

KERALA HIGH COURT

Kerala Public Service Commission

Vs

Dr. Kunjamma Alex

Writ Appeal No. 7 of 1980

(V. Balakrishna Eradi, C.J. and K. Bhaskaran. J.)

13.11.1980

JUDGMENT

Balakrishna Eradi, C.J.

1. We see no merit in this appeal. The appellant before us is the Kerala Public Service Commission, represented by its Secretary. The first respondent in this appeal was originally selected by the Public Service Commission for appointment as Assistant Surgeon in Health Services Department of the State Government. Her inclusion in the select list was made on the basis that she belonged to the Latin Catholic (other than Anglo Indian) Community and was consequently entitled to the benefit of reservation provided for in the Rules. Subsequently, the Commission issued a notice to the 1st respondent (writ petitioner) proposing to remove her name from the select list on the ground that the representation made by her in her application for selection that she belonged to the Latin Catholic (other than Anglo Indian) Community had been found to be incorrect and untrue. Notwithstanding the objections raised by the writ petitioner (1st respondent herein) to the aforesaid proposal, her name was removed from the select list by the order Ext. P5 which was called in question by the writ petitioner in the original petition out of which this appeal has arisen.

2. The short facts are: The writ petitioner originally belonged to Syrian Catholic Community. On 30th December, 1970 she got married to a person who, admittedly, belongs to the Latin Catholic (other than Anglo Indian) Community. That marriage was solemnized in a Latin Catholic Church in accordance with the rites observed therein. After a careful consideration of all the materials brought on record before him, the learned single Judge came to the conclusion that by reason of the said marriage, a change of community had taken place in regard to the petitioner and she had become a member of her husband's community, namely, Latin Catholic (other than Anglo Indian) Community. Reference has been made by the learned single Judge to the Canon Law governing the matter. Notwithstanding the persuasive arguments advanced before us by the

learned Advocate for the appellant, we do not find any ground whatever for arriving at a conclusion different learned single Judge. Hence, with respect. we agree with the finding entered by the learned single Judge that the action taken by the Public Service Commission as per Ext. P5 for deleting the writ petitioner's name from the select list prepared by it of candidates found suitable for recruitment as Assistant Surgeon was illegal and unwarranted.

The Writ appeal accordingly fails and it is dismissed, but, in the circumstances. without any order as to costs.

Appeal dismissed.