

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-7-2015

CORAM:

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

W.P. No.21322 of 2015

R. Pushpakumar

... Petitioner

Vs.

The Revenue Divisional Officer,
Dharmapuri,
Dharmapuri District

... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorari Mandamus calling for the records relating to the order of rejection passed in proceedings in Na.Ka.5788/2014/A4, dated 5.11.2014 on the file of the respondent, quash the same and direct the respondent to issue community certificate to the sons of the petitioner viz., P.Harrish Sapu and P.Sabase that they belong to Kurichchan (ST) community based upon the community certificate already issued to the petitioner and his wife and close blood relatives of the petitioner.

For Petitioner : Mr.S.Doraisamy

For Respondent : Mr.R. Rajeswaran
Special Government Pleader

सत्यमेव जयते
O R D E R

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

Mr.R. Rajeswaran, learned Special Government Pleader, accepts notice for the respondent. With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner, claiming that he belongs to Kurichchan (ST) community, has made an application on 22.11.2010 to the respondent seeking issuance of such community certificate to his children viz., P.Harrish Sapu and P.Sabase. The inaction of the respondent led to filing of W.P.Nos.20112 and 20114 of 2012, which were disposed of on 30.7.2012 directing the respondent to pass orders on petitioner's application dated 22.11.2010 within a period of eight weeks. In spite of that no order was passed by the respondent, and hence the petitioner made another application on 27.8.2014 enclosing documents in support of his claim. The said application was rejected by the respondent vide the impugned order dated 5.11.2014, which is under challenge in the instant writ petition.

3. From a perusal of the materials available on record, it is seen that the petitioner as well as his wife were issued with community certificates on 24.7.1996 and 15.7.1996 respectively by the respondent herein stating that they belong to Kurichchan (ST) community, and as such petitioner's children are also entitled get such community certificates.

4. We have been repeatedly observing that a community comprises not only of the members of the family, but also the members of the same group or tribe. In the case on hand, when the respondent himself issued community certificates to the petitioner and his wife recognising their community as Kurichchan (ST) community, their children are also entitled to get such community status.

5. The community certificate issued by the competent authority in favour of the petitioner is not doubted. The other competent authority, while considering the application for the grant of similar community certificate to the children, has no competence to ignore the proper certificate issued in favour of the parents of the children, unless the same is set aside or modified by the higher authority, i.e., the State Level Scrutiny Committee. If the competent authority has any doubt about the genuineness of the community certificate, the only course open to the competent authority is to refer the same to the State Level Scrutiny Committee and not to take contrary stand, without appropriate order passed by the State Level Scrutiny Committee.

6. For the reasons stated above, the impugned order dated 5.11.2014 is quashed and we direct the respondent to issue necessary community certificates to the children of the petitioner forthwith, preferably within a period of one week from the date of receipt of copy of this order. The writ petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vr

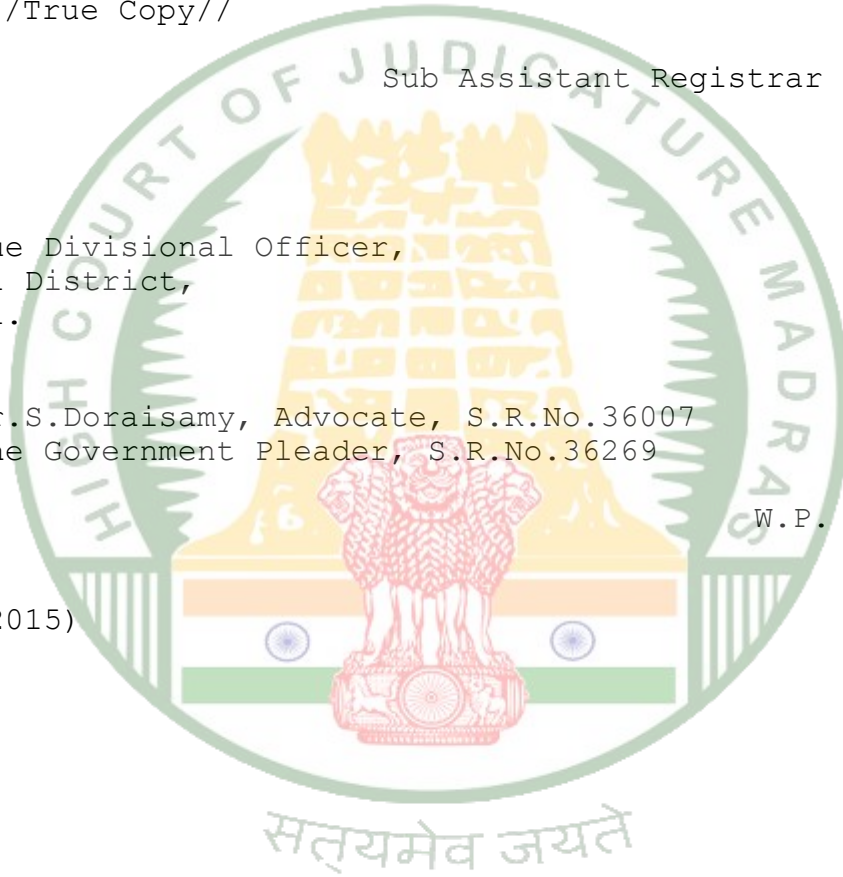
To

The Revenue Divisional Officer,
Dharmapuri District,
Dharmapuri.

+1cc to Mr.S.Doraisamy, Advocate, S.R.No.36007
+1cc to the Government Pleader, S.R.No.36269

W.P. No.21322 of 2015

VD(CO)
CA(29/07/2015)



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