

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2015

CORAM:

The Hon'ble Mr. Justice SATISH K. AGNIHOTRI
and
The Hon'ble Mr. Justice M. VENUGOPAL

W.P.Nos.14000 of 2015 and 14343 of 2015
M.P.No.1 of 2015

S.Munuswamy

... Petitioner in both
the Petitions

Vs.

1. The Collector
Rajaji Salai,
Chennai - 600 001
2. The Tahsildar,
Mambalam-Guindy Taluk,
Chennai - 600 078

... Respondents in both
the Petitions

Prayer in W.P.No.14000 of 2015: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Certiorarified Mandamus, calling the records of the Second Respondent in Proceedings No.10864/2015 dated 24.02.2015 and quash the same and direct the Respondents to issue the Community Certificate that the Petitioner belong to 'Godda' Community which is categorised as Scheduled Caste as per G.O.Ms.No.1773 Social Welfare Department dated 23.06.1984 as per Entries 9 and 21 of Part XVI of Scheduled Castes and Scheduled Tribes order (Amendment) Act 1976 (Central Act No.108 of 1976).

Prayer in W.P.No.14343 of 2015: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Declaration that "Boyar, Oddar, Bandi and Godda are Scheduled Castes in Tamil Nadu in respect or within the meaning of Entries 9 and 21 of Part XVI of Schedule as per Scheduled Castes and Scheduled Tribes Order (Amendment) Act 1976 (Central Act No.108 of 1976) in view of the proceedings of the Tamil Nadu Government in N.M.K.V. (3)/34328/99 dated 7-6-1999 addressed to Adi Dravida Welfare Department and b) MM.V.N.5(3)/31538/2001 dated 25-04-2001 addressed to all the Collectorates and AIR 1986 Kerala, Page-15(1) AIR 1986 Karnataka 237

For Petitioner in both
the Petitions : Mr.M.Devadoss

For Respondents in both : Mr.P.S.Sivashanmugasundaram
the Petitions Special Government Pleader

C O M M O N O R D E R

[Order of the Court was delivered by M.VENUGOPAL, J.]

W.P.No.14000 of 2015: The petitioner has preferred the instant Writ Petition praying to call for the records of the 2nd Respondent Proceedings No.10864/2015 dated 24.02.2015 and to quash the same. Further, he has sought for passing of an order by this Court in directing the Respondents to issue Community Certificate that he belongs to 'Godda' Community, which is categorised as Scheduled Caste as per G.O.Ms.No.1773 Social Welfare Department dated 23.06.1984 as per Entries 9 and 21 of part XVI of Scheduled Castes and Scheduled Tribes Order (amendment) Act 1976 (Central Act No.108 of 1976).

2. W.P.No.14343 of 2015: The Petitioner has focused the present Writ Petition seeking a Relief of Declaration that Boyar, Oddar, Bandi and Godda are Scheduled Castes in Tamil Nadu in respect or within the meaning of Entries 9 and 21 of Part XVI of Schedule as per Scheduled Castes and Scheduled Tribes Order (Amendment) Act 1976 (Central Act No.108 of 1976) in view of the proceedings of the Tamil Nadu Government in N.M.K.V. (3)/34328/99 dated 7-6-1999 addressed to Adi Dravida Welfare Department and MM.V.N.5(3)/31538/2001 dated 25-04-2001 addressed to all the Collectorates and AIR 1986 Kerala, Page-15(1) AIR 1986 Karnataka 237.

3.W.P.No.14000 of 2015: According to the Petitioner, his father, viz., Sanjeevi died on 03.10.1977 and his mother, viz., Chinnammal died on 01.06.2007. Further, he was born on 12.12.1958 and his native address is Vediangadu Village and Post, Pallipattu Taluk, Thiruvallur District. He completed his school education upto XI Standard at Government High school in his native village. He studied PUC Course at Thiagaraya College, Chennai in the year 1976-1977. He studied Diploma in Mechanical Engineering at Central Polytechnic, Adyar, Chennai during the year 1977-1980. Moreover, his grand father, viz., Pichaiyodan and his grand mother, viz., Athiammal had expired in his native village.

4.The specific case of the Petitioner is that he settled his 'Domicile' at No.29/2, Subiksha Apartments, Venkatesh Nagar Main Road, Virugambakkam, Chennai - 92.

5.At this stage, the Learned Counsel for the Petitioner contends that the Petitioner made an application to the 2nd Respondent/Tahsildar, Mambalam-Guindy Taluk, Chennai - 78 on 10.10.2012 praying for issuance of Community Certificate in his favour to the effect the he belong to 'Godda' Community. However, the 2nd Respondent/Tahsildar had informed him that in the school certificate it was mentioned as "Boyadu" community and therefore, no action could be taken in this regard.

6.The prime submission of the Learned Counsel for the Petitioner is that the Petitioner was certified to be a person belonging to 'Godda' Community through letter dated 12.08.2014 by the 'Tamil Nadu Bandi and Godda Welfare Association'. Also the Petitioner had appealed to the 1st Respondent/Collector of Chennai on 18.08.2014 requesting him to certify that he belong to 'Godda' Community which is recognized as Scheduled Caste Community at Serial No.21 of Part XVI of 108 Central Act of 1976 and that the 1st Respondent had issued a reply dated 22.04.2015 interalia stating that there is no provision for filing an appeal for issuance of Community Certificate and that necessary instructions were given to the Tahsildar, Mambalam-Guindy Taluk to issue community certificate based on the records produced and local enquiry. That apart, he was directed to approach the Taluk Office, Mambalam-Guindy Taluk along with records for the proof of his community claim and obtain the Community Certificate as per Rules.

7.Apart from the above, the Learned Counsel for the Petitioner strenuously submits that the Petitioner's wife, viz., Manoranjitham and his Brother-in-Law, viz., V.Thamaraikannan and his eldest sister, viz., Kuppanmal were certified to the effect that they belong to 'Godda' Community which is S.C. Community as per Serial No.21 of the SC List of part XIV of Central Act 108 of 1976 and as such he is entitled to obtain the certificate that he belong to 'Godda' Community.

8.The Learned Counsel for the Petitioner brings it to the notice of this Court that on 13.10.2014 in W.P.No.24551 of 2014 filed by the Petitioner, the Division Bench of this Court had among other things passed an Order by setting aside the order passed by the 2nd Respondent/Tahsildar, Mambalam-Guindy Taluk, Chennai - 78 dated 18.11.2012, who had rejected the claim made by him and further, directed the Petitioner to make an appropriate application along with necessary documents in the prescribed format before the 2nd Respondent in regard to the issuance of a Community Certificate etc.,

9.It transpires that the Petitioner had submitted a petition on 15.11.2014 addressed to the 2nd Respondent seeking issuance of Community Certificate in his favor to the effect that he belong to

'Godda' Community, which is categorised as Schedule Caste Community at Sl.No.21 of G.O.Ms.No.1773 of Social Welfare Department dated 23.06.1984 and as per order dated 13.10.2014 passed in W.P.No.24551 of 2014.

10.It is to be noted that the 2nd Respondent/Tahsildar, Mambalam Taluk through Proceedings No.10864/2615 dated 24.02.2015 had rejected the Petition/Application of the Petitioner praying for issuance of Community Certificate on the ground that he does not belong to 'Hindu Godda Community' and that he belongs only to 'Boyar Community' which is classified as 'Most Backward Class'. Also that the 2nd Respondent/Tahsildar had informed in his rejection proceedings that an Appeal lies against his order before the Chairman, District Level Scrutiny Committee and the Collector of Chennai within 60 days from the date of a receipt of a copy of this order.

11.However, this Court on going through the rejection Order/Proceedings of the 1st Respondent/District Collector, Chennai dated 22.04.2015, it is quite evident that the 1st Respondent had informed the Petitioner that there is no provision for Appeal for issuance of Community Certificate and that necessary instructions were given to the 2nd Respondent/Tahsildar, Mambalam-Guindy Taluk to issue Community Certificate based on the records produced and local enquiry. Further, the Petitioner was directed to approach the Taluk Office, Mambalam Taluk along with records for proof of his community claim and to obtain the Community Certificate as per Rules.

12. As such, this Court to prevent aberration of justice and to promote substantial cause of justice, sets aside the order of the Tahsildar, Mambalam Taluk, Chennai-78 dated 24.02.2015 issued in his proceedings No.10864/2015 and further directs the Petitioner to approach the 2nd Respondent viz., Tahsildar, Mambalam-Guindy Taluk, Chennai - 78 within 10 days from the date of receipt of copy of this order, together with necessary records for proof of his community claim to obtain the Community Certificate as per rules. It is made clear that as and when the Petitioner approaches the 2nd Respondent for obtaining Community Certificate, then, the 2nd Respondent, shall look into the necessary records produced by the Petitioner and to do the needful in the matter as expeditiously as possible.

13.With the aforesaid observation, the Writ Petition No.14000 of 2015 stands disposed of.

14.W.P.No.14343 of 2015: In view of the fact that this Court had set aside the order of the 2nd Respondent/Tahsildar, Mambalam-Guindy Taluk vide proceedings No.10864/2015 dated 24.02.2015 in W.P.No.14000 of 2015, this Court opines that, for the present,

there is no necessity for the Petitioner to seek a Relief of Declaration that "Boyar, Oddar, Bandi and Godda are Scheduled Castes in Tamil Nadu in respect or within the meaning of Entries 9 and 21 of Part XVI of Schedule as per Scheduled Castes and Scheduled Tribes Order (Amendment) Act 1976 (Central Act No.108 of 1976) in view of the proceedings of the Tamil Nadu Government in N.M.K.V. (3)/34328/99 dated 7-6-1999 addressed to Adi Dravida Welfare Department and MM.V.N.5(3)/31538/2001 dated 25-04-2001 addressed to all the Collectorates and AIR 1986 Kerala, Page-15(1) AIR 1986 Karnataka 237 and viewed in that perspective, this Court disposes of this Writ Petition by granting liberty to the Petitioner to seek a relief of Declaration at an appropriate stage in the above regard as and when a need arises thereto. Consequently connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Collector
Rajaji Salai,
Chennai - 600 001
2. The Tahsildar,
Mambalam-Guindy Taluk,
Chennai - 600 078

+1cc to the Government Pleader, S.R.No.25779

W.P.Nos.14000 of 2015 and 14343 of 2015
M.P.No.1 of 2015

TS(CO)
CA(15/06/2015)

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