

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2015

CORAM:

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

W.P. Nos.28462 & 28463 of 2015

R. Sivakumar ... Petitioner in both the WPs

Vs.

The Revenue Divisional Officer
Harur,
Dharmapuri District. ... Respondent in both the WPs

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records relating to the impugned proceedings issued by the respondent in Pa.Mu. No.639/2015 (A1) and Pa.Mu.No.635/2015(A), dated 31.7.2015 and to quash the same and consequently directing the respondent to issue ST Kurumans Community Certificate in favour of the petitioner's sons Viz. Minor S.Aravinthkumar and Minor S.Sharankumar respectively, based on the Community Certificate issued in favour of the petitioner as well as genuineness Certificate issued in favour of the petitioner by the State Level Scrutiny Committee dated 6.3.2015.

For petitioner in
both the WPs : Mr. G. Sankaran

For respondent : Mr. N. Sakthivel
both the WPs : Government Advocate

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COMMON ORDER

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

Mr. N. Sakthivel, learned Government Advocate, accepts notice for the respondent. With the consent of the learned counsel on either side, the writ petitions are taken up for final disposal, at the admission stage itself.

2. The petitioner is stated to be belonging to Kurumans community, which is a Scheduled Tribe community. He obtained a community certificate to that effect on 23rd July 1996 from the Revenue Divisional Officer, Dharmapuri. The said community status of the petitioner has also been confirmed by the State Level Scrutiny Committee vide Proceedings No.16943/CVIII/2014 dated 6th March 2015. While so, the petitioner has made applications for issuance of social status certificate/community certificate to his sons viz., Minor S. Aravinthkumar and Minor S. Sharankumar, respectively. After receipt of the said applications, an enquiry was conducted and the petitioner was also directed to appear with the relevant documents. Without examining the relevant documents, the respondent, by the impugned proceedings dated 31.07.2015, declined to issue community certificate to the petitioner's sons, observing that they belong to some other community, inasmuch as in their birth register, their community was recorded as "Kurumbar". The respondent had fully ignored the community certificate issued to the petitioner. This is a clear case of non-application of mind.

3. We have been repeatedly observing that a community comprises the members of the family and also, members of the same group or tribe or caste and that the children derive their community from their parents. If the father has been granted community certificate, without any further verification, their children, are entitled to the said certificate. The respondent has no authority to doubt the certificate issued to the father by the competent authority, unless the same is set aside or modified by the higher authority, i.e., State Level Scrutiny Committee. Further, it is for the authorities to examine the relationship. When the community certificate issued in favour of the father has been verified and approved by the State Level Scrutiny Committee, it is not open to the competent authority to question the same and take a contrary view dis-crediting the view taken by the State Level Scrutiny Committee, which is tantamount to overriding the authority of the State Level Scrutiny Committee.

4. Learned Government Advocate appearing for the respondent submits that the petitioner's sons belong to Kurumba community, which is notified as Most Backward Class.

5. The contention of the learned Government Advocate is rejected on the simple ground that the petitioner's sons cannot be notified as belonging to some other community as the community certificate issued in favour of the petitioner, who is the father of S. Aravinthkumar and S.Sharankumar, has been examined and approved by the State Level Scrutiny Committee. Therefore, it is not open to the respondent/ Revenue Divisional Officer to re-examine the same, unless it is cancelled or modified by the State Level Scrutiny Committee.

6. For the afore-mentioned reasons, we set aside the impugned proceedings dated 31.07.2015 issued by the respondent and direct the respondent to issue necessary community certificate to the petitioner's sons, viz., Minor S.Aravinthkumar and Minor S. Sharankumar, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petitions stand disposed of. Costs made easy.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Revenue Divisional Officer,
Harur,
Dharmapuri District

+2cc's to Mr.G.Sankaran, Advocate, S.R.No.49315

+1cc to the Government Pleader, S.R.No.49650

W.P. Nos.28462 & 28463 of 2015

PA(CO)
CA(16/09/2015)