

13. In the case of *Valsamma Paul v. Cochin University*⁵ this Court again examined the entire gamut and came to the conclusion that the condition precedent for acquiring Scheduled Tribes certificate one must suffer the disabilities—socially, economically and educationally. The facts of that case are important and may be recited in a nutshell. Two posts of Lecturers in Law Department of Cochin University were notified for recruitment, one of which was reserved for Latin Catholics (Backward Class Fishermen). The appellant was a Syrian Catholic (a Forward Class). She married a Latin Catholic (Backward Class Fishermen) and had applied for selection as a reserved candidate. The University selected her on that basis and accordingly appointed her against the reserved post. Her appointment was questioned by another candidate by filing a writ petition praying for a direction to the University to appoint the petitioner in place of the appellant. The learned Single Judge allowed the writ petition. On appeal being filed before the Division Bench concerning the important question of law a reference was made to the Full Bench. The Full Bench held that though the appellant was married according to the Canon Law, the appellant being a Syrian Catholic by birth (Forward Class), by marriage with the Latin Catholic (Backward Class Fishermen) is not member of that class nor can she claim the status as a Backward Class by marriage. On an appeal being preferred before this Court against the decision of the Full Bench this Court after referring to various decisions of this Court upheld the judgment of the Full Bench. This Court held in paras 33 and 34 as under: (SCC pp. 565-66)

"33. However, the question is: Whether a lady marrying a Scheduled Caste, Scheduled Tribe or OBC citizen, or one transplanted by adoption or any other voluntary act, ipso facto, becomes entitled to claim reservation under Article 15(4) or 16(4), as the case may be? It is seen that Dalits and Tribes suffered social and economic disabilities recognised by Articles 17 and 15(2). Consequently, they became socially, culturally and educationally backward; the OBCs also suffered social and educational backwardness. The object of reservation is to remove these handicaps, disadvantages, sufferings and restrictions to which the members of the Dalits or Tribes or OBCs were subjected and was sought to bring them in the mainstream of the nation's life by providing them opportunities and facilities.

34. In *Murlidhar Dayandeo Keshkar v. Vishwanath Pandu Barde*⁶ and *R. Chandavarappa v. State of Karnataka*⁷ this Court had held that economic empowerment is a fundamental right to the poor and the State is enjoined under Articles 15(3), 46 and 39 to provide them opportunities. Thus, education, employment and economic empowerment are some of the programmes the State has evolved and also provided reservation in admission into educational institutions, or in case of other economic

⁵ 1996) 3 SCC 545 : 1996 SCC (L&S) 772 : (1996) 33 ATC 713

⁶ 1995 Supp (2) SCC 549

⁷ (1995) 6 SCC 309

benefits under Articles 15(4) and 46, or in appointment to an office or a post under the State under Article 16(4). Therefore, when a member is transplanted into the Dalits, Tribes and OBCs, he/she must of necessity also have had undergone the same handicaps, and must have been subjected to the same disabilities, disadvantages, indignities or sufferings so as to entitle the candidate to avail the facility of reservation. A candidate who had the advantageous start in life being born in Forward Caste and had march of advantageous life but is transplanted in Backward Caste by adoption or marriage or conversion, does not become eligible to the benefit of reservation either under Article 15(4) or 16(4), as the case may be. Acquisition of the status of Scheduled Caste, etc. by voluntary mobility into these categories would play fraud on the Constitution, and would frustrate the benign constitutional policy under Articles 15(4) and 16(4) of the Constitution."

14. (In view of the catena of decisions of this Court, the questions raised before us are no more *res integra*. The condition precedent for granting tribe certificate being that one must suffer disabilities wherefrom one belongs. The offshoots of the wedlock of a tribal woman married to a non-tribal husband—Forward Class (Kayastha in the present case) cannot claim Scheduled Tribe status. The reason being such offshoot was brought up in the atmosphere of Forward Class and he is not subjected to any disability.) A person not belonging to the Scheduled Castes or Scheduled Tribes claiming himself to be a member of such caste by procuring a bogus caste certificate is a fraud under the Constitution of India. The impact of procuring fake/bogus caste certificate and obtaining appointment/admission from the reserved quota will have far-reaching grave consequences. A meritorious reserved candidate may be deprived of reserved category for whom the post is reserved. The reserved post will go into the hands of non-deserving candidate and in such cases it would be violative of the mandate of Articles 14 and 21 of the Constitution.

15. (The Scheduled Caste and Scheduled Tribe certificate is not a bounty to be distributed. To sustain the claim, one must show that he/she suffered disabilities—socially, economically and educationally cumulatively. The authority concerned, before whom such claim is made, is duty-bound to satisfy itself that the applicant suffered disabilities socially, economically and educationally before such certificate is issued. Any authority concerned issuing such certificates in a routine manner would be committing dereliction of constitutional duty.)

16. In the result, there is no merit in this appeal and it deserves to be dismissed with costs. The tribe certificate dated 7-8-1992 procured by the appellant by misrepresentation of the facts is quashed and set aside.

17. The appeal is dismissed with costs.