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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2015

CORAM:

THE HONOURABLE DR. JUSTICE S.TAMILVANAN

and

THE HONOURABLE MR. JUSTICE V.S.RAVI

W.P. (MD) No.16754 of 2014

M.Jeyakanthan

...Petitioner

Vs.

1.The District Collector,
Tirunelveli.

2.The Tahsildar,
Sivagiri, Tirunelveli District.

...Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the second respondent to issue Hindu Pallar Community Certificate to the petitioner's daughter namely, Indra Priyadharshini on the basis of the application and representations dated 13.06.2013 and 21.08.2013.

For Petitioner : Mr.T.Indrachithu

For Respondents : Mr.N.Manokaran, Spl.G.P.

ORDER

(Order of this Court was made by S.TAMILVANAN,J.)

Heard the learned counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for respondents.

2.The Writ petition has been filed invoking Article 226 of the Constitution of India, seeking an order in the nature of Writ of Mandamus, directing the second respondent to issue Community Certificate stating that the petitioner's daughter viz., Indra Priyadharshini belongs to Hindu Pallar Community of Schedule caste, on the basis of the petitioner's application dated 13.06.2013 and representation dated 21.08.2013.

3.Learned counsel appearing for the petitioner drew the attention of this Court to the community certificate issued in favour of the petitioner, M.Jayakanthan. A xerox copy of which is available at page No.1 of the typed set of papers, wherein it is stated that the petitioner belongs to Hindu Pallan Community, which is recognized as one of the Scheduled Castes as per Orders (Amendment) Act, 1976 vide Serial No.49. The said certificate was issued by the Tahsildar, Sivagiri, Tirunelveli District.

4.It is not in dispute that the said Indra Priyadharshini is the daughter of the petitioner for whom the petitioner needs community certificate.

5.It was submitted by the learned Special Government Pleader appearing for the respondents based on the counter affidavit filed by the second respondent / Tahsildar, Sivagiri that the petitioner is following Christianity and therefore, his daughter Indra Priyadharshini is not entitled to get community certificate as Hindu Pallar Community of scheduled caste.



6. Per contra, the learned counsel appearing for the petitioner submitted that the reason assigned by the respondents stating that the petitioner is having faith in Christianity, hence, community certificate for Hindu Pallar would not be issued, is not sustainable in law.

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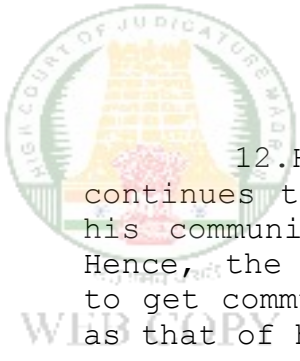
7. In a secular country one can decide his own way of worship. As per the Community Certificate of the petitioner, he belongs to Hindu Pallar Community, which was issued by the second respondent. Hence, it is not open to the second respondent to dispute the community of the petitioner saying that he is a person belongs to Christian Pallar Community and not Hindu Pallar Community of Scheduled Caste. The petitioner is entitled to get community certificate based on his religion and caste. Merely by saying that the petitioner is having faith in Christianity, the right of his daughter cannot be denied by the respondents.

8. In support of his contention the petitioner relied on a decision in *A. Jothimani Vs. The Secretary, Adi Dravidar and Tribal Welfare Department* reported in 2013(1) CWC 111 based on the decision of the Hon'ble Apex Court in *Valsamma Paul V. Cochin University* reported in 1996 (1) CTC 301(SC): AIR 1996 SC 1011, a Division Bench of this Court allowed the Writ petition whereby directed the authorities to issue Community certificate holding that the petitioner therein was a Hindu Adi Dravidar Community of Schedule Caste.

9. In 1996(1) CTC 301(SC): AIR 1996 SC 1011 the Hon'ble Apex Court pointed out that inter caste marriages and adoption are two important social institutions through which secularism would find its fruitful and solid base for an egalitarian social order under the Constitution. Therefore, due recognition should be accorded for social mobility and integration and accordingly its recognition must be upheld as valid law. The Apex Court further pointed out that the object of reservation is to remove these handicaps, disadvantages, sufferings and restrictions to which the members of the Dalits or Tribes or OBCs were subjected to and was sought to bring them in the mainstream of the nation's life by providing them opportunities and facilities.

10. Admittedly, the petitioner belongs to Hindu Pallar Community of Scheduled Caste and there is no acceptable evidence or material available on the side of the respondents to prove that the petitioner had converted himself into Christianity and therefore, he has not lost his status as Hindu Pallar Community of Scheduled Caste.

11. The argument advanced by the learned Special Government Pleader appearing for the respondents is that the petitioner is having faith in Christianity. The way of worship is the right of any person in India, hence, there is no bar for any citizen to visit any worshiping place. Similarly, any Christian or Muslim or Hindu can attend the place of worship of other religion and have faith in the other religion also. Merely a person attending a place of worship not related to his religion the authority cannot attribute conversion of religion and as per the record, the petitioner would not lose his religious status. Here in this case, there is no evidence to show that the petitioner lost his character as Hindu Pallar Community of scheduled caste and there is no evidence to show that he embraced or converted to Christianity, hence, as per law, he is only a person belongs to Hindu Pallar community of Scheduled Caste.



12.Hence, we are of the considered view that the petitioner still continues to be a Hindu Pallar Community, hence, he is entitled to seek his community certificate as Hindu Pallar community of Scheduled caste. Hence, the petitioner's daughter Indra Priyadharishini is also entitled to get community certificate as Hindu Pallar community of Scheduled Caste as that of her father, who is the petitioner herein.

13.On the aforesaid circumstances, we find it just and reasonable to allow the Writ petition. Accordingly, the Writ petition is allowed and second respondent / Tahsildar, Sivagiri, Tirunelveli District is directed to issue community certificate to the petitioner's daughter Indira Priyadharshini as Hindu Pallar Community of Scheduled Caste within a period of two weeks from the date of receipt of a copy of this order.

No costs. Consequently, connected M.P.is closed.

Sd/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

To

1.The District Collector, Tirunelveli.

2.The Tahsildar, Sivagiri, Tirunelveli District.

+1cc to Mr.T.IndraChithu, Advocate in Sr.3558

+1cc to the Special Government Pleader in SR.3628

W.P. (MD) No.16754 of 2014
27.01.2015

nbj

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