

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2015

CORAM

THE HONOURABLE MR.JUSTICE V.DHANAPALAN

and

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

W.P. No.18561 of 2013

and

M.P.Nos.1 and 2 of 2013

B.M.Subramani

.. Petitioner

Vs.

The Sub Collector,

Thirupathur, Vellore District.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus to call for the records in proceedings in R.C.No.1561/2011 dated 18.05.2012 of the respondent and quash the order passed therein and direct the respondent to issue community certificates to the petitioner's children viz., M.S.Dhashayani and M.S.Rupan Kumar to the effect that they belong to Hindu Kurumans (ST) community.

For Petitioner : Mr.W.M.Abdul Azeez

For Respondents: Mr.R.Rajeswaran,
Spl. Govt. Pleader

ORDER

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

Petitioner has filed this petition praying for the issuance of a writ of certiorarified mandamus to call for the records in proceedings in R.C.No.1561/2011 dated 18.05.2012 of the respondent and quash the order passed therein and direct the respondent to issue community certificates to the petitioner's children viz., M.S.Dhashayani and M.S.Rupan Kumar to the effect that they belong to Hindu Kurumans (ST) community.

2.It is the case of the petitioner that he belongs to Hindu Kurumans (ST) community and he is working in the Postal Department as Postal Assistant at Vaniyampadi Post Office. The petitioner has

been issued with a community certificate to the effect that he belongs to Hindu Kurumans (ST) community and several of his relatives have been issued with community certificates to the effect that they belong to Hindu Kurumans (ST) community. The petitioner has got two children by names, M.S.Dhashayani and M.S.Rupan Kumar. His daughter - Dhashayani has finished B.E. Degree and also obtained M.B.A., and his son - Rupan Kumar has completed his B.Tech Degree. Even while allowing them to sit for the examinations conducted by various Government agencies, production of community certificates are demanded to prove their claim of Hindu Kurumans (ST) community. Though he applied to the respondent for community certificates on 29.08.2008 and followed by reminders dated 11.10.2008 and 09.10.2010, there was no response. Therefore, pursuant to his application dated 13.05.2011 under Right to Information Act, the respondent, by letter dated 10.06.2011 directed the Tahsildar, Vaniyampadi to enquire and submit a report. As there was no development thereafter, a detailed representation was made by the petitioner by enclosing 9 documents, which are inclusive of community certificates and service registers of himself and his close relatives. As there was no progress, the petitioner filed W.P.No.3990 of 2012 before this Court, wherein a direction was issued to consider the application of the petitioner dated 29.08.2008 and pass orders after conducting proper enquiry on merits and in accordance with law. Thereafter, the petitioner was directed by the respondent to appear for an enquiry on 03.04.2012. However, without allowing to give oral evidence, the respondent sent a communication dated 21.04.2012 claiming few persons who obtained Kurumba community certificate to be his relatives. The said communication reveals that the Revenue Inspector, Alangayam sent a report dated 16.04.2012 wherein 10 persons have been named as the petitioner's relatives and they obtained Kurumba (MBC) community certificate. The petitioner sent a detailed explanation dated 30.04.2012 stating that no one in the said 10 persons is his blood relative or close relative and explained their relationship with the petitioner, if any. Without considering the same, the respondent has passed the impugned order dated 18.05.2012 rejecting the claim of issuance of Kurumans Schedule Tribe community certificates to the children of the petitioner. Therefore, the petitioner is constrained to file the present writ petition.

3.A detailed counter affidavit has been filed by the respondent stating that the children of the petitioner for whom community certificates are sought for have already obtained M.B.C. Certificates, claiming to be a member of Kurumba community and availed all the benefits. It is stated that the request of the petitioner to issue S.T. Community certificate to his children, after completion of their studies, is illegal. According to the respondent, the petitioner has suppressed the fact that he has obtained a certificate on the basis of G.O.No.388 dated 06.05.1977.

Subsequently, the said Government Order was withdrawn on the ground that any addition or deletion to the Scheduled Tribes can be made only by the Centre and not the State Government and G.O.No.748 dated 27.10.1977 was issued. In the counter, it is further stated that having obtained the MBC community certificates and availed all the benefits arising out of the status during their education, for better employment avenue, the petitioner's children have now sought for S.T. Community certificates.

4.We have heard Mr.W.M.Abdul Azeez, learned counsel for the petitioner and Mr.R.Rajeswaran, learned Special Government Pleader for the respondent and also perused the material documents.

5.It is seen that the petitioner has made a claim that his children are to be issued with Hindu Kurumans (ST) community certificates by enclosing photocopies of the petitioner's community certificate and that of the other relatives and not the original. However, an enquiry appears to have been conducted on 03.04.2012 and the petitioner did not produce any original certificate on that day. He has given the school Transfer Certificates of his children, in which, it is clearly given that they belong to Kurumba community, which is a Most Backward Community. The certificates of his relatives mention the community name as Kurumans but those are not documents prior to 1950. Therefore, the respondent has not taken into account the said documentary evidence viz., the photocopy of the community certificate of K.Govindan, S/o.M.Krishnan who is the petitioner's relative as he has not produced the original for verification. Further two documents registered at Sub Registrar's Office, Vaniyambadi mentioned the community name as Kurumans and those are also not the documents prior to 1950. The respondent has conducted a detailed enquiry and enquired one Rajendran, petitioner's cousin and as per the certificate, he belongs to Kurumba (MBC). The respondent also enquired Govindan, petitioner's brother in law, Sridhar, petitioner's maternal cousin, Prem Kumar, son of the petitioner's maternal cousin, Subramani, cousin of petitioner's wife, Nithyakanth, petitioner's maternal cousin, Govindasamy and his wife, cousins of petitioner. In order to verify further, the respondent has called the petitioner's wife for an enquiry on 18.04.2012 and she has agreed that the persons mentioned above are her close relatives.

6.The only proof which stands scrutiny is the original community certificate of the petitioner which has been submitted to his employer. In this regard, the petitioner submitted a representation dated 01.09.2014 to the Superintendent of Post Offices, Tirupattur Division, Tirupattur, who in turn, forwarded the same to the Senior Superintendent of Post Offices, Bangalore West Division, Rajaji Nagar, Bangalore. Since the said community

certificate of the petitioner has not been produced and that his close relatives have been declared as Kurumbas (MBC), the petitioner's claim was rejected.

7.It is seen that the claim of the petitioner is based on his own community certificate in original submitted to his employer, which is the only document left out for consideration. All other processes viz., enquiry of close relatives and verification of documents would give a clear position that the petitioner's close relatives belong to Kurumbas community, which is a Most Backward Community. Therefore, the decision arrived by the respondent, in our considered opinion, to reject the claim of the petitioner is valid in law as the original community certificate of the petitioner was not produced before the respondent.

8.In the additional typed set of papers, the petitioner has filed the following documents viz., (1)petitioner's service register dated 07.04.1981, (2)community certificate in favour of the petitioner's cousin dated 22.12.1998, (3)order passed by the State Level Caste Scrutiny Committee in favour of the petitioner's cousin dated 28.03.2014, (4)petitioner's representation to his employer dated 01.09.2014 and (5)the reply dated 11.09.2014 received thereon. The petitioner's representation and the reply received have not been produced before the competent authority. Though efforts have been made by the petitioner to get the originals from the employer in his representation dated 01.09.2014, which has been addressed to the Senior Superintendent of Post Offices, Bangalore West Division, Rajaji Nagar, Bangalore, by the Superintendent of Post Offices, Tirupattur Division, Tirupattur, the same is yet to be received by him. Therefore, the learned counsel for the petitioner suggests that as and when the petitioner receives the original from the employer, he may be permitted to produce the same before the respondent and before the competent Scrutiny Committee.

9.In the light of the above stated position and as the decision arrived by the respondent in the impugned rejection order is based on the oral and documentary evidence available before him, we are of the view that the impugned order is valid in law. However, the petitioner is at liberty to produce the original community certificate received from the employer and any other proof in support of his claim before the authority concerned and in such an event, it is for the authority to consider the claim of the petitioner in accordance with law.

10.The writ petition is dismissed with the above observation.
No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

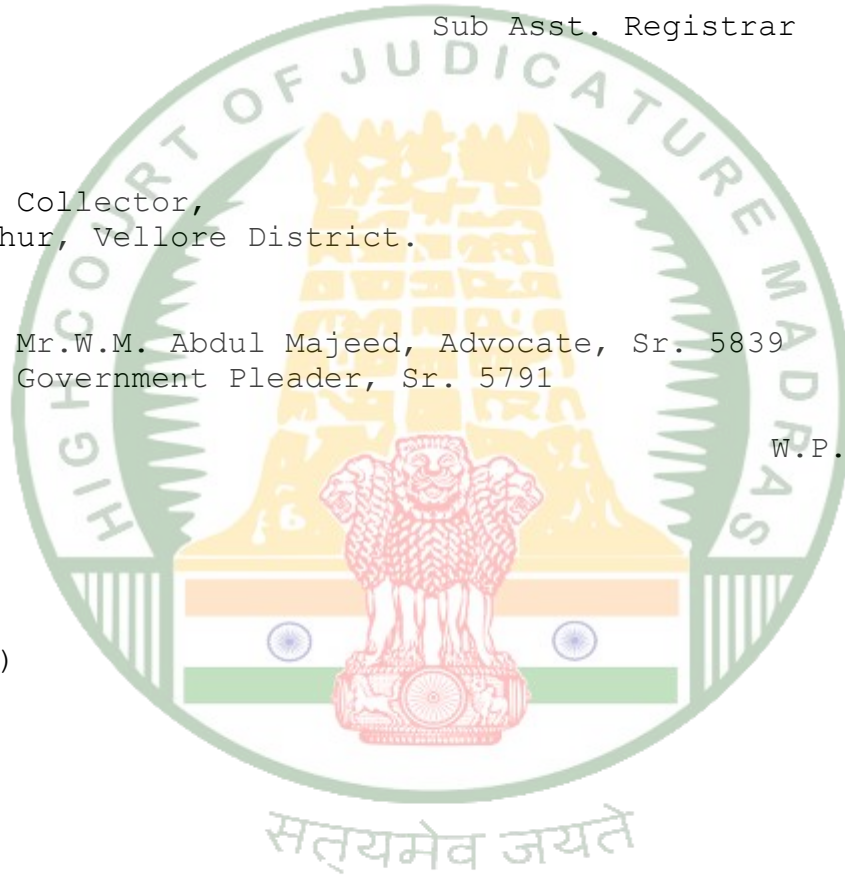
The Sub Collector,
Tirupathur, Vellore District.

1 cc to Mr.W.M. Abdul Majeed, Advocate, Sr. 5839

1 cc to Government Pleader, Sr. 5791

W.P.No.18561 of 2013

SSI (CO)
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