

In the High Court of Judicature at Madras

Date :: 19.01.2015

Coram ::

The Hon'ble Mr. Justice V. Dhanapalan
and
The Hon'ble Mr. Justice G. Chockalingam

Writ Petition No: 18632 of 2014

K. Venkatesan
S/o. Kandan
K. Agraharam
Koothapadi Post
Pennagaram Taluk
Dharmapuri District - 636 810. Petitioner

-vs-

The Revenue Divisional Officer
Dharmapuri District. Respondent

Writ petition under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records relating to the order of rejection passed in Na. Ka. 8915/2013/A4 dated 20.05.2014 quash the same and direct the respondent to issue community certificate to the petitioner's children viz. S.V. Janani and S.V. Roshini that they belong to "Kurumans (ST) Community" based upon the community certificate already issued to the petitioner and also declaration made by this Hon'ble Court in the order in W.P. No: 1447 of 1986 dated 03.11.1989 that the petitioner is Scheduled Tribe.

For petitioner : M/s. S. Doraisamy

For respondent : Mr.R.Rajeswaran
Special Government Pleader

O R D E R

(Order of the Court was made by V.Dhanapalan, J.)

By consent of the learned counsel on either side, the writ petition itself is taken up for final disposal.

2. Heard Mr.S. Doraisamy, learned counsel for the petitioner and Mr.R.Rajeswaran, learned Special Government Pleader appearing for the respondent.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The petitioner called in question the impugned order passed by the Revenue Divisional Officer, Dharmapuri, in

Proceedings No: Na.Ka.No. 8915/2013/A4 dated 20.05.2014, quash the same and for a consequential direction to the respondent to issue community certificate to his children viz. S.V.Janani and S.V.Roshini that they belong to "Kurumans (ST) Community" based upon the community certificate already issued to him and also declaration made by this Hon'ble Court in the order dated 03.11.1989 in W.P.No: 1447 of 1986 that the petitioner is a Scheduled Tribe.

4. It is the case of the petitioner that he belongs to Kurumans Community, which is a Scheduled Tribe Community. The petitioner is employed as a Assistant General Manager in Bank of Baroda, Mumbai. In all his school records, his community is entered as Kurumans (ST). The petitioner was issued with a community certificate dated 02.08.1985 by the respondent in a permanent format that he belongs to Kurumans (ST) Community. That certificate came to be issued based on the directions issued by this Court on 03.11.1989 in W.P. No: 1447 of 1986. He has also obtained a caste certificate on 31.03.2000 from the Assistant Collector, Dharmapuri that he belongs to Kurumans (ST) Community. On 09.12.2013, the petitioner applied for issuance of community certificate to both his daughters. Since no order was passed till date, he approached this Court in W.P. No. 9683 of 2014. By an order dated 03.04.2014, this Court disposed of the writ petition with a direction to the respondent to consider the petitioner's application dated 09.12.2013 and dispose of the same on merits and in accordance with law within a period of four weeks. Since the respondent did not pass any orders, the petitioner filed a Contempt Petition in Cont. Petn. No: 1993 of 2014 on 13.06.2014. When the contempt petition was taken up for hearing on 04.07.2014, the Additional Government Pleader produced a copy of the order dated 20.05.2014 stating that the petitioner's application is rejected on 20.05.2014. Challenging the said rejection, the petitioner has filed the present writ petition.

5. We have heard the learned counsel on either side on the above background pleadings and perused the records.

6. The main thrust of the arguments of the learned counsel for the petitioner is that the petitioner has applied for issuance of community certificate to both his daughters by enclosing a copy of the order dated 03.11.1989 passed by this Court in W.P. No: 1447 of 1986. In view of the community certificate issued by the Revenue Divisional Officer, Dharmapuri and the subsequent community certificate issued by the Assistant Collector, Dharmapuri, this Court in the order passed in the said Writ Petition held that the petitioner belongs to Kurumans (ST) Community. According to him, the respondent, without considering the aforesaid documents, had mechanically rejected the petitioner's application and hence, the impugned order is vitiated in law.

7. Controverting the aforesaid submission, learned Special Government Pleader would submit that the documents produced by the petitioner was examined in detail by the respondent and only thereafter, it has come to the conclusion that there was no sufficient material documents to prove that the petitioner's children belong to Kuruman's community, on the contrary, during enquiry, it was revealed that they belong to 'Kurumba' community and therefore, the rejection made by the respondent that the petitioner's children belong to Kurumba community is in accordance with law.

8. The prayer sought by the petitioner is to issue community certificate to both his children that they belong to "Kurumans (ST) community" based on the community certificates already issued to him as also based on the declaration made by this Court vide order dated 03.11.1989 in W.P. No: 1447 of 1986. In that writ petition, this Court passed the following order :

" 7. Therefore, this writ petition has to be allowed with a declaratory relief that the petitioner is a Scheduled Tribe and therefore, he had been rightly admitted to the B.Sc. (Agri.) Degree course against the quota reserved for Scheduled Tribe and he is entitled to get a Degree Certificate. Whenever he seeks employment, he is to be treated as belonging to Schedule Tribe. It is submitted by learned counsel for the petitioner that petitioner had successfully completed the course and if so, the 1st respondent is directed to issue necessary certificates within six weeks of the receipt of steno copy of this order. Accordingly, this writ petition is allowed with exemplary costs payable by 2nd respondent. "

9. Pursuant to the said order of this Court, the Revenue Divisional Officer, Dharmapuri, issued a community certificate on 02.08.1995 and the Assistant Collector, Dharmapuri, issued a community certificate on 31.03.2000 holding that the petitioner belongs to Kurumans (ST) Community. Both these certificates were issued based on the order passed by this Court in W.P. No: 1447 of 1986, which is extracted above. While applying for issuance of community certificate for both his daughters on 09.12.2013, the petitioner enclosed all the aforesaid documents along with necessary application. Since no order was passed, the petitioner filed W.P. No: 9683 of 2014, which came to be disposed of by this Court on 03.04.2014 with a direction to the respondent to consider the petitioner's application dated 09.12.2013 within a stipulated time. As the respondent did not comply with that order, the petitioner was prompted to file a contempt petition. When the contempt petition was taken up for hearing, the respondent had stated that the petitioner's application was rejected on 20.05.2014, which is the order impugned in this Writ Petition.

10. A perusal of the impugned order would reveal that there are three references made by the respondent viz. (i) the application dated 09.12.2013 made by the petitioner; (ii) a letter of communication dated 18.03.2014 by the respondent and (iii) a copy of the order passed by this Court on 13.04.2014 and the connected document. All these documents go to show that the request of the petitioner to issue community certificates to both his daughters is based upon the community certificate issued to him and also the declaration made by this Court in W.P. No: 1447 of 1986 that the petitioner belongs to Kurumans (ST) Community. The respondent herein has not at all considered any of the said documents which were relied on by the petitioner. In the impugned order, the respondent has not stated any reason for rejecting the petitioner's claim. When once this Court has declared that the petitioner belongs to Kurumans (ST) Community, the respondent cannot have any basis legally to say that both his daughters does not belong to Kurumans (ST) Community. Thus, it is clear that the respondent had mechanically rejected the petitioner's request without any basis and that the impugned order is legally infirmed for the simple reason that there is non-consideration of material documents and non-application of mind.

11. For the aforesaid reasons, we set aside the impugned order dated 20.05.2014 and remand the matter back to the respondent for fresh consideration. The respondent is directed to take into consideration the documents relied on by the petitioner and pass appropriate orders afresh in accordance with law within a period of six (6) weeks from the date of receipt of a copy of this order.

The Writ Petition is accordingly allowed. Connected Miscellaneous Petition is closed. There shall be no orders as to costs.

Sd/-
सत्यमेव जयते

Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

gp/abe

To :

The Revenue Divisional Officer
Dharmapuri District.

1 cc to M/s.S. Doraisamy, Advocate, Sr. 2445

W.P. No: 18632 of 2014