

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. Nos.17488 and 17489 of 2015

A. Devaraj Petitioner in WP No.17488 of 2015

A. Murugesan Petitioner in WP No.17489 of 2015

Vs.

- 1 The Revenue Divisional Officer
Dharmapuri
Dharmapuri District
- 2 The Chairman
Tamil Nadu State Level Scrutiny Committee
Adi Dravidar and Tribal Welfare Department
Secretariat, Chennai 600 009 Respondents in both the WPs

Prayer in W.P. No.17488 of 2015:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the respondent no.1 to issue Kuruman Scheduled Tribe certificates to the petitioner and his children, viz., D. Devika and D. Surendar, immediately.

Prayer in W.P. No.17489 of 2015:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of mandamus directing the first respondent to issue Kuruman Scheduled Tribe certificates to the petitioner and his children, viz., M. Kumaresan, M. Prakash and M.Selvi, immediately.

For petitioner in
both the writ petitions Mr. M. Radhakrishnan

For respondents in Mr. R. Rajeswaran
both the writ petitions Special Government Pleader

COMMON ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

In view of commonality of the issue involved in these writ petitions, these writ petitions are being considered and decided by this common order.

2 Mr. R. Rajeswaran, learned Special Government Pleader, accepts notice for the respondents. With the consent of the learned counsel for the parties, the writ petitions are taken up for final disposal, at the admission stage itself.

3 Being aggrieved by non-issuance of social status / community certificate pursuant to the proceedings dated 30.03.2015 of the State Level Scrutiny Committee, the petitioners have filed the instant writ petitions seeking a direction to the first respondent, who is the competent officer to issue social status/community certificate to them and their children, at the earliest.

4 The undeniable and indisputable facts are that the Sub-Collector, Dharmapuri, rejected the petitioners' applications seeking grant of Hindu Kurumans Scheduled Tribe community certificate vide proceedings in Na.Ka.No.7784/2010(A4) dated 29.08.2011 and Na.Ka.No.7782/2009 (A4) dated 29.09.2011 respectively. Thereagainst, the petitioners preferred disputes to the State Level Scrutiny Committee on the basis of orders dated 05.12.2012 passed by this Court in W.P. No.21938 of 2011 and 22457 of 2011 respectively, moved by them, wherein, it was held by this Court as under:

"the petitioners to approach the State Level Scrutiny Committee as by way of appeal within a period of four weeks from today, if and when such an appeal is preferred the State Level Scrutiny Committee shall cause report from an Anthropologist on spot enquiry as may be required as regards the existence of the Scheduled Tribes community called "Kurumbans" and after considering the objection and the material that the petitioners may place before the State Level Scrutiny Committee to pass orders in accordance with law. If and when any such report is placed by the Anthropologist, the petitioner shall furnish a copy of the same to substantiate their claim."

5 Pursuant thereto, the State Level Scrutiny Committee, vide proceedings nos.1709/CVIII/2013 and 1704/CVIII/2013, dated 30.03.2015, on a careful scrutiny and examination of materials, came to the conclusion that the petitioners belong to Hindu Kurumans Scheduled Tribe community. Accordingly, a recommendation was made to the Revenue Divisional Officer, Dharmapuri, to issue necessary certificates to the petitioners and their children.

6 The learned counsel for the petitioners would submit that

despite a clear direction, as aforesaid, given by the State Level Scrutiny Committee, the requisite certificates have not been issued to the petitioners. The petitioners have been put to untold harassment and difficulties on account of the lackadaisical attitude of the officer concerned, who has no other option except to issue the requisite certificates, after final decision is taken by the State Level Scrutiny Committee.

7 The learned Special Government Pleader appearing for the respondents, per contra, would submit that even after the State Level Scrutiny Committee recommends for issuance of community certificate, the petitioners are required to make an application, enclosing necessary documents.

8 We have examined carefully, the contentions advanced by the learned counsel for the parties and also perused the pleadings and documents appended thereto.

9 The contention of the learned Special Government Pleader that even after the recommendation is made, the petitioners are required to make an application seeking issuance of community certificate, enclosing necessary documents, is noted to be rejected at the threshold. There is no authority that even after a decision has been taken by the High Powered Committee as constituted as per the direction of the Supreme Court in Kumari Madhuri Patil and another vs. Additional Commissioner, Tribal Development and Others¹, the Revenue Divisional Officer, who is competent to issue the community certificate, is required to re-examine the entire issue on the basis of application and other relevant documents. The contention of the learned Special Government Pleader, seemingly, predicated on the approach of the authorities, is frivolous and liable to be rejected, having regard to the scheme as enunciated by the Supreme Court in Kumari Madhuri Patil (supra). What an applicant seeking issuance of a community certificate is required to do is to move the competent officer initially for obtaining the certificate, submitting necessary application and the relevant documents. Thereafter, it is incumbent on the officers to make enquiries and if necessary, to afford opportunities to the applicant for producing documents and other related evidence in support of his case. Thus, when the State Level Scrutiny Committee had examined the case as per the scheme, the competent Revenue Divisional Officer is not required to re-examine the matter afresh. In that event, the person seeking issuance of community certificate is not obliged even to make an application for such relief.

10 Accordingly, we direct that in all those cases wherever recommendation has been made by the State Level Scrutiny Committee to the competent officer to issue community certificate, the said recommendation shall be communicated to the concerned authority

1 (1994) 6 SCC 241

within a period of one week and thereafter, the competent authority shall issue the community certificate within a further period of one week and despatch the same by Registered Post to the residential address or the address for correspondence, furnished by the applicant. It is made clear that this order shall be adhered to strictly, in letter and spirit.

11 With the above direction and observation, these writ petitions stand allowed. Costs made easy.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad
To

- 1 The Revenue Divisional Officer
Dharmapuri
Dharmapuri District
- 2 The Chairman
Tamil Nadu State Level Scrutiny Committee
Adi Dravidar and Tribal Welfare Department
Secretariat, Chennai 600 009

+1cc to Mr.M. Radhakrishnan, Advocate, S.R.No.30045
+2ccs to the Government Pleader, S.R.No.30342, 30343

BR(CO)
EU(29/06/2015)

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