civil Appeal No.654/12 arising out of S.L.P. (C) No.4282/10), the child born out of an inter caste marriage should lead evidence to show that he or she was brought up by the mother or father, whose caste status he claims, and that he has suffered the deprivations, indignities, humilities and handicaps, like any other member of the community, to which, his or her mother/father belonged. In this case, the Expert Agency has reported in unambiguous terms, that the claimants are born and brought up in the milieu and circumstance of their mother's
community viz, Reddiar and that they are living according to the customs and traditions of Reddiar community. The claimants couldn't disprove the said fact, reported by the Expert Agency.

(iv) On perusal of the files produced by the Tahsildar, Neyyattinkara, the Competent Authority, it is seen that the community certificates, issued to the claimants, are not in the prescribed format, i.e. Form No.III, prescribed under Sub-Rule 1 of Rule 4 of the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Rules, 2002.


8. The Committee also decided to bring the said fact, to the notice of the Government, for necessary action, under the relevant provisions of Act 11 of 1996.

Dr.BINDU.S  
Member  
Scrutiny Committee for Verification of Community Certificates (Director, KIRTADS)  

SUMANA.N.MENON I.A.S  
Chairperson,  
Scrutiny Committee for Verification of Community Certificates.  
(Secretary to Government Scheduled Castes Development-Department)

To.

1. The Secretary, Scheduled Castes Development Department.

Dr.BINDU.S  

SUMANA.N.MENON I.A.S
4. The Advocate General, Kerala at Ernakulam (with C/L)
5. The Director, Scheduled Tribes Development Department, Thiruvananthapuram. (Member, Scrutiny Committee for Verification of Community Certificates)
6. The Director, Scheduled Castes Development Department, Thiruvananthapuram.
7. The Director, Information & Public Relations Department. (For Press Release)
8. The District Collector, Thiruvananthapuram (By Registered Post with A/D) (For necessary action for substitution of real caste name of Sri. Anand Narayanan and Sri. Muguntha Narayanan in the public records).
9. The District Scheduled Castes Development Officer, Thiruvananthapuram.
11. Stock File
12. Office Copy.

Copy to:- 1) P.S. to the Hon'ble Minister (Welfare of Scheduled Castes and Backward Classes and Tourism)
2) P.A to the Secretary, SCDD.
3) P.A to Joint Secretary. (For uploading to the web-site)

Dr. BINDU.S
SUMANA N. MENON I.A.S