

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN

Monday, the 13th day of December 2021 / 22nd Aagrahayana, 1943
WP(C) NO. 28021 OF 2021(C)

PETITIONER:

NAIR SERVICE SOCIETY REPRESENTED BY ITS GENERAL SECRETARY,
G.SUKUMARAN NAIR, N.S.S.HEAD OFFICE, PERUNNA, CHANGANASSERY P.O.,
KOTTAYAM - 686 101.

RESPONDENTS:

1. THE STATE OF KERALA REPRESENTED BY CHIEF SECRETARY, GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. KERALA STATE COMMISSION FOR ECONOMICAL BACKWARD CLASSES AMONG FORWARD COMMUNITIES REPRESENTED BY ITS REGISTRAR, MANJALIKULAM ROAD, SANTHI NAGAR, PULIMOODU P.O., THIRUVANANTHAPURAM -

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to stay all further proceedings for the conduct of sample survey in pursuance to Exhibits-P4, P5 and P8, pending disposal of the Writ Petition.

This petition coming on for orders upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S. R.T.PRADEEP, V.VIJULAL, M.BINDUDAS, Advocates for the petitioners, GOVERNMENT PLEADER for R1, M/S P.SREEKUMAR, ASWIN KUMAR M J, RENOY VINCENT, HELEN P.A., ARUN ROY, SHAHIR SHOWKATH ALI, Advocates for the respondents, the court passed the following:

ORDER

Sd/- P.V.KUNHIKRISHNAN JUDGE

P.V.KUNHIKRISHNAN, J.

I.A.No.1 of 2021
&
W.P.(C). No.28021 of 2021

Dated this the 13th day of December, 2021

ORDER

I.A.No.1/2021

The counsel for the petitioner seeks time to file an objection.

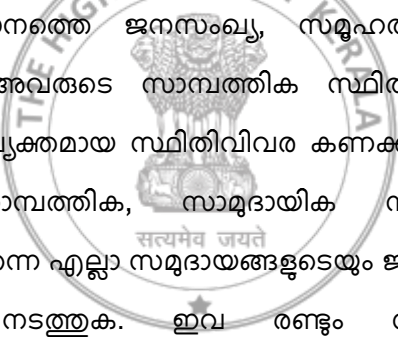
W.P.(C). No.28021/2021

This writ petition is filed with following prayers:

- i. To issue a writ of certiorari or any other appropriate writ order or direction calling upon the records pertaining to Exhibits-P4, P5 and P8 and quash the decision taken to conduct sample survey
- ii. To issue a writ of mandamus or any other appropriate writ order or direction to the respondents to refrain from conducting sample survey in pursuance to Exhibits-P4, P5 and P8.
- iii. To issue a writ of mandamus or any other appropriate writ order or direction to the respondents to conduct socio-economic communal survey of the entire population of the State and to take census of all communities in the State as mandated in recommendations contained in clause 2(m) within such time fixed by this Hon'ble Court.
- iv. Such other reliefs which this Hon'ble Court may deem fit and proper in the interest of justice.

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2. Admittedly there is a report by Justice K.Sasidharan Nair Commission, which is accepted by the Government as per Ext.P2 Government Order. Meanwhile Ext.P3 report was submitted by 2nd respondent Commission headed by the Hon'ble Mr. Justice A.V. Ramakrishnapillai, which is the statutory commission. One of the recommendations in Ext.P3 is mentioned in Clause 2(m) of Chapter V, which is extracted hereunder:



“(എം) സംസ്ഥാനത്തെ ജനസംഖ്യ, സമൂഹത്തിൽ നിലവിലുള്ള സമുദായങ്ങൾ, അവരുടെ സാമ്പത്തിക സ്ഥിതി, സാമൂഹ്യസ്ഥിതി ഇവയെക്കുറിച്ച് വ്യക്തമായ സ്ഥിതിവിവര കണക്ക് തയ്യാറാക്കുന്നതിന് സാമൂഹിക, സാമ്പത്തിക, സാമുദായിക സർവ്വേ നടത്തുക. അതോടൊപ്പം തന്നെ എല്ലാ സമുദായങ്ങളുടെയും ജനസംഖ്യ വിവരണ കണക്കെടുപ്പം നടത്തുക. ഇവ രണ്ടും സമയബന്ധിതമായി പൂർത്തീകരിക്കുക (ദശവത്സര കനേഷുമാരിയിൽ മേൽ വിവരിച്ച രീതിയിലുള്ള വിവരശേഖരണമില്ലാത്തതിനാലാണ് പ്രസ്തുത ശുപാർശ അനിവാര്യമാണെന്ന് കമ്മീഷൻ ബോധ്യമായിട്ടുള്ളത്.”

3. Grievance of the petitioner is that no such survey is conducted even now, and now a sample survey is going to be conducted by the Commission. It is conceded by the Government Pleader and the Standing Counsel appearing for the Commission that the sample survey now going to be conducted is nothing to do with the recommendation

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mentioned in Clause 2(m) of Ext.P3 order. In such situation, according to me, there is no need to look into that aspect now. But according to me, when there is a recommendation in Ext.P3 to conduct a comprehensive survey as evident by Clause 2(m) of Ext.P3, the Government should take a specific stand on those recommendations. Ext.P3 report was submitted in February 2019.

4. The Government will take a decision in Ext.P3 recommendations, especially about Clause 2(m) of Chapter V of that report and will submit an affidavit before this Court on or before 31.01.2022.

Post on 31.01.2022.

Since it is submitted by the Government Pleader and the Standing Counsel for the 2nd respondent that the sample survey is noway connected to the recommendations in Ext.P3 and the 10% reservation for economically weaker sections, the sample survey can go on.

H/o.

JV

sd/-
P.V.KUNHIKRISHNAN
JUDGE

APPENDIX OF WP(C) 28021/2021

- Exhibit P4** TRUE COPY OF G.O.(RT) NO.3707/2021/G.AD. DATED 30/9/2021.
- Exhibit P5** TRUE COPY OF QUESTIONNAIRE PREPARED BY 2ND RESPONDENT FOR CONDUCTING SAMPLE SURVEY.
- Exhibit P8** TRUE COPY OF E-MAIL REPLY DATED 29/11/2021 BY 2ND RESPONDENT.

