

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

and

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.P. No.25006 of 2014

R.Krishnamoorthy .. Petitioner

Vs.

The Revenue Divisional Officer,
Dharmapuri. .. Respondent

The Writ Petition is filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for records relating to the order of rejection in Na.Ka.6880/2013/A4, dated 13.03.2014 on the file of the respondent, quash the same and to direct the respondent to issue community certificate to the petitioner that he belongs to Kurichchan community (ST).

For petitioner : Mr.S.Doraisamy

For Respondent : Mr.R.Rajeswaran, Spl.G.P.

ORDER

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

Assailing the validity of rejection order dated 13.3.2014, whereunder the application of the petitioner for grant of Kurichchan ST community certificate, was rejected, by the Revenue Divisional Officer, Dharmapuri / respondent, the petitioner has come up with this writ petition.

2 The case of the petitioner before us is that the petitioner has produced a sworn statement of one Muthappan, father of M.Sathiyarangan about the relationship that Sathiyarangan is the grand son of the petitioner's grand mother's sister. The said Sathiyarangan was held as Kurichchan ST community as per proceedings No.28358/CVIII/2005 dated 29.7.2009 by the Tamil Nadu State Level Scrutiny Committee. Thus, the petitioner was also entitled to the said certificate.

3 The case had chequered history. Initially, the application of the petitioner for the grant of community certificate was rejected by the Revenue Divisional Officer, Dharmapuri on 30.8.2006. Thereagainst, a writ petition, being W.P.No.33419 of 2006 was preferred by the petitioner. A division bench of this court, by order dated 14.7.2010, set aside the said order on the ground that the said order was a non speaking one and directed the RDO to conduct an enquiry and pass fresh order. The petitioner was also given a liberty to produce all supporting documents. It appears that by proceedings dated 14.1.2011, the RDO again rejected the application of the petitioner to issue the certificate that he belongs to Kurichchan ST community.

4 One more writ petition, being W.P.No.14822 of 2011 was filed against the said order. The division bench of this court by order dated 27.11.2012, set aside the said order and further remitted back the matter to the RDO for taking a fresh decision after proper spot enquiry. It appears that it was again rejected on 27.3.2013 and 09.12.2013. The petitioner came up with the third writ petition, being W.P.No.34657 of 2013, this time on the ground that one Mr.M.Sathiyarangan, who is the relative of the petitioner, was granted the Kurichchan ST community certificate on the basis of the decision taken by the State Level Scrutiny committee on 29.7.2009, and as such, the petitioner is also entitled to the same certificate. A division bench of this court, by order dated 09.01.2014, set aside the said order and directed the RDO to consider the application once again in the light of the said certificate as the petitioner claims to be the relative of the said Sathiyarangan. The respondent again considered the entire issue, rejected the application and declined to issue Kurichchan ST community certificate to the petitioner.

5 Pursuant to the notice, a counter affidavit was filed by the RDO, wherein it was stated that the petitioner had failed to establish the relationship with Sathiyarangan as the relationship of the petitioner's grand mother and the grand mother of the said Sathiyarangan could not be established and they were not sisters at all. The RDO had relied on several other informations to reject the application, which is sought to be impugned herein.

6 The learned counsel appearing for the petitioner submits that the petitioner has been harassed for no rhyme or reason. The petitioner has produced sufficient materials including the report of the Adi Dravidar and Tribal Welfare Department.

7 Per contra, the learned Special Government Pleader would submit that the Deputy Tahsildar, Taluk Officer, Pennagaram had issued a community certificate to the effect that he belongs to Kunjigidigar community, which is not Scheduled Tribe community. It is further contended that the relationship pleaded by the petitioner that his grand mother and the grand mother of Sathiyarangan are sisters, was not established. The petitioner had failed to establish

that his community is Kurichchan ST community. The documents produced by the petitioner was examined carefully before coming to this conclusion. Thus, the writ petition deserves to be dismissed.

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

9 Indisputably, the petitioner has been fighting this battle since 2006 and had also come to this court on several occasions. At all times, the respondent was directed to reconsider the matter on the basis of the materials and also after making proper spot enquiry, which could not eventuate to issuance of Kurichchan ST community certificate.

10 In Kumari Madhuri Patil Vs. Additional Commissioner, Tribal Development & Others¹, the Supreme Court laid down certain guidelines. Under the said guidelines, the competent officer to consider and issue the social status certificate is the RDO, Deputy Collector and Deputy Commissioner, as the case may be. But the same needs verification by the Scrutiny committee, i.e., State Level Scrutiny Committee. The State Level Scrutiny committee has also been constituted as per the direction of the Supreme Court. The State Level Scrutiny Committee is required to enquire into the genuineness of the claim for social status through vigilance cell, which is to be constituted under the State Level Scrutiny committee. It is clearly laid down that the vigilance officer should personally verify and collect all facts of the social status claimed by the candidate or the parent or guardian, as the case may be. He should examine the school records, birth registration, if any. He should also examine the parent and guardian in relation to their caste. The enquiry should be made, in case of Scheduled Tribe, in respect of their peculiar anthropological and ethnological traits, deity, rituals, customs, mode of marriage, death ceremonies, method of burial of dead bodies, etc., by the castes or tribes or tribal communities concerned etc. The State Level Scrutiny committee is also competent to obtain report from anthropological expert. The District level officer, who is competent to issue social status certificate may not have mechanism to make a detailed enquiry about the social status of the Tribe or scheduled caste.

11 In the aforestated background, we are of the considered opinion that the matter may be referred to the State Level Scrutiny Committee to examine the claim of the petitioner in the light of the guidelines issued by the Supreme Court in Kumari Madhuri Patil (supra), which was subsequently referred to with approval in Director of Tribal Welfare, Government of A.P. Vs. Laveti Giri and Anr.², Baswant Vs. State of Maharashtra & Ors.³, Sudhakar Vithal

1 (1994) 6 SCC 241

2 (1995) 4 SCC 32

3 JT 2000 (10) SC 280

Kumbhare Vs. State of Maharashtra and Ors.⁴, and G.M., Indian Bank Vs. R.Rani⁵.

12 Since the petitioner has been running from pillar to post since 2006, it is advisable that the State Level Scrutiny Committee shall complete the entire exercise and take a final decision on the issue, within a period of three months from the date of receipt of copy of this order.

13 With the aforesaid direction and observations, the writ petition stands disposed of. No costs.

-sd/-

Assistant Registrar

/ True Copy /

Sub-Assistant Registrar

vvk

To

1.The Revenue Divisional Officer,
Dharmapuri.

2.Tamil Nadu State Level Scrutiny Committee,
Adi Dravidar and Tribal Welfare Department,
Chennai-9.

+1 CC to M/S.S.Doraisamy, Advocate SR.No.29659

+1 CC to The Government Pleader, High Court, Madras. SR.No.29772

CO-GP

ths : 30.06.2015

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W.P. No.25006 of 2014
17.06.2015

⁴ (2004) 9 SCC 481

⁵ (2007) 12 SCC 796