

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.12993 of 2016

& W.M.P.No.11344 of 2016

1. Minor S.Mukesh Moorthy
2. Minor S.Trisha
Both petitioners are minors
represented by their
mother and natural guardian
R.Pushpalatha

... Petitioners

Vs.

1. The District Collector, Dharmapuri District.
2. The Revenue Divisional Officer, Dharmapuri District.
3. The Tahsildar, Taluk Office, Dharmapuri.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the third respondent to issue Relationship Certificate to the petitioners herein in accordance with law, within a reasonable time limit.

For Petitioners : Mr.S.Shyam Kumar

For Respondents : Mr.P.Sanjay Gandhi, Addl.G.P.

ORDER

The petitioners have filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the third respondent to issue Relationship Certificate to the petitioners herein in accordance with law, within a reasonable time limit.

2. The mother and natural guardian of both the minor petitioners, has sworn to the affidavit in support of the Writ Petition, stating that her husband's ancestors and his father and mother were permanently residing in Echanahalli Village from time immemorial and by birth, they all belong to Kurichan Community (Scheduled Tribe). The minor petitioners' father was

issued with Community Certificate, dated 30.06.1980, by the Deputy Tahsildar, Dharmapuri in respect of the above said Community. Earlier, the petitioners' father filed Writ Petition No.16718 of 1995 seeking re-employment and regularisation of his employment in the then Annai Sathiya Transport Corporation, based on the Community Certificate already issued to him. This Court, by order dated 03.09.1997 held that the Community Certificate already issued in favour of the petitioners' father on 30.06.1980 is valid for seeking employment and directed the Transport Corporation to consider the case as and when vacancy arises, based on which, their father got re-employment as a Conductor in the said Transport Corporation. He died in harness in accident in 2006.

3. It is further stated that the petitioners are studying 10th and 9th Standards and in order to pursue their higher education, they need a Community Certificate to the effect that they belong to Kurichan Community. It is the further case of the petitioners that their relatives have already been issued with the Community Certificate in respect of the above said Community. In spite of several representations to the respondents, the second respondent did not conduct enquiry for issuing the Community Certificate.

4. The petitioners further relies on a similar case pertaining to their relatives, namely M.Sathish and M.Sankari, the Community Certificate was issued on the basis of the direction of this Court in W.P.No.31999 of 2004, by order dated 16.04.2005.

5. Based on the above facts and documents, earlier, the petitioners herein separately filed Writ Petition No.10465 and 10466 of 2013 seeking for issuance of Community Certificate, and this Court, by separate orders, dated 30.04.2013, directed the second respondent to pass orders on the representation, dated 31.08.2012 within the time limit specified in the order, after following procedures contemplated under the relevant Government Orders. In compliance of the said order of this Court, the second respondent passed an order, dated 21.06.2013 rejecting the claim of the petitioners for issuance of Community Certificate, overlooking the fact that the petitioners' relatives and the father of the petitioners, have already been issued with Community Certificate.

6. It is further stated that the present minor petitioners subsequently challenged the said order dated 21.06.2013 passed by the second respondent and filed W.P.No.5798 of 2014 and by order dated 27.02.2014, this Court, while disposing of W.P.No.5798 of 2014, set aside the said order, dated 21.06.2013 and granted liberty to the petitioners to submit documents to prove their relationship with that of M.Sathish and M.Sankari,

who are the son and daughter of B.Magendran and also the certificates issued to M.Sathish and M.Sankari, and also the above said copy of the order of this Court, dated 16.04.2005 in W.P.No.31999 of 2004 and on production of those documents, the second respondent was directed to consider the application of the petitioners afresh and pass fresh orders within six weeks from the date of submission of the documents.

7. On the basis of the earlier order passed in W.P.No.31999 of 2004, dated 16.04.2005, the present petitioners made a representation, dated 03.03.2014 to the third respondent for issuance of Relationship Certificate to the effect that the above said M.Sathish and Sankari are the relatives of the petitioners. On the basis of the enquiry, the Revenue Officials came to the conclusion that the petitioners are the relatives of the said Sathish and Sankari and inspite of the same, the petitioners were not issued with the Relationship Certificate. Hence, the present Writ Petition is filed by the petitioners for the above relief.

8. Heard both sides.

9. Though this Court is not inclined to grant the positive direction as sought for by the petitioners to issue the Relationship Certificate to them, as it is within the jurisdiction of the Revenue Officials to issue such Relationship Certificate based on the Revenue Records/other relevant documents and enquiry; but taking into consideration the factual aspects of the matter, this Court, without going into the merits of the case, directs the respondents to complete the required further enquiry, if any, with regard to the issuance of the Relationship Certificate to the petitioners, consider the said representation of the petitioner, dated 03.03.2014, give an opportunity of personal hearing to the petitioners and necessary parties, pass appropriate orders and dispose of the said representation, on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioners and it is for the respondents to decide the same based on the above said enquiry, available records and merits of the case.

10. With the above observations and directions, the Writ Petition is disposed of. No costs. W.M.P. is closed.

-s/d-
Assistant Registrar

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Sub-Assistant Registrar

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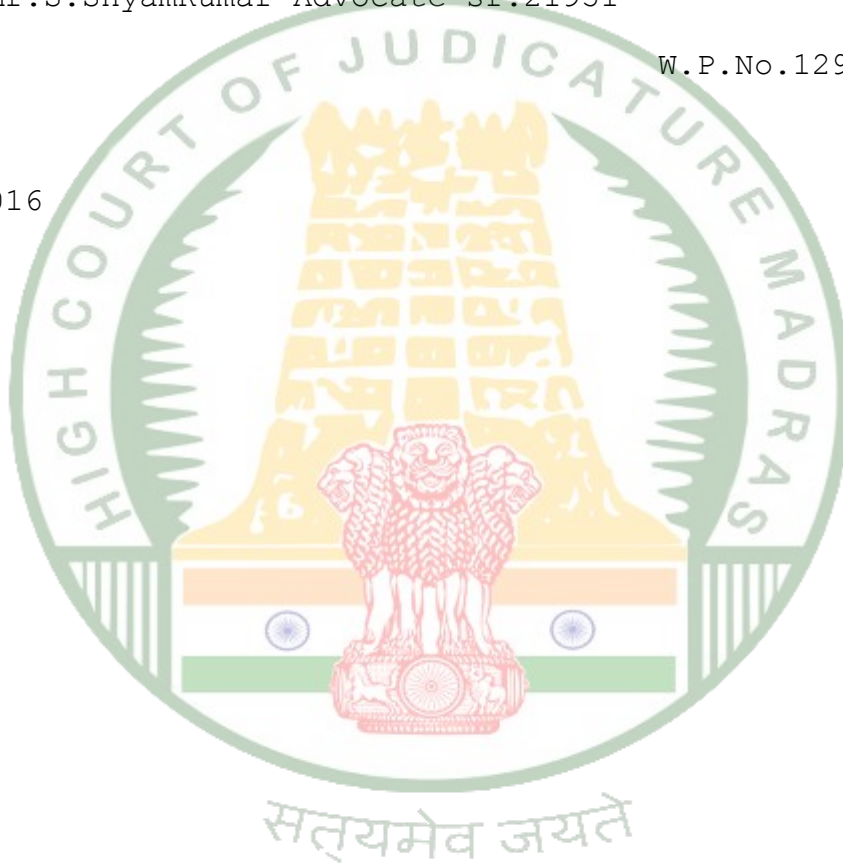
1. The District Collector, Dharmapuri District.
2. The Revenue Divisional Officer, Dharmapuri District.
3. The Tahsildar, Taluk Office, Dharmapuri.

+1 cc to Government Pleader sr.22225

+1 cc to Mr.S.ShyamKumar Advocate sr.21951

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