

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE K.K. SASIDHARAN

W.P. No.25005 of 2014

Dr. N. Senkar

Petitioner

vs.

The Sub-Collector
Hosur
Krishnagiri District

Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records relating to the order of rejection in Proceedings in Na.Ka.4719/2010/A4 dated 10.06.2014 on the file of the respondent, quash the same and direct the respondent to issue community certificate to the daughters of the petitioner, viz., S. Mythri and S.Damini that they belong to Kurichchan (ST) community.

For petitioner Mr. S. Doraisamy

For respondent Mr. N. Sakthivel, Govt. Advocate

ORDER

(delivered by SATISH K. AGNIHOTRI, J.)

With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal.

2 The petitioner, claiming to be belonging to Kurichchan (ST) community, submitted an application to the respondent on 17 February 2011 seeking such community certificate to his daughters, viz., S.Mythri and S.Damini. The inaction of the respondent led to filing of W.P. No.14538 of 2011, which was disposed of on 07 July 2011, directing the respondent to pass orders on the petitioner's aforesated application within a period of three months. Pursuant thereto, the petitioner's application was rejected on 27 August 2011.

Thereagainst, the petitioner filed W.P. No.23332 of 2011 and this Court, by order dated 11 December 2012, set aside the rejection order dated 27 August 2011 and remitted the matter back to the respondent to consider the petitioner's request in the light of the documents submitted by him. Notwithstanding such a direction, the respondent passed the order dated 10 June 2014 rejecting the petitioner's request. The said order of rejection is assailed in this writ petition.

3 From a perusal of the materials available on record, it is seen that the petitioner was issued with community certificate by the Deputy Tahsildar, Denkanikotta on 08 June 1972, 19 June 1973 and 07 April 1981 stating that he belongs to Kurichchan (ST) community. While the first community certificate was issued to the petitioner when he was studying Pre-University Course (P.U.C.), the second and third certificates were issued to him when he joined M.B.B.S. course and M.S. course respectively. However, in the impugned rejection order, there is no reference to either of these community certificates issued to the petitioner.

4 We have been repeatedly observing that a community comprises not only the members of the family, but also the members of the same group or tribe. In the case on hand, when the petitioner has been issued with community certificate on more than one occasion, recognising his community as Kurichchan (ST) community, his children are also entitled to get such community status.

5 Needless to state that if any doubt crops up in the mind of the competent authority qua the genuineness of the community certificates issued to the petitioner, while considering his application for grant of the same certificate for his children, the only course open to the competent authority is to refer the same to the State Level Scrutiny Committee, but, not to take a contrary stand by dis-crediting the same. The said community certificates are subject to further verification by the State Level Scrutiny Committee. In other words, if the competent authority has any doubt about the genuineness of the community certificates issued to the petitioner, he has no competence to ignore the same, unless the same are set aside or modified by the higher authority, i.e., the State Level Scrutiny Committee and he can only refer the matter to the State Level Scrutiny Committee.

6 For the reasons aforesaid, the impugned order dated 10 June 2014 is quashed and the respondent is directed to re-consider the petitioner's application afresh, in the light of the above observation and pass an appropriate order, preferably within a period of three weeks from the date of receipt of a copy of this order.

7 The writ petition stands disposed of with the aforesaid direction. No costs.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

cad

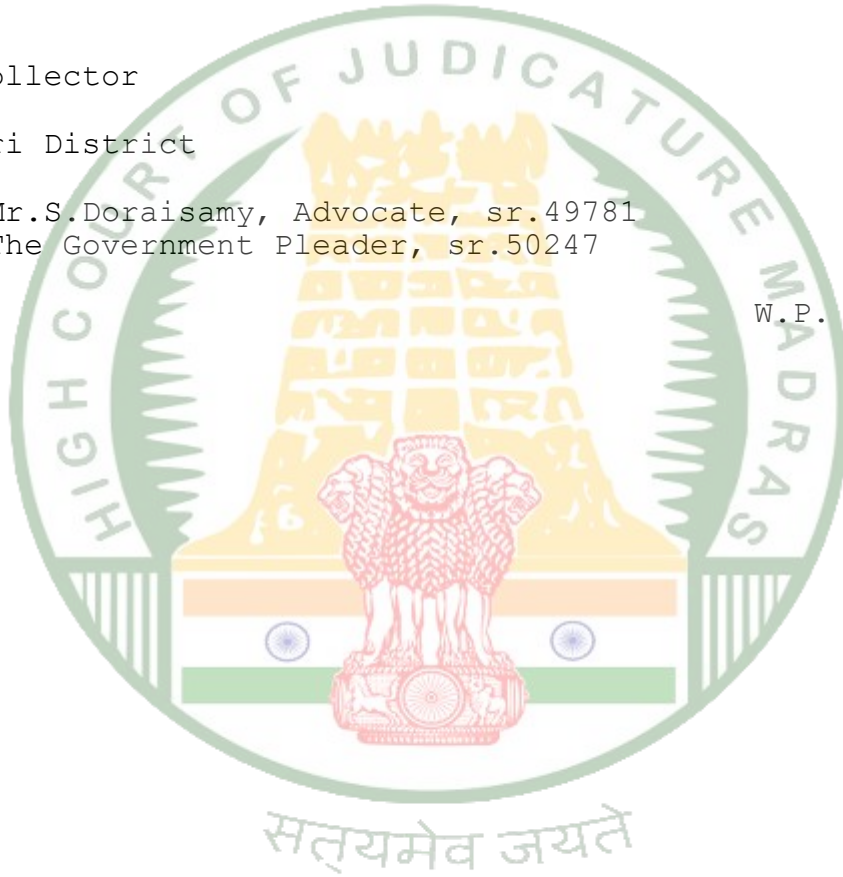
To

The Sub-Collector
Hosur
Krishnagiri District

+1 cc to Mr.S.Doraisamy, Advocate, sr.49781
+1 cc to The Government Pleader, sr.50247

W.P. No.25005 of 2014

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