

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2015

C O R A M

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

W.P. No.6512 of 2015

1.K.Annamalai
2.A.Preethi
3.A.Senthil Kumar

...Petitioners

Vs

The Revenue Divisional Officer,
Tiruttani
Tiruvallur District.

....Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking for the issuance of a writ of certiorarified mandamus to call for the records relating to the rejection order of the respondent in proceedings in Na.Ka.2555/2013/A2 dated 21.1.2015, quash the same and to direct the respondent to issue community certificate to the petitioner's daughter and son, i.e., 2nd and third petitioners that they belong to Kondareddis (ST) community based upon the community certificate already issued to the first petitioner and his wife.

For Petitioners : Mr.S.Doraisamy

For Respondents : Mr.N.Sakthivel,
Government Advocate

ORDER

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

Questioning the correctness of the proceedings dated 21st January, 2015, whereunder the application of the first petitioner for issuance of social status / community certificate

was rejected, the instant petition has been filed by the petitioners.

2 The learned counsel appearing for the petitioners submits that the first petitioner has submitted several relevant documents, including the community certificate issued in his favour by the then competent officer, Tahsildar, Tiruttani, on the basis of which the first petitioner has made an application for issuance of community certificate to his daughter A.Preethi and son A.Senthilkumar. The respondent, without advertting to the certificates produced by him, had rejected the application in a casual and cryptic manner.

3 In response, Mr.N.Sakthivel, learned Government Advocate, appearing for the respondent submits that there is an inherent error in the impugned order, as the order was passed based on the discreet enquiry conducted in respect of the community of the petitioners. It is further submitted that the respondent be permitted to consider the application afresh and pass order in accordance with law and on its own merit.

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, recognising his community as Kondareddis (ST) Community, his son and grandchildren, 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 son and grandchildren, 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 discrediting the same. The said community certificate is 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 certificate issued to the petitioner, he has no competence to ignore the same, unless the same is 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 We have examined the issue at length in C.Lakshminarayanan Vs. The Chairman, State Level Scrutiny Committee and Principal Secretary to Government, Adi Dravidar and Tribal Welfare Department, Chennai [W.P.No.24816 of 2015, dated 30th September, 2015], wherein it was held as follows :

"6 At this juncture, it is felicitous to refer to the decision of this Division Bench in V. Palani vs. The Revenue Divisional Officer, Tiruttani, Tiruvallur District¹, wherein, it was held that in the event, the enquiry turns adverse, then, the aggrieved person is entitled to a show cause notice together with a copy of the enquiry report. The relevant passage from the said judgment reads as under:

"8. There is one more infirmity in this matter. The Supreme Court in Kumari Madhuri Patil vs. Additional Commissioner, Tribal Development and Others (1994) 6 SCC 241, has evidently observed that the enquiry has to be conducted in a transparent and open manner. In the event, the enquiry is adverse, the petitioner is entitled to show cause notice with a copy of the enquiry report. The petitioner is entitled to an opportunity to adduce evidence and raise objections, if any in the enquiry conducted by the competent officer."

7 In this context, it is also worthwhile to refer to the Circular issued by the State Government for the convenience of the officers dealing with issuance, verification and cancellation of community certificates. Paragraph no.X (1) of the said Circular reads as under:

X VERIFICATION AND CANCELLATION OF THE CERTIFICATE ISSUED:

1 Verification of the community certificate ordered in the cases should be an open enquiry and it cannot be a discreet

1 2015-4-LW 642

and confidential enquiry. While verifying the certificate already issued in favour of any person, the officer enquiring shall conduct an open enquiry, cause verification of records and send a report to the Collector. On the basis of the report, the person concerned should be given an opportunity to justify the genuineness of the community claimed by him. Orders should be passed only afterwards."

8 The aforesaid direction is in consonance with the parameters laid down by the Supreme Court in Kumari Madhuri Patil and another vs. Additional Commissioner, Tribal Development and Others², Director of Tribal Welfare, Government of A.P. Vs. Laveti Giri and Another.³, Baswant Vs. State of Maharashtra & Others.⁴, Sudhakar Vithal Kumbhare Vs. State of Maharashtra and Others.⁵, and G.M., Indian Bank Vs. R.Rani⁶."

7 In view of the foregoing infirmity noticed in the impugned order, we are of the considered view that the impugned order is not sustainable in law and is, accordingly, set aside. The respondent is directed to reconsider the first petitioner's application afresh, in the light of the above observation and pass an appropriate order, preferably within a period of six weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

2 (1994) 6 SCC 241

3 (1995) 4 SCC 32

4 JT 2000 (10) SC 280

5 (2004) 9 SCC 481

6 (2007) 12 SCC 796

mvs/vvk

To

The Revenue Divisional Officer,
Tiruttani
Tiruvallur District.

1 CC to Mr.S.Doraisamy, Advocate SR.No. 56026

1 CC to the Government Pleader, SR.No. 55849

W.P. No.6512 of 2015

MSM (CO)
PSI (29.10.2015)



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